

BOOK A

STATE OF NEW YORK
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL
ESTABLISHMENT AND PROJECT REVIEW COMMITTEE

July 26, 2012
10:15 a.m.

Century House
997 New Loudon Road (Route 9)
Main Ball Room
Latham, New York 12110

I. COMMITTEE ON ESTABLISHMENT AND PROJECT REVIEW

Jeffrey Kraut, Chair

A. Applications for Construction of Health Care Facilities

Acute Care Services - Construction

Exhibit #1

1. 121157 C Northern Westchester Hospital
(Westchester County)

Ambulatory Surgery Centers - Construction

Exhibit #2

- | <u>Number</u> | <u>Applicant/Facility</u> |
|----------------------|----------------------------------|
|----------------------|----------------------------------|

Residential Health Care Facilities Ventilator Beds – Construction

Exhibit #3

- | <u>Number</u> | <u>Applicant/Facility</u> |
|----------------------|----------------------------------|
|----------------------|----------------------------------|

- 3. 071024 C Long Beach Memorial Nursing Home, Inc. d/b/a Komanoff Center for Geriatric and Rehabilitation Medicine (Nassau County)
- 4. 072112 C Oakwood Operating Co., LLC d/b/a Affinity Skilled Living and Rehabilitation Center (Suffolk County)

Residential Health Care Facilities - Construction Exhibit #4

- | <u>Number</u> | <u>Applicant/Facility</u> |
|---------------|---|
| 1. 121432 C | Greater Harlem Nursing Home Company Inc (New York County) |

Certified Home Health Agencies –Construct Exhibit #5

- | <u>Number</u> | <u>Applicant/Facility</u> |
|---------------|--|
| 1. 121182 C | Mcauley-Seton Home Care Corporation (Niagara County) |

B. Applications for Establishment and Construction of Health Care Facilities/Agencies

Ambulatory Surgery Centers - Establish/Construct Exhibit #6

- | <u>Number</u> | <u>Applicant/Facility</u> |
|---------------|---|
| 1. 111142 B | Stoneleigh Avenue Pain Management ASC, LLC (Putnam County) |
| 2. 121353 E | Crystal Run Ambulatory Surgery Center of Middletown (Orange County) |

Diagnostic and Treatment Centers - Establish/Construct Exhibit #7

- | <u>Number</u> | <u>Applicant/Facility</u> |
|---------------|---|
| 1. 121180 E | Gotham Health FQHC (New York County) |
| 2. 121340 E | Metro Community Health Center (New York County) |

Residential Health Care Facilities - Establish/Construct

Exhibit #8

<u>Number</u>	<u>Applicant/Facility</u>
1. 082143 E	OMOP, LLC d/b/a Orchard Manor, Inc. (Orleans County)
2. 121103 E	HRNC Operating, LLC d/b/a Highland Rehabilitation and Nursing Center (Orange County)
3. 121168 E	Oak Hollow NC Corp. d/b/a Oak Hollow Nursing Center (Suffolk County)
4. 121174 E	Crest Hall Corp. d/b/a Lakeview Rehabilitation and Care Center (Suffolk County)
5. 121175 E	Crown Nursing Home Associates, Inc. d/b/a Crown Nursing and Rehabilitation Center (Kings County)

Certified Home Health Agencies – Establish/Construct

Exhibit #9

<u>Number</u>	<u>Applicant/Facility</u>
1. 121135 E	Genesee Region Home Care Association, Inc. d/b/a Lifetime Care (Monroe County)

C. Certificates

Certificate of Restated Certificate of Incorporation

Exhibit #10

Applicant

1. The Methodist Homes For The Aging of the Wyoming Conference in the State of New York

Certificate of Dissolution

Exhibit #11

Applicant

1. The Falck Foundation, Inc.
2. St. Clare Manor of Lockport, N.Y.
3. St. Joseph’s Manor of Olean, N.Y.

4. St. Luke Manor of Batavia. N.Y.
5. St. Mary's Manor

D. Home Health Agency Licensures

Home Health Agency Licensures

Exhibit #12

<u>Number</u>	<u>Applicant/Facility</u>
2141 L	Clinton County Department of Health (Clinton County)

********PLEASE NOTE THAT THE CHHA CON APPLICATIONS IN RESPONSE TO THE RFA/DAL ARE CONTAINED IN A SEPARATE DOCUMENT ENTITLED BOOK B********

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Acute Care Services - Construction

Exhibit #1

1. 121157 C Northern Westchester Hospital
(Westchester County)



Public Health and Health Planning Council

Project # 121157-C Northern Westchester Hospital

County: Westchester (Mount Kisco)
Purpose: Establishment

Program: Acute Care Services
Submitted: March 26, 2012

Executive Summary

Description

Northern Westchester Hospital (NWH), a 233-bed not-for-profit acute care hospital located at 400 East Main Street, Mount Kisco, requests approval to construct 6 new operating rooms (ORs), and a 13-bed post-anesthesia care unit (PACU) in shell space over the facility's emergency department, along with other renovations in support of its surgical services. This project will not result in a net increase in capacity on the NWH operating certificate.

NWH indicates that the project will remedy regulatory deficiencies in the existing OR suite and central sterile supply (CSS) suite. It will also increase surgical and procedural capacity, and redesign CSS for improved access. This will in turn allow additional space for OR case carts, and the addition of 4 new elevators that will be connected to the expanded CSS for vertical circulation.

NWH has recently completed a two-story addition under CON #091016-C. The first floor houses the expanded emergency room and a portion of the second floor was built as shell space for future use. Under CON #091016-C, the cost of the shell space that was not recognized for capital reimbursement, amounted to \$2,604,026.

In 1996, Healthstar Network, Inc. d/b/a Stellaris Health Network became the active parent and co-established operator of NWH. Stellaris Health Network, a not-for-profit corporation, is the sole member and supporter of NWH, White Plains Hospital Center, Lawrence Hospital Center and Phelps Memorial Hospital Association. The purpose of Stellaris is to preserve a strong community-based healthcare system in Westchester and Putnam counties.

Total project costs are estimated at \$42,172,321.

DOH Recommendation
Contingent approval.

Need Summary

This project will increase surgical and procedural capacity, provide a new OR suite and technology, and correct regulatory deficiencies in the existing OR suite.

Program Summary

Based on the results of this review, a favorable recommendation can be made regarding the facility's current compliance pursuant to 2802-(3)(e) of the New York State Public Health Law.

Financial Summary

Project costs will be met via \$6,172,321 in equity from the Hospital and its Foundation, along with \$36,000,000 in tax-exempt fixed rate bonds issued through the Westchester Local Development Corporation (25 yrs. @ 3.20%).

TD Bank will directly purchase the \$36,000,000 private placement bonds and hold them for a minimum of 10 years. In the eighth year, TD bank will consider renewing annual extensions beyond the tenth year. Should TD bank at that time (eight year), choose not to renew, the applicant will have two years to seek Letter of Credit or alternative bond financing enhancement.

Incremental Budget:	<i>Revenues:</i>	\$ 15,381,514
	<i>Expenses:</i>	<u>11,205,884</u>
	<i>Gain/(Loss):</i>	\$ 4,175,630

Subject to the noted contingency, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a final financing package that is acceptable to the department of Health. [BFA]
3. Submission of a Dormitory Authority of the State of New York (DASNY) design review recommendation found acceptable to the Department of Health, in accordance with the memorandum of understanding (MOU) executed between the Department and DASNY. [AER]

Approval conditional upon:

1. The submission of Final Construction Documents, signed and sealed by the project architect, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]

Council Action Date

August 9, 2012.

Need Analysis

Background

Northern Westchester Hospital (NWH) is 233-bed acute care hospital located at 400 East Main Street, Mount Kisco, 10549, in Westchester County. The facility seeks approval to construct six (6) new operating rooms (ORs), surgical support spaces and a new 13-bed PACU in existing shell space above the Hospital's new Emergency Department. The total number of ORs on Northern Westchester Hospital will total 13 upon project completion.

Northern Westchester Hospital (NWH) has the following certified beds and services:

<u>Certified Beds</u>	
<u>Bed Category</u>	<u>Certified Capacity</u>
Coronary Care	6
Intensive Care	10
Maternity	27
Medical / Surgical	153
Neonatal Intensive Care	5
Neonatal Intermediate Care	5
Pediatric	12
Psychiatric	<u>15</u>
<i>Total</i>	<i>233</i>

<u>Certified Services</u>	
Ambulatory Surgery - Multi Specialty	CT Scanner
Clinical Laboratory Service	Coronary Care
Emergency Department	Health Fairs O/P
Intensive Care	Linear Accelerator
Lithotripsy	Magnetic Resonance Imaging
Maternity	Medical Social Services
Medical/Surgical	Neonatal Intensive Care
Neonatal Intermediate Care	Nuclear Medicine - Diagnostic
Nuclear Medicine - Therapeutic	Pediatric
Pharmaceutical Service	Primary Medical Care O/P
Psychiatric	Radiology - Diagnostic
Therapy - Occupational O/P	Therapy - Physical O/P
Therapy - Speech Language Pathology	

Northern Westchester Hospital is authorized to operate hospital extension clinics at 4 locations in Westchester County offering services such as: Occupational and Physical Therapy, Speech Language Pathology, Primary Medical Care, Medical Social Services and Nuclear Medicine – Diagnostic.

The hospital has the following State designations:

- Level 3 Perinatal Center; and
- Stroke Center

NWH was cited by the Department of Health in August 2010 for several deficiencies in its current suite of ORs and Central Sterile Supply (CSS) suite. NWH states that many of the deficiencies have been corrected. However, the following deficiencies remain:

- the OR suite;
- non sleeping area exceeds 10,00 square feet and does not have appropriate fire separation;

- the anesthesia work room contains sterile supplies and is used as an entry way to the ORs;
- certain critical OR pathways are too narrow; and
- certain life safety codes have not been met.

This project will allow the hospital to address the issues cited by the Department in August 2010. The new ORs will also increase the hospital's surgical and procedural capacity. The hospital will have 13 ORs, including 6 new state-of-the-art, regulatory compliant ORs. The project will improve access to and redesign of the CSS. Upon completion, the space will operate as a separate OR suite, with its own recovery area and will work in conjunction with the neighboring OR suite.

Analysis

From 2007 to 2009, SPARCS and Institutional Cost Report data show that NWH's inpatient surgical and ambulatory surgery procedures totaled more than 14,000 cases per year. However, in 2010, the total number of combined cases decreased to less than 13,400 (Table 1). NWH states that the decline in outpatient use was due to negotiations issues with Empire Blue Cross/Blue Shield. According to the applicant, the issues were resolved, and its pre-2010 surgical volume has been restored.

<i>Year</i>	<i>Inpatient Surgical Discharges</i>	<i>Ambulatory Surgery Procedures</i>	<i>Total</i>
2007	3,197	10,873	14,070
2008	3,230	11,618	14,848
2009	3,299	11,256	14,555
2010	3,263	10,133	13,396

Source: Inpatient Discharges SPARCS 2007 – 2010 and Ambulatory Surgery Procedures, Institutional Cost Reports, 2007 – 2010

The need for operating rooms is calculated based on a standard of 800 to 1,200 cases per OR per year. Upon project completion, Northern Westchester Hospital proposes 13 operating rooms. The hospital's inpatient and outpatient utilization statistics support the need for the 13 ORs. Additionally, this project will enable the hospital to:

1. remedy regulatory deficiencies in the existing OR suite;
2. upgrade the OR suite to modern state-of-the-art OR technology; and
3. increase surgical and procedural capacity in order to accommodate current and future surgical cases.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Project Proposal

Northern Westchester Hospital requests approval to modernize surgical services through the construction of six additional operating rooms, additional surgical support space and a 13-bed PACU in existing shell space. There will be no changes to services concurrent with the approval of this application.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will continue to ensure that procedures performed at the facility conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The facility's admissions policy will include anti-discrimination regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, or source of payment. All procedures will be performed in accordance with all applicable federal and state codes, rules and regulations, including standards for credentialing, anesthesiology services, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements.

This facility has no outstanding Article 28 surveillance or enforcement actions and, based on the most recent surveillance information, is deemed to be currently operating in substantial compliance with all applicable State and Federal codes, rules and regulations. This determination was made based on a review of the files of the Department of Health, including all pertinent records and reports regarding the facility's enforcement history and the results of routine Article 28 surveys as well as investigations of reported incidents and complaints.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Costs and Financing

Total project cost for the renovation and acquisition of moveable equipment is estimated at \$42,172,321, itemized as follows:

Renovation & Demolition	\$20,438,966
Design Contingency	2,002,616
Construction Contingency	2,202,877
Architect/Engineering Fees	1,841,580
Construction Manager Fees	726,950
Other Fees	\$720,000
Movable Equipment	9,245,495
Telecommunications	1,401,469
Financing Costs	1,626,300
Interim Interest Expense	1,733,400
CON Application Fee	2,000
CON Processing Fee	<u>230,668</u>
Total Project Cost	\$42,172,321

Project costs are based on a December 3, 2012 start date with a thirteen-month construction period.

The applicant's financing plan appears as follows:

Cash Equity (Applicant)	\$4,172,321
Contribution from Northern Westchester Foundation (\$2-3 million depending upon need)	2,000,000
Westchester Local Development Corporation tax-exempt bonds (25 year term at an estimated 3.20% fixed rate of interest)	<u>36,000,000</u>
Total	\$42,172,321

Northern Westchester Hospital Foundation has provided a letter confirming they will contribute between \$2,000,000 to \$3,000,000 to the project.

TD Bank will directly purchase the \$36,000,000 private placement bonds and hold them for a minimum of 10 years. In the eighth year, TD bank will consider renewing annual extensions, beyond the tenth year. Should TD bank at that time (eight year), choose not to renew, applicant will have two years to seek Letter of Credit or alternative bond financing enhancement.

Operating Budget

The applicant has submitted the first and third years operating budgets, in 2012 dollars, as summarized below:

	<u>Current Year</u>	<u>Third Year Incremental</u>	<u>Cumulative</u>
Inpatient Revenues	\$51,200,741	\$9,024,404	\$60,225,145
Outpatient Revenues:	<u>36,067,620</u>	<u>6,357,110</u>	<u>42,424,730</u>
Total Revenues	\$87,268,361	\$15,381,514	\$102,649,875
Expenses			
Operating	\$40,907,766	\$6,926,578	\$47,834,344
Capital	<u>734,800</u>	<u>4,279,306</u>	<u>5,014,106</u>
Total Expenses	\$41,642,566	\$11,205,884	\$52,848,450
Operating Surplus	\$45,625,795	\$4,175,630	\$49,801,425
Utilization: (Procedures)	9,538	1,681	11,219
Cost Per Procedure	\$4,365.96		\$4,710.62

Revenues and utilization are for the Surgical Department only and do not include all hospital overhead expense allocations.

Utilization by payor source for the first and third years is anticipated as follows:

	<u>Inpatient</u>	<u>Outpatient</u>
Medicaid For-For-Service	1.43%	.56%
Medicaid Manage Care	2.10%	3.65%
Medicare Fee-For-Service	36.58%	18.24%
Medicare Managed Care	7.65%	4.44%
Commercial Managed Care	46.61%	65.26%
Private Pay	.77%	3.85%
All Other	4.20%	3.24%
Charity Care	.66%	.76%

Expenses are based upon historical experience adjusted for investment, rising costs and added staff to support the OR and CSS incremental volume. Utilization assumptions are based upon annual surgical growth of 3.3% between 2012 and 2016.

The estimated number of incremental procedures needed to cover the budgeted costs for the first year is 944 procedures and 1,225 procedures by the third year, which represents 97% and 73% of projected incremental utilization, respectively.

Capability and Feasibility

The total project cost of \$42,172,321 will be provided as follows: \$6,172,321 in equity contributions from Northern Westchester Hospital and its Foundation along with the issuance of \$36,000,000 in tax-exempt bonds through the Westchester Local Development Corporation at the above stated terms. Letters of interest have been received from both the Westchester Local Development Corporation and TD Bank, respectively. Northern Westchester Hospital Foundation has provided a letter confirming they are prepared to contribute between \$2,000,000 to \$3,000,000 for the project. Presented as BFA Attachment A is Northern Westchester Hospital Association and Subsidiaries 2011 certified financial summary, which indicates the availability of sufficient resources to fund the project.

Working capital requirements are estimated at \$1,867,647, which appear reasonable based on two months of third year incremental expenses, and will be funded from operations. Presented as BFA Attachment B is the first year incremental cash flow analysis, which shows a positive increase in the cash balance.

Northern Westchester Hospital projects an operating incremental excess of \$283,574 and \$4,175,630 in the first and third years, respectively. Revenues are based on prevailing reimbursement methodologies and current payment rates. The budget appears reasonable.

Review of BFA Attachment A shows that during 2011 Northern Westchester Hospital had operating income of \$13,449,220 and a non-operating loss of \$917,525, bringing the excess of revenues over expenses to \$12,531,695.

Also, during 2011, NWH experienced a non-cash pension related charge of \$15,584,119, dropping the unrestricted net assets by \$1,320,119. At the end of 2011, Northern Westchester Hospital's total net assets were \$78,707,808 and Northern Westchester Hospital Foundation's total net assets were \$13,724,022.

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	2011 Certified Financial Summary – Northern Westchester Hospital Association and Subsidiaries
BFA Attachment B	Cash Flow Analysis
BHFP Attachment	Map

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

APPLICATION for AMBULATORY SURGERY CENTER-CONSTRUCTION

Ambulatory Surgery Centers - Construction

Exhibit #2

	<u>Number</u>	<u>Applicant/Facility</u>
1.	112369 C	Memorial Hospital for Cancer and Allied Diseases (New York County)
2.	121208 C	Hospital for Special Surgery (New York County)



Public Health and Health Planning Council

Project # 112369-C Memorial Hospital for Cancer and Allied Diseases

County: New York (New York)
Purpose: Construction

Program: Ambulatory Surgery Center
Submitted: December 23, 2011

Executive Summary

Description

Memorial Hospital for Cancer and Allied Diseases (Memorial Hospital), a 514-bed not-for-profit hospital located at 1275 New York Avenue, New York, requests approval to certify and construct an ambulatory surgery extension clinic at 1133 York Avenue, New York, to be known as the Outpatient Surgery Center.

The proposed Outpatient Surgery Center will have 12 operating rooms, four of which will accommodate robotic procedures, along with an 18 observation bed pre-surgical assessment area, 28 observation bed unit for post-anesthesia care unit/extended stay recovery, and other support functions. The observation beds are for up to 23-hour stays, and will not result in an increase in bed capacity for Memorial Hospital.

The proposed facility will provide Memorial Hospital with the opportunity to:

- Shift the majority of the outpatient operative cases from the main hospital operating rooms, thus creating the capacity for more incremental high intensity cases to be performed at Memorial Hospital;
- Create an extended stay recovery unit (up to 23 hours), in order to allow for recovery of patients who do not need to be admitted as an inpatient but cannot be discharged as quickly as other patients who undergo routine outpatient surgery; and
- Enhance the robotic surgery program through creating the properly sized operating rooms for these types of procedures.

Memorial Hospital, along with Sloan-Kettering Institute for Cancer Research, S.K.I. Realty, Inc., and others are incorporated affiliates of Memorial Sloan-Kettering Cancer Center (MSKCC). MSKCC has been designated as a "Comprehensive Cancer Center" by the National Cancer Institute, and is only one of 40 in the nation.

Total project costs are estimated at \$338,797,105.

DOH Recommendation

Contingent approval.

Need Summary

Upon project completion, Memorial will relocate its Surgical Day Hospital to the new site. It is projected that there will be 6,393 visits in year one and 8,304 by year 3.

Program Summary

Based on the results of this review, a favorable recommendation can be made regarding the facility's current compliance pursuant to 2802-(3)(e) of the New York State Public Health Law.

Financial Summary

Total project costs will be funded as follows: \$35,000,000 gift from The Robertson Foundation; \$37,400,000 in land already owned; \$41,397,105 in equity and/or intra-company loans from MSKCC; with the remaining balance of \$225,000,000 coming from DASNY tax-exempt bonds (30 yrs. @ 5%).

Incremental Budget:	<i>Revenues:</i>	\$ 64,544,000
	<i>Expenses</i>	<u>74,221,000</u>
	<i>Gain/(Loss):</i>	(\$9,677,000)

The applicant says there is minimal incremental activity in the first three years of operations of the new extension clinic, as the volume is transferred from the main campus to the new extension clinic. As the main campus surgical volume builds back up to its current level, more positive results will be experienced. The applicant indicates that the hospital's overall operations can absorb these losses and they project that by the third year of operations the Outpatient Surgery Center will generate a positive cash flow with net operating revenues by the ninth year of operations.

Subject to the noted contingency, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There is no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of documentation of Public Authorities Control Board approval of the DASNY financing, acceptable to the Department. [BFA]
3. The submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]

Approval conditional upon:

1. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
2. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
3. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
4. The clinical space must be used exclusively for the approved purpose. [HSP]
5. The submission of Final Construction Documents, signed and sealed by the project architect, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
6. The applicant shall complete construction by May 4, 2018 in accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

August 9, 2012.

Need Analysis

Background

Memorial Hospital for Cancer and Allied Diseases (Memorial Hospital) is a 514-bed acute care hospital located at 1275 York Avenue, New York, 10021, in New York County. The applicant seeks to certify an ambulatory surgery extension clinic at 1133 York Avenue, New York, 10065, in New York County. Upon completion, Memorial Hospital plans to relocate its Surgical Day Hospital (SDH) to the new site.

Services to be added at the new Ambulatory Surgery extension clinic:

- Ambulatory Surgery - Multi-Specialty
- Pharmaceutical Service

Memorial Hospital has the following certified beds and services:

Table 1: Memorial Hospital for Cancer and Allied Services: Certified Beds by Service	
<u>Bed Category</u>	<u>Current Capacity</u>
Intensive Care	20
Medical / Surgical	457
Pediatric	37
Total	514

Table 2: Memorial Hospital for Cancer and Allied Services: Certified Services	
Ambulatory Surgery - Multi Specialty	Audiology O/P
Clinical Laboratory Service	Coronary Care
CT Scanner	Dental O/P
Intensive Care	Linear Accelerator
Magnetic Resonance Imaging	Medical Social Services
Medical/Surgical	Nuclear Medicine - Diagnostic
Nuclear Medicine – Therapeutic	Pediatric
Pharmaceutical Service	Primary Medical Care O/P
Radiology – Diagnostic	Radiology-Theapeutic
Renal Dialysis – Acute	Therapy - Occupational O/P
Therapy - Physical O/P	Therapy - Speech Language Pathology
Transplant - Bone Marrow	

Memorial Hospital is authorized to operate 13 extension clinics in Kings, New York, Nassau, Suffolk, and Westchester counties. These clinics provide outpatient services such as Diagnostic Radiology, Medical Social Services, Nursing, Pharmaceutical, Primary Medical Care, Psychology, Nutritional, Clinical Laboratory, CT Scanner, Magnetic Resonance Imaging, Physical Medicine and Rehabilitation, and Linear Accelerator.

Memorial Hospital seeks to certify a new Ambulatory Surgery extension clinic in New York County. The proposed project will establish a 12 operating room Outpatient Surgery Center devoted to furthering the effectiveness of advanced surgical procedures. In addition, the facility will also provide an academic, research and training platform with the potential for significant impact on cancer treatment.

The Surgery Day Hospital extension clinic will be constructed with the following:

- 4 of the 12 operating rooms will be built to accommodate robotic procedures;
- 18 bed pre-surgical assessment area;
- 28 bed post anesthesia care unit/extended recovery;
- sterile processing;
- pathology services;
- pharmacy;
- patient/visitor amenities – waiting areas, refreshment kiosk;
- staff amenities – staff lounge(s), café, business center, locker rooms;
- support service areas for: environmental services, facilities management, receiving/distribution; and
- loading dock.

The new facility will allow Memorial to shift the majority of its outpatient operative cases from the main hospital operating rooms to the proposed facility; thereby, creating capacity for incremental cases at the main campus; creating an extended stay recovery unit for patients that do not need to have an inpatient stay; and enhancing the robotic surgery program by creating right-sized operating rooms.

The hours of operation for the new site will be as follows:

- Monday through Friday 24 hours per day, 6 days/week;
- the extended stay unit will be the 23-hour, six day a week area to provide care for those patients requiring extended recovery time; and
- surgery will be preformed Monday through Friday from 7:30am to 7:30pm.

The main campus of Memorial Hospital, located seven (7) blocks away, will serve as the back-up hospital for the proposed facility.

Analysis

Memorial Hospital for Cancer and Allied Services has 514 total inpatient beds. In 2006, the hospital recorded 21,131 total inpatient discharges. By 2011, these discharges increased by 15.6 percent to 24,427. Approximately two-thirds of the hospital's discharges are allocated to major service category Medical/Surgical. During the period, these discharges increased by 16.0 percent from 13,485 in 2006 to 14,647 in 2011.

Memorial provides many outpatient services that are well utilized. For example, in 2006 the facility recorded 49,388 ambulatory surgical procedures. By 2010 these procedures increased by 35.1 percent to 66,722 (Table 3 and Table 3A).

Table 3: Memorial Hospital for Cancer and Allied Services: Inpatient Utilization						
Table 3A: Memorial Hospital for Cancer and Allied Services: Ambulatory Surgery Procedures						
<i>Table 3</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Inpatient Surgical Discharges	13,485	13,750	14,474	15,362	15,552	15,647
Total Inpatient Discharges	21,131	21,819	22,618	23,423	24,381	24,427
% Surgical	64	63	64	66	64	64
<hr/>						
<i>Table 3A</i>						
ICR Amb/Surg Procedures	49,388	51,998	51,713	60,483	66,722	

Source: SPARCS 206 – 2011 (Table 3)

Source: Institutional Cost Reports, 2006 – 2010 (Table 3A)

Conclusion

This project will allow the hospital to improve throughput and ensure that the needs of its patients are met in a timely manner. The population to be served currently receives cancer surgical care at Memorial’s main campus.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Project Proposal

Memorial Hospital for Cancer and Allied Diseases requests approval to construct an extension clinic to provide multi-specialty ambulatory surgery services. The new building will contain 12 operating rooms. Surgeries will be performed Monday through Friday from 7:30 am to 7:30 pm. The facility will be open 24 hours per day, six days per week, to accommodate patients requiring up to a 23 hour stay (including surgical time).

Upon completion of the project the hospital anticipates adding 280 FTEs by the end of year one and an additional 30 FTEs by the end of the third year of operation.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will continue to ensure that procedures performed at the facility conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The facility’s admissions policy will include anti-discrimination regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, or source of payment. All procedures will be performed in accordance with all applicable federal and state codes, rules and regulations, including standards for credentialing, anesthesiology services, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements.

This facility has no outstanding Article 28 surveillance or enforcement actions and, based on the most recent surveillance information, is deemed to be currently operating in substantial compliance with all applicable State and Federal codes, rules and regulations. This determination was made based on a review of the files of the Department of Health, including all pertinent records and reports regarding the facility’s enforcement history and the results of routine Article 28 surveys as well as investigations of reported incidents and complaints.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total project cost for new construction and equipment is estimated at \$338,797,105 itemized as follows:

Land Acquisition	\$37,400,000
Building Acquisition	4,200,000
New Construction	162,389,370
Site Development	1,928,013
Temporary Utilities	1,172,205
Asbestos Abatement and Removal	482,004
Design Contingency	8,197,669
Construction Contingency	8,197,669
Planning Consultant Fees	4,322,403
Architect/Engineering Fees	13,277,727

Construction Manager Fees	3,163,314
Other Fees (Consultant)	8,274,479
Movable Equipment	39,970,495
Telecommunications	5,724,375
Financing Costs	4,492,201
Interim Interest Expense	33,750,000
Con Application Fee	2,000
Additional CON Processing Fee	<u>1,853,181</u>
Total Project Cost	<u>\$338,797,105</u>

Total costs are based on a September 15, 2012 start date with a forty-two month construction period.

The applicant's financing plan appears as follows:

Gift from The Robertson Foundation	\$35,000,000
Land (already owned & valued by an MAI appraisal)	\$37,400,000
Equity and/or intra-corporate loan within MSKCC	41,397,105
DANSY tax-exempt bonds (30 year term @ 5%)	<u>225,000,000</u>
Total	\$338,797,105

The applicant states that the Institution, which consists of Memorial Sloan-Kettering Cancer Center (MSKCC), Memorial Hospital for Cancer and Allied Diseases (Memorial Hospital), and other affiliated corporations, was given an 'AA' credit rating by Fitch Ratings and Aa2 by Moody's. If MSKCC does provide any funding, then Memorial Hospital's terms with MSKCC would be the same as previously stated to the Department of Health. Memorial Hospital is only obligated to pay its inter-corporate loan with MSKCC in the event they generate positive cash flow over the course of any year. Memorial Hospital's payment would be the amount of the excess cash flow. The loan is unsecured, without interest, and has no specific terms or final due date. Presented as Attachment A is Memorial Sloan-Kettering Cancer Center and Affiliated Corporations' 2011 Certified Financial Summary that shows over \$3.1 billion in cash, cash equivalents and investments.

Operating Budget

The applicant has submitted the first and third years' incremental operating budgets in 2012 dollars, as summarized below:

	<u>First Year</u>	<u>Third Year</u>
Revenues-Outpatient:	\$34,288,000	\$45,851,000
Other Operating Income (A)	<u>14,349,000</u>	<u>18,693,000</u>
Total Revenues	\$48,637,000	\$64,544,000
Expenses:		
Operating	\$45,340,000	\$52,384,000
Capital	<u>22,239,000</u>	<u>21,837,000</u>
Total Expenses	\$67,579,000	\$74,221,000
Excess Revenue over Expenses	<u>(\$18,942,000)</u>	<u>\$ (9,677,000)</u>
Utilization: (Visits)	6,393	8,304
<i>(A) Other operating revenues consist of physician billing revenues.</i>		

Incremental capital expense includes depreciation on the building of \$6,021,341 and depreciation on equipment of \$5,501,317 annually and interest expense of \$10,716,000 for the first year and \$10,314,000 for the third year following project completion.

Outpatient utilization by payor source for the first and third years is as follows:

	<u>Outpatient</u>
Medicaid Fee -for-Service	3.60%
Medicaid Managed Care	.06%
Medicare Fee-for-Service	35.15%
Medicare Managed Care	.32%
Commercial Fee-for-Service	2.38%
Commercial Manage Care	56.04%
Private & all other	1.86%
Charity	.59%

Expenses are based upon historical experience after adjusting for volume, investment, and rising costs. Utilization assumptions are based on historical patterns plus adjustments for hiring additional physicians and program expansion. The Outpatient Surgery Center expects 6,393 incremental visits in the first year of operation or an increase of 9.58% over 2010 data (the first year of operations is approximately five and half years from now, which makes the average increase only approximately 1.74% per year which is reasonable).

The applicant states by the beginning of the third year of operation the proposed facility will generate a positive cash flow. They also project positive operating revenue by the ninth year of operations.

According to Memorial Hospital in 2010, outpatient charity care was provided to 6,734 patients or 0.585% of total outpatient visits. This represents \$16,900,000 in charity care or 1.87% of outpatient revenues.

Capability and Feasibility

Total project cost of \$338,797,105 will be funded as follows: \$35,000,000 gift from the Robertson Foundation, \$37,400,000 in land already owned, \$41,397,105 in equity and/or intra-company loans from MSKCC, with the \$225,000,000 balance coming from DASNY tax-exempt bonds at the above stated terms.

Presented as Attachments A and B are Memorial-Sloan-Kettering Cancer Center and Affiliated Corporations' 2010 and 2011 certified financial summary and Memorial Hospital for Cancer and Allied Diseases' historical & projected financial summary for 2009 through 2018, which indicates the availability of sufficient resources for this project.

Working capital requirements are estimated at \$12,370,167, which appear reasonable based on two months of third year budgeted expenses. Presented as Attachment C is Memorial Hospital for Cancer and Allied Diseases' historical & projected cash flow for 2009 through 2018, which indicates working capital requirements can be met from operations.

The incremental budget for the first year and third years' of operations projects a loss of \$18,942,000 and \$9,677,000, respectively. These losses will be absorbed by operations.

Review of Attachment B, Memorial Hospital for Cancer and Allied Diseases' historical & projected financial summary for 2009 through 2018, shows Memorial Hospital will have a net income of \$98,884,000 after they absorb the first year loss. Revenues are based on prevailing reimbursement methodologies and current rate schedules. The budget appears reasonable.

As shown on BFA Attachment A, Memorial Sloan-Kettering Cancer Center and Affiliated Corporations had positive working capital and net asset positions during the period shown. Total assets increased by \$43,636,000 and \$295,954,000 in 2011 and 2010, respectively, growing to \$3,941,162,000 as of December 31, 2011.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary for 2011 and 2010, Memorial Sloan-Kettering Cancer Center and Affiliated Corporations
BFA Attachment B	Historical & Project Financial Summary 2009 -2018, Memorial Hospital for Cancer and Allied Diseases
BFA Attachment C	Historical & Project Statement of Cash Flows 2009 -2018, Memorial Hospital for Cancer and Allied Diseases
BFA Attachment D	Detailed Cost Analysis



Public Health and Health Planning Council

Project # 121208-C Hospital for Special Surgery

County: Nassau (Uniondale)
Purpose: Construction

Program: Ambulatory Surgery Center
Submitted: April 13, 2012

Executive Summary

Description

The New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery, a 205-bed voluntary acute care hospital, seeks approval to renovate its existing extension clinic located at 333 Earle Ovington Road Uniondale, and add as a certified service single-specialty ambulatory surgery in pain management. The proposed renovations will create one procedure room and associated space to accommodate the pain management procedures.

The Hospital for Special Surgery (HSS) initially set up this extension clinic to provide more in-depth imaging capabilities for its non-Article 28 medical staff's private practices, which are located at the same site but in a space separate and distinct from the clinic. The site was also recently approved for the addition of MRI services and a third x-ray room.

HSS is a member of the New York-Presbyterian Healthcare System and an affiliate of the Weill Medical College of Cornell University.

Total project costs are estimated at \$858,536..

DOH Recommendation
Contingent approval.

Need Summary

The primary service area is Nassau County and the secondary service area is Suffolk and Queens Counties. The number of projected procedures is as follows:

First Year: 1,000
Third Year: 1,040

The third year projections are based on a two percent annual increase. These procedures are expected to be performed by HSS-affiliated physicians.

Nassau County has no ambulatory surgery centers that provide pain management procedures. The four ASCs in Nassau County include two with gastroenterology services, one with ophthalmology services, and one with endoscopy services. Nassau County also has five multi-specialty ASCs.

Program Summary

Based on the results of this review, a favorable recommendation can be made regarding the facility's current compliance pursuant to 2802-(3)(e) of the New York State Public Health Law.

Financial Summary

Project costs will be funded from equity.

Incremental Budget:	Revenues:	\$1,353,019
	Expenses:	<u>935,501</u>
	Gain/(Loss):	\$ 417,518

Subject to noted contingency, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of an executed building sublease that is acceptable to the Department of Health. [BFA]
3. The submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]

Approval conditional upon:

1. The submission of Final Construction Documents, signed and sealed by the project architect, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
2. The applicant shall complete construction by January 1, 2013 in accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

August 9, 2012.

Need Analysis

Background

The Hospital for Special Surgery (HSS) seeks to add single-specialty ambulatory surgery in pain management as a certified service to its existing extension clinic at 333 Earle Ovington Road, Uniondale, 11553, in Nassau County. The proposed project also includes renovations to add one (1) procedure room to the extension clinic to accommodate the proposed pain management procedures.

It is projected that there will be 1,000 procedures performed in year one and 1,040 in year three.

Analysis

The primary service area is Nassau County, and the secondary service area is Suffolk and Queens Counties.

The number of projected procedures is as follows:

First Year:	1,000
Third Year:	1,040

The third year projections are based on a two percent annual increase. These procedures are expected to be performed by HSS-affiliated physicians.

Nassau County has no ambulatory surgery centers that provide pain management procedures. The four ASCs in Nassau County include two with gastroenterology services, one with ophthalmology services, and one with endoscopy services. Nassau County also has five multi-specialty ASCs (Source: HFIS).

Conclusion

The proposed project will improve access to pain management services for patients of the Hospital for Special Surgery's extension clinic in Nassau County.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Project Proposal

The Hospital for Special Surgery requests approval to add the single-specialty (Pain Management) ambulatory surgery service to an existing extension clinic located at 333 Earle Ovington Road, Uniondale. The hospital will also undertake requisite renovations to accommodate the requested service.

The facility expects to add 5.06 FTEs with the additional service. The service will utilize one procedure room.

Compliance with Applicable Codes, Rules and Regulations

This facility has no outstanding Article 28 enforcement actions and, based on the most recent surveillance information, is deemed to be currently operating in substantial compliance with all applicable State and Federal codes, rules and regulations. This determination was made based on a review of the files of the Department of Health, including all pertinent records and reports regarding the facility's enforcement history and the results of routine Article 28 surveys as well as investigations of reported incidents and complaints.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Lease Rental Agreement

The applicant has submitted a letter of interest to expand the current lease to include the new pain management service. The terms are summarized below:

<i>Dated:</i>	January 16, 2012
<i>Premises:</i>	1,506 rentable square feet on the 1 st floor of a building located at 333 Earle Ovington Boulevard, Uniondale, New York
<i>Landlord/owner:</i>	333 Earle Ovington Boulevard SPE, LLC
<i>Lessee</i>	HSS Properties Corporation
<i>Sub-Lessee:</i>	Hospital for Special Surgery
<i>Term:</i>	10 years & ten months (from substantial completion of expansion suite) \$52,710 (\$35.00 sq. ft.) plus an increase of 3.15% per annum. Renewable for one additional 5-year term
<i>Provisions:</i>	Utilities, Taxes, Maintenance and Insurance

The applicant states that the lease is an arm's length arrangement between the landlord and HSS Properties Corporation (lessee), but not between HSS Properties Corporation and Hospital for Special Surgery (sub-lessee). HSS Properties Corporation, is an affiliate of Hospital for Special Surgery (HSS), and leases the facility from the landlord and then sub-leases the existing extension clinic space to HSS. The lease documents will be amended to add the space needed to accommodate the pain management service.

As per the agreement with the landlord, the rental payments will be based on 1,506 square feet, slightly less than the functional space calculated by the architect.

Total Project Costs and Financing

Total project cost for renovation and acquisition of moveable equipment is estimated at \$858,536, itemized as follows:

Renovation & Demolition	\$389,649
Design Contingency	38,965
Construction Contingency	38,965
Architect/Engineering Fees	38,965
Other Fees	25,750
Movable Equipment	319,557
CON Application Fee	2,000
CON Processing Fee	<u>4,685</u>
Total Project Cost	<u>\$858,536</u>

Project costs are based on a September 1, 2012 start date with a four month construction period.

The applicant's financing plan appears as follows:

Cash Equity (Applicant)	\$858,536
-------------------------	-----------

Operating Budget

The applicant has submitted the first and third years operating budgets, in 2012 dollars, as summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,237,750	\$1,353,019
Expenses:		
Operating	\$722,059	\$779,488
Capital	<u>152,259</u>	<u>156,013</u>
Total Expenses	\$874,318	\$935,501

Net Income or (Loss)	\$363,432	\$417,518
Utilization: (procedures)	1,000	1,040
Cost Per Procedure	\$874.32	\$899.52

Utilization by payor source for the first and third years is anticipated as follows:

Medicare Fee-for-Service	58.0%
Commercial Fee-for-Service	39.0%
All Other	1.0%
Charity Care	2.0%

Utilization assumptions were based HSS-affiliated physicians' current volume of pain management procedures. The number and mix of staff were determined based on the experience of HSS, along with incorporating known staffing standards. The estimated breakeven point for the first and third years is approximately 70% of budgeted procedures.

Capability and Feasibility

The total project cost of \$858,536 will be provided from the hospitals accumulated funds. Presented as BFA Attachment A is the New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery 2010-2011 certified financial summary, which indicates the availability of sufficient resources.

Working capital requirements are estimated at \$155,917, which appear reasonable based on two months of third year budgeted expenses and will be funded through operations.

Hospital for Special Surgery projects an operating excess of \$363,432 and \$417,518 in the first and third years, respectively. Revenues are based on HSS affiliated physicians experience. The budget appears reasonable.

Review of BFA Attachment A shows that during 2010 and 2011, the New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery generated average positive working capital of \$221,538,500, and an average operating income of \$46,386,500 before an average charge for defined benefit pension and post-retirement benefits of \$33,345,500. Total net assets at the end of 2011 were \$422,850,000.

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	2010-2011 Certified Financial Summary –New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery
BHFP Attachment	Map

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Residential Health Care Facilities Ventilator Beds – Construction

Exhibit #3

	<u>Number</u>	<u>Applicant/Facility</u>
1.	071077 C	North Sea Associates, LLC d/b/a The Hamptons Center for Rehabilitation and Nursing (Suffolk County)
2.	112096 C	Nesconset Acquisition, LLC d/b/a Nesconset Center for Nursing and Rehabilitation (Suffolk County)
3.	071024 C	Long Beach Memorial Nursing Home, Inc. d/b/a Komanoff Center for Geriatric and Rehabilitation Medicine (Nassau County)
4.	072112 C	Oakwood Operating Co., LLC d/b/a Affinity Skilled Living and Rehabilitation Center (Suffolk County)

NEW YORK STATE DEPARTMENT OF HEALTH

INTEROFFICE MEMORANDUM

TO: Members of the Establishment and Project Review Committee
Public Health and Health Planning Council

FROM: Charles P. Abel
Acting Director
Division of Health Facility Planning

SUBJ: Applications for Ventilator Beds in the Nassau-Suffolk Region

DATE: July 19, 2012

Background

At the November 17, 2011 meeting of the Establishment and Project Review Committee, staff recommended disapproval of four applications for ventilator beds based on the need methodology for long-term care ventilator beds set forth in 10 NYCRR Section 709.17. As required by section 709.17, this determination was based on an analysis of need for ventilator beds in the combined planning area of Nassau and Suffolk counties.

In response to descriptions of problems in access to ventilator bed care in Suffolk County presented by applicants proposing to add ventilator units in nursing homes in that jurisdiction, the Committee deferred action on the four applications and asked the Department to evaluate the need for ventilator beds in Suffolk County separately from Nassau County, even though section 709.17 states that need shall be calculated for Nassau and Suffolk Counties combined. Members also asked staff to obtain additional information on the following factors they considered pertinent to their review of the four applications:

- the use of non-certified ventilator beds, so called “scatter beds,” by nursing homes in Nassau and Suffolk counties;
- the quality of care rendered to residents in scatter beds compared to that provided to residents in units made up of certified ventilator beds;
- the number of Suffolk County residents being treated in ventilator beds in nursing homes in Nassau County;

Bed Need in Suffolk County

Based on a provision in section 709.17 which states that estimates of bed need derived from the methodology may be modified based on significant local factors, the Department concludes that distinctive features of the planning area and the current configuration of vent bed services therein warrant consideration of bed need in Suffolk County separately from the combined Nassau-Suffolk planning area. These features are:

- Suffolk County has an east-west length of 86 miles in a land area of 912 square miles. The county experiences considerable traffic congestion and lacks significant mass transit, which makes travel within this elongated jurisdiction, and to neighboring Nassau County, difficult;
- Suffolk County has a population of 1.5 million, but there are currently only two nursing homes in Suffolk County certified to operate ventilator beds, with a combined total of 48 such beds;
- A total of 114 of Long Island's 162 certified ventilator beds are concentrated in Nassau County, which has a population of 1.3 million in an area of 285 square miles, much smaller than Suffolk County.

These figures show that Suffolk County has 54 percent of the population of the Nassau-Suffolk planning area but only 42 percent of its certified ventilator beds; and that these beds must serve a geographic area nearly 70 percent larger than Nassau County, which has 46 percent of the planning area's population but 58 percent of its certified ventilator beds.

The Department concludes that the geography of Suffolk County and the current uneven distribution of ventilator beds on Long Island are local factors that warrant the consideration of bed need in Suffolk County alone rather than as part of the Nassau-Suffolk planning area. This conclusion is reinforced by discussions between Department staff and administrators of hospitals in Suffolk County, who consistently have said that discharge of ventilator-dependent patients to nursing homes in the county was problematic, and who believed that more ventilator beds were needed in nursing homes in the jurisdiction.

Scatter Beds

Although scatter beds are regular residential health care facility (RHCF) beds, facilities do list them separately in their weekly utilization reports submitted to the Department. Based on these self-reported and unaudited submissions, there are 29 scatter beds in Suffolk County (24 of which are located in facilities with certified vent bed units) and 53 in Nassau County. However, we note that the total of scatter beds is a fluid and ultimately indeterminate number, in that facilities are free to switch these regular RHCF beds between ventilator service and ordinary RHCF use on an as-needed basis. One Long Island nursing home, for example, usually claims to operate 20 scatter beds, but in a

recent period reported only 14. This flexibility compounds the difficulties in determining the actual need for vent services, in Nassau and Suffolk counties, and anywhere else where scatter beds are operated.

Quality of Care

There are no regularly reported or monitored quality indicators for ventilator beds, whether certified or scatter. Quality comes under review only in routine surveillance activities or in response to incident reports or resident complaints. Absent a special survey, the Department can, therefore, make no definitive statements regarding any differences in the quality of care delivered to residents in certified ventilator units versus those in scatter beds.

Utilization Between Counties

Suffolk County residents constitute eight percent of RHCF residents in Nassau County nursing homes. Nassau County residents constitute almost ten percent of RHCF residents in Suffolk County nursing homes. Other than a special survey, the Department has no means of assessing the number of Suffolk County residents who receive ventilator services in Nassau County facilities (nor vice versa). We can, therefore, draw no conclusions as to whether significant numbers of Suffolk County residents seek long-term ventilator care in facilities in Nassau County.

Recommendation

The Department's application of the section 709.17 need methodology to Suffolk County alone indicates a need for 33 ventilator beds in that jurisdiction (and a corresponding excess of 33 beds in Nassau County). On the basis of need, the Department recommends approval of one of applications from Suffolk County, for 20 ventilator beds. On the basis of excess ventilator bed capacity in Nassau County, the Department recommends disapproval of the single application from that jurisdiction.

Approval of the proposed 20-bed unit would still leave a need for 13 more ventilator beds in Suffolk County, raising the possibility of partial approval of either of the other two requests for ventilator beds received from Suffolk County applicants (requests of 20 and 22 beds). However, the Department believes that the need methodology's prescription for consideration of Nassau and Suffolk counties as a single planning area for ventilator beds is fundamentally sound (as it is for regular RHCF beds under section 709.3) and that the consideration given to local factors in this instance should be limited in its effect. Hence, we recommend approval of only 20 additional beds for Suffolk County.



Public Health and Health Planning Council

Project # 071077-C

**North Sea Associates, LLC
d/b/a The Hamptons Center for Rehabilitation and Nursing**

**County: Suffolk (Southampton)
Purpose: Construction**

**Program: Residential Health Care Facility
Submitted: April 18, 2007**

Executive Summary

Description

North Sea Associates, LLC d/b/a The Hamptons Center for Rehabilitation and Nursing (The Hamptons Center), a 280-bed proprietary residential health care facility (RHCF) located at 64 County Road 39, Southampton, requests approval to certify a 22-bed ventilator-dependent service through the conversion of 22 existing RHCF beds.

DOH Recommendation
Disapproval.

Need Summary

10 NYCRR Section 709.17 states that the planning areas for determining the public need for long-term ventilator beds on Long Island shall be the combined areas of Nassau and Suffolk counties. Estimates of ventilator bed need are therefore to be calculated based on the application of the need factors set forth in the 709.17 methodology to the two counties as a whole. This calculation results in a finding of a current lack of need for additional ventilator beds in the Nassau-Suffolk planning area.

Based on descriptions of problems in access to ventilator bed care presented by applicants proposing to add ventilator units in nursing homes in Suffolk County, the PHHPC asked the Department to evaluate the need for ventilator beds in Suffolk County separately from Nassau County, even though section 709.17 states that need shall be calculated for Nassau and Suffolk Counties combined. Noting a provision in section 709.17 which states that estimates of bed need derived from the methodology may be modified based on significant local factors, the Department concludes

that distinctive features of the planning area and the current configuration of services therein warrant consideration of bed need in Suffolk County separately from the combined Nassau-Suffolk planning area. This approach indicated a need for 33 ventilator beds in Suffolk County and the three applications from nursing homes in the county were reviewed on that basis. The three qualifying applications were ultimately reviewed competitively on criteria that included, but were not limited to:

- experience operating a ventilator unit with beds in a discrete space;
- ability of the facility to serve hard-to-place ventilator-dependent patients, such as those requiring renal dialysis or bariatric services;
- a comprehensive program to reduce re-hospitalizations for ventilator patients;
- in-house clinical laboratory services;
- in-house radiology services;
- in-house pharmacy;
- presence or planning for a step-down unit adjacent to a certified ventilator unit;
- geographic location central to the target population; and,
- cost of ventilator operations.

As a result of this competitive review, one applicant is being recommended for approval, requesting a total of 20 ventilator beds.

This CON is one of two that did not address the review criteria well enough to merit being awarded vent beds, and is, therefore, recommended for disapproval.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Disapproval.

State Council Recommendation

August 9, 2012.

Need Analysis

Background

10 NYCRR Section 709.17 states that the planning areas for determining the public need for long-term ventilator beds on Long Island shall be the combined areas of Nassau and Suffolk counties. Estimates of ventilator bed need are therefore to be calculated based on the application of the need factors set forth in the 709.17 methodology to the two counties as a whole. This calculation results in a finding of a current lack of need for additional ventilator beds in the Nassau-Suffolk planning area.

Based on descriptions of problems in access to ventilator bed care presented by applicants proposing to add ventilator units in nursing homes in Suffolk County, the PHHPC asked the Department to evaluate the need for ventilator beds in Suffolk County separately from Nassau County, even though section 709.17 states that need shall be calculated for Nassau and Suffolk Counties combined. Noting a provision in section 709.17 which states that estimates of bed need derived from the methodology may be modified based on significant local factors, the Department concludes that distinctive features of the planning area and the current configuration of services therein warrant consideration of bed need in Suffolk County separately from the combined Nassau-Suffolk planning area. This approach indicated a need for 33 ventilator beds in Suffolk County and the three applications from nursing homes in Suffolk County were reviewed on that basis. The key features of the planning area are:

- Suffolk County has an east-west length of 86 miles in a land area of 912 square miles. The county experiences considerable traffic congestion and lacks significant mass transit, which makes travel within this elongated jurisdiction, and to neighboring Nassau County, difficult;
- Suffolk County has a population of 1.5 million, but there are currently only two nursing homes in Suffolk County certified to operate ventilator beds, with a combined total of 48 such beds;
- A total of 114 of Long Island's 162 certified ventilator beds are concentrated in Nassau County, which has a population of 1.3 million in an area of 285 square miles, much smaller than Suffolk County.

These figures show that Suffolk County has 54% of the population of the Nassau-Suffolk planning area but only 42% of its certified ventilator beds; and that these beds must serve a geographic area nearly 70% larger than Nassau County, which has 46% of the planning area's population but 58% of its certified ventilator beds.

The Department concludes that the geography of Suffolk County and the current uneven distribution of ventilator beds on Long Island are local factors that warrant the consideration of bed need in Suffolk County alone rather than as part of the Nassau-Suffolk planning area. This conclusion is reinforced by discussions between Department staff and administrators of hospitals in Suffolk County, who consistently said that discharge of ventilator-dependent patients to nursing homes in the county was problematic, and who believed that more ventilator beds were needed in nursing homes in the jurisdiction.

As noted, application of the need methodology to Suffolk County indicates a need for 33 additional beds, as shown below:

<i>Total live discharges for DRG (003, 004, and 207)</i>	
Suffolk County:	636 live discharges
Plus 10%:	700 discharges
.32 = long-term vent patients:	224
ALOS = 125 days:	28,000 total patient days
Average daily census:	77
Occupancy Rate = .95:	81 ventilator beds
Existing and Approved beds:	48
<i>Remaining Need: 33 beds</i>	

Source: SPARCS 2009

<i>Suffolk County - Existing Ventilator Beds</i>		
<i>Facility</i>	<i>Vent Beds</i>	<i>Occupancy, 2010</i>
Medford Multicare Center for Living	20	96.3%
Gurwin Jewish Nursing & Rehab Center	28	90.9%
<i>Total</i>	48	

Source: RHCFCost Report, 2010

Solicitation

In May 2012, Department staff conducted individual conference calls with each of the three Suffolk County applicants. Each applicant was informed of the status of the Department's review and our efforts to further evaluate need on a county specific basis pursuant to direction handed down from PHHPC. Applicants were asked to submit additional information addressing local factors that impact need for the additional vent beds they are proposing.

Analysis

The three qualifying applications were ultimately reviewed competitively on criteria that included, but were not limited to:

- experience operating a ventilator unit with beds in a discrete space;
- ability of the facility to serve hard-to-place ventilator-dependent patients, such as those requiring renal dialysis or bariatric services;
- a comprehensive program to reduce re-hospitalizations for ventilator patients;
- in-house clinical laboratory services;
- in-house radiology services;
- in-house pharmacy;
- presence or planning for a step-down unit adjacent to a certified ventilator unit;
- geographic location central to the target population; and,
- cost of ventilator operations.

As a result of this competitive review, one applicant is being recommended for approval, requesting a total of 20 ventilator beds.

This CON is one of two that did not address the review criteria well enough to merit being awarded vent beds and is, therefore, recommended for disapproval.

Recommendation

From a need perspective, disapproval is recommended.

Attachments

BHFP Attachment Map



Public Health and Health Planning Council

Project # 112096-C **Nesconset Acquisition, LLC** **d/b/a Nesconset Center for Nursing and Rehabilitation**

County: Suffolk (Nesconset)
Purpose: Construction

Program: Residential Health Care Facility
Submitted: August 15, 2011

Executive Summary

Description

Nesconset Acquisition, LLC d/b/a Nesconset Center for Nursing and Rehabilitation (Nesconset Center), a 240-bed proprietary residential health care facility (RHCF) located at 100 Southern Boulevard, Nesconset, requests approval to certify a 20-bed ventilator-dependent service through the conversion of 20 RHCF beds. The 20-bed vent unit would consist of 10 adult and 10 pediatric ventilator-dependent beds.

DOH Recommendation
Disapproval.

Need Summary

10 NYCRR Section 709.17 states that the planning areas for determining the public need for long-term ventilator beds on Long Island shall be the combined areas of Nassau and Suffolk counties. Estimates of ventilator bed need are therefore to be calculated based on the application of the need factors set forth in the 709.17 methodology to the two counties as a whole. This calculation results in a finding of a current lack of need for additional ventilator beds in the Nassau-Suffolk planning area.

Based on descriptions of problems in access to ventilator bed care presented by applicants proposing to add ventilator units in nursing homes in Suffolk County, the PHHPC asked the Department to evaluate the need for ventilator beds in Suffolk County separately from Nassau County, even though section 709.17 states that need shall be calculated for Nassau and Suffolk Counties combined. Noting a provision in section 709.17 which states that estimates of bed need derived from the methodology may be modified based on significant local factors, the Department concludes

that distinctive features of the planning area and the current configuration of services therein warrant consideration of bed need in Suffolk County separately from the combined Nassau-Suffolk planning area. This approach indicated a need for 33 ventilator beds in Suffolk County and the three applications from nursing homes in the county were reviewed on that basis. The three qualifying applications were ultimately reviewed competitively on criteria that included, but were not limited to:

- experience operating a ventilator unit with beds in a discrete space;
- ability of the facility to serve hard-to-place ventilator-dependent patients, such as those requiring renal dialysis or bariatric services;
- a comprehensive program to reduce re-hospitalizations for ventilator patients;
- in-house clinical laboratory services;
- in-house radiology services;
- in-house pharmacy;
- presence or planning for a step-down unit adjacent to a certified ventilator unit;
- geographic location central to the target population; and,
- cost of ventilator operations.

As a result of this competitive review, one applicant is being recommended for approval, requesting a total of 20 ventilator beds.

This CON is one of two that did not address the review criteria well enough to merit being awarded vent beds, and is, therefore, recommended for disapproval.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Disapproval.

State Council Recommendation

August 9, 2012.

Need Analysis

Background

10 NYCRR Section 709.17 states that the planning areas for determining the public need for long-term ventilator beds on Long Island shall be the combined areas of Nassau and Suffolk counties. Estimates of ventilator bed need are therefore to be calculated based on the application of the need factors set forth in the 709.17 methodology to the two counties as a whole. This calculation results in a finding of a current lack of need for additional ventilator beds in the Nassau-Suffolk planning area.

Based on descriptions of problems in access to ventilator bed care presented by applicants proposing to add ventilator units in nursing homes in Suffolk County, the PHHPC asked the Department to evaluate the need for ventilator beds in Suffolk County separately from Nassau County, even though section 709.17 states that need shall be calculated for Nassau and Suffolk Counties combined. Noting a provision in section 709.17 which states that estimates of bed need derived from the methodology may be modified based on significant local factors, the Department concludes that distinctive features of the planning area and the current configuration of services therein warrant consideration of bed need in Suffolk County separately from the combined Nassau-Suffolk planning area. This approach indicated a need for 33 ventilator beds in Suffolk County and the three applications from nursing homes in Suffolk County were reviewed on that basis. The key features of the planning area are:

- Suffolk County has an east-west length of 86 miles in a land area of 912 square miles. The county experiences considerable traffic congestion and lacks significant mass transit, which makes travel within this elongated jurisdiction, and to neighboring Nassau County, difficult;
- Suffolk County has a population of 1.5 million, but there are currently only two nursing homes in Suffolk County certified to operate ventilator beds, with a combined total of 48 such beds;
- A total of 114 of Long Island's 162 certified ventilator beds are concentrated in Nassau County, which has a population of 1.3 million in an area of 285 square miles, much smaller than Suffolk County.

These figures show that Suffolk County has 54% of the population of the Nassau-Suffolk planning area but only 42% of its certified ventilator beds; and that these beds must serve a geographic area nearly 70% larger than Nassau County, which has 46% of the planning area's population but 58% of its certified ventilator beds.

The Department concludes that the geography of Suffolk County and the current uneven distribution of ventilator beds on Long Island are local factors that warrant the consideration of bed need in Suffolk County alone rather than as part of the Nassau-Suffolk planning area. This conclusion is reinforced by discussions between Department staff and administrators of hospitals in Suffolk County, who consistently said that discharge of ventilator-dependent patients to nursing homes in the county was problematic, and who believed that more ventilator beds were needed in nursing homes in the jurisdiction.

As noted, application of the need methodology to Suffolk County indicates a need for 33 additional beds, as shown below:

<i>Total live discharges for DRG (003, 004, and 207)</i>	
Suffolk County:	636 live discharges
Plus 10%:	700 discharges
.32 = long-term vent patients:	224
ALOS = 125 days:	28,000 total patient days
Average daily census:	77
Occupancy Rate = .95:	81 ventilator beds
Existing and Approved beds:	48
<i>Remaining Need: 33 beds</i>	

Source: SPARCS 2009

<u>Suffolk County - Existing Ventilator Beds</u>		
<u>Facility</u>	<u>Vent Beds</u>	<u>Occupancy, 2010</u>
Medford Multicare Center for Living	20	96.3%
Gurwin Jewish Nursing & Rehab Center	28	90.9%
<i>Total</i>	48	

Source: RHCFCost Report, 2010

Solicitation

In May 2012, Department staff conducted individual conference calls with each of the three Suffolk County applicants. Each applicant was informed of the status of the Department's review and our efforts to further evaluate need on a county specific basis pursuant to direction handed down from PHHPC. Applicants were asked to submit additional information addressing local factors that impact need for the additional vent beds they are proposing.

Analysis

The three qualifying applications were ultimately reviewed competitively on criteria that included, but were not limited to:

- experience operating a ventilator unit with beds in a discrete space;
- ability of the facility to serve hard-to-place ventilator-dependent patients, such as those requiring renal dialysis or bariatric services;
- a comprehensive program to reduce re-hospitalizations for ventilator patients;
- in-house clinical laboratory services;
- in-house radiology services;
- in-house pharmacy;
- presence or planning for a step-down unit adjacent to a certified ventilator unit;
- geographic location central to the target population; and,
- cost of ventilator operations.

As a result of this competitive review, one applicant is being recommended for approval, requesting a total of 20 ventilator beds.

This CON is one of two that did not address the review criteria well enough to merit being awarded vent beds and is, therefore, recommended for disapproval.

Recommendation

From a need perspective, disapproval is recommended.

Attachments

BHFP Attachment Map



Public Health and Health Planning Council

Project # 071024-C

Long Beach Memorial Nursing Home, Inc. d/b/a Komanoff Center for Geriatric and Rehabilitative Medicine

County: Nassau (Long Beach)
Purpose: Construction

Program: Residential Health Care Facility
Submitted: February 16, 2007

Executive Summary

Description

Long Beach Memorial Nursing Home, Inc. d/b/a Komanoff Center for Geriatric Rehabilitative Medicine (Komanoff Center), an existing 200-bed not-for-profit hospital-based residential health care facility (RHCF) located at 375 East Bay Drive, Long Beach, requests approval to certify a 10-bed ventilator-dependent service through the conversion of 10 existing RHCF beds.

DOH Recommendation
Disapproval.

Need Summary

10 NYCRR Section 709.17 states that the planning areas for determining the public need for long-term ventilator beds on Long Island shall be the combined areas of Nassau and Suffolk counties. Estimates of ventilator bed need are therefore to be calculated based on the application of the need factors set forth in the 709.17 methodology to the two counties as a whole. This calculation results in a finding of a current lack of need for additional ventilator beds in the Nassau-Suffolk planning area.

Based on descriptions of problems in access to ventilator bed care presented by applicants proposing to add ventilator units in nursing homes in Suffolk County, the PHHPC asked the Department to evaluate the need for ventilator beds in Suffolk County separately from Nassau County, even though section 709.17 states that need shall be calculated for Nassau and Suffolk Counties combined. Noting a provision in section 709.17 which states that estimates of bed need derived from the methodology may be modified based

on significant local factors, the Department concludes that distinctive features of the planning area and the current configuration of services therein warrant consideration of bed need in Suffolk County separately from the combined Nassau-Suffolk planning area. This approach also implies a corresponding analysis of the need for ventilator beds in Nassau County separate from the combined two-county planning area. This analysis indicates an excess of 33 beds in Nassau County.

Based on the ventilator bed need methodology in 10 NYCRR Section 709.17, the Department finds that no public need for additional ventilator beds currently exists in Nassau County.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Disapproval.

State Council Recommendation

August 9, 2012.

Need Analysis

Background

Long Beach Memorial Nursing Home, Inc. d/b/a Komanoff Center for Geriatric and Rehabilitation Medicine (Komanoff Center) is located at 375 East Bay Drive, Long Beach, Nassau County. The bed request for this application is tabulated below:

<u>Requested Bed Capacity Change</u>			
<u>Service</u>	<u>Existing</u>	<u>Requested</u>	<u>Revised</u>
RHCF	200	-10	190
Ventilator	<u>0</u>	<u>+10</u>	<u>10</u>
Total	200	0	200

Komanoff Center's occupancy rates for 2009 and 2010 were as follows:

<u>Occupancy Rate</u>			
<u>Service</u>	<u>RHCF Beds</u>	<u>2009</u>	<u>2010</u>
RHCF	200	90.9%	87.1%

SOURCE: RHCF Cost Reports

709.17-Need for Long-Term Ventilator Beds

Section 709.17 states that the planning areas for determining the public need for long-term ventilator beds on Long Island shall be the combined areas of Nassau and Suffolk Counties. Estimates of ventilator bed need are therefore to be calculated based on the application of the need factors set forth in the 709.17 methodology to the two counties as a whole. This calculation results in a finding of a current lack of need for additional ventilator beds in the Nassau-Suffolk planning area.

Based on descriptions of problems in access to ventilator bed care presented by applicants proposing to add ventilator units in nursing homes in Suffolk County, the PHHPC asked if the Department could evaluate the need for ventilator beds in Suffolk County separately from Nassau County, even though Section 709.17 states that need shall be calculated for Nassau and Suffolk Counties combined. Noting a provision in Section 709.17 which states that estimates of need derived from the methodology may be modified based on significant local factors, the Department concludes that distinctive features of the planning area and the current configuration of services therein warrant consideration of bed need in Suffolk County separately from the combined Nassau-Suffolk planning area. These factors are the larger land area of Suffolk County compared to Nassau County, together with the higher concentration of certified ventilator beds in Nassau County for a population slightly smaller than that of Suffolk County. This approach indicated a need for 33 ventilator beds in Suffolk County.

The corollary to this separate analysis of ventilator bed need in Suffolk County is a corresponding separate analysis of bed need in Nassau County. Application of the ventilator bed need methodology to Nassau County separately from the combined Nassau-Suffolk planning area shows an excess supply of 33 certified ventilator beds in the county.

<u>Total live discharges for DRG (003, 004, and 207)</u>	
Nassau County:	635 live discharges
Plus 10%:	699 discharges
.32 = long-term vent patients:	224
ALOS = 125 days:	28,000 total patient days
Average daily census:	77
Occupancy Rate = .95:	81 ventilator beds
Existing and Approved beds:	114
<i>Remaining Need: - 33</i>	

Source: SPARCS 2009

<i>Nassau County-Existing Ventilator Beds</i>		
<u>Facility</u>	<u>Vent Beds</u>	<u>Occupancy, 2010</u>
South Shore Healthcare	24	26.2
Meadowbrook Care Center	10	69.2
A. Holly Patterson Extended Care	20	93.2
Woodmere Rehab & Health Care	16	99.5
Townhouse Center for Rehab & Nursing	20	98.8
Cold Spring Hills Center ¹	24	--
<i>Total</i>	<i>114</i>	

¹ Cold Spring Hills Center opened a 24 bed ventilator unit in February, 2011.

Source: RHCFCost Report, 2010.

Solicitation

In May 2012, Department staff conducted individual conference calls with each of the applicants for ventilator beds from Nassau and Suffolk counties. Each applicant was informed of the status of the Department's review and of our efforts to further evaluate need on a county-specific basis pursuant to direction handed down from the PHHPC. Applicants were asked to submit additional information addressing local factors that would affect need for the additional ventilator beds they were proposing.

The applicant did not provide adequate data that demonstrates that local factors in the planning area necessitate the approval of additional long-term ventilator care beds.

There is no health systems agency (HSA) for this planning area.

Recommendation

From a need perspective, disapproval is recommended.

Attachments

BHFP Attachment Map



Public Health and Health Planning Council

Project # 072112-C

Oakwood Operating Co., LLC d/b/a Affinity Skilled Living and Rehabilitation Center

County: Suffolk (Oakdale)
Purpose: Construction

Program: Residential Health Care Facility
Submitted: October 16, 2007

Executive Summary

Description

Oakwood Operating Co., LLC d/b/a Affinity Skilled Living and Rehabilitation Center (Affinity), a 280-bed residential health care facility (RHCF) located at 305 Locust Avenue, Oakdale, requests approval to certify a 20-bed ventilator-dependent service through the conversion of 20 existing RHCF beds.

Total project costs are estimated at \$1,462,695.

DOH Recommendation
Contingent approval.

Need Summary

10 NYCRR Section 709.17 states that the planning areas for determining the public need for long-term ventilator beds on Long Island shall be the combined areas of Nassau and Suffolk counties. Estimates of ventilator bed need are therefore to be calculated based on the application of the need factors set forth in the 709.17 methodology to the two counties as a whole. This calculation results in a finding of a current lack of need for additional ventilator beds in the Nassau-Suffolk planning area.

Based on descriptions of problems in access to ventilator bed care presented by applicants proposing to add ventilator units in nursing homes in Suffolk County, the PHHPC asked the Department to evaluate the need for ventilator beds in Suffolk County separately from Nassau County, even though section 709.17 states that need shall be calculated for Nassau and Suffolk Counties combined. Noting a provision in section 709.17 which states that estimates of bed need derived from the methodology may be modified based on significant local factors, the Department concludes that distinctive features of the planning area and the current configuration of services therein warrant consideration of bed need in Suffolk County separately from the combined Nassau-Suffolk planning area. This approach indicated a need for 33 ventilator beds in Suffolk County and the three applications from nursing homes in the county were reviewed on that basis.

The three qualifying applications were ultimately reviewed competitively on criteria that included, but were not limited to:

- experience operating a ventilator unit with beds in a discrete space;
- ability of the facility to serve hard-to-place ventilator-dependent patients, such as those requiring renal dialysis or bariatric services;
- a comprehensive program to reduce re-hospitalizations for ventilator patients;
- in-house clinical laboratory services;
- in-house radiology services;
- in-house pharmacy;
- presence or planning for a step-down unit adjacent to a certified ventilator unit;
- geographic location central to the target population; and,
- cost of ventilator operations.

As a result of this competitive review, one applicant is being recommended for approval, requesting a total of 20 ventilator beds.

This CON application addressed the review criteria well enough to merit being awarded vent beds and is, therefore, recommended for approval.

Program Summary

This is a 280-bed facility with a satisfactory surveillance history. Affinity has piped oxygen, medical air and suction to all resident beds at the facility. Transfer agreements are in place with Brookhaven and Southside hospitals. The owners of Affinity also own RHCFs that provide vent bed services and will access staff experienced in working with vent-dependent residents to assist Affinity with start up. The applicant also has experience designing and operating step-down units and weaning programs.

Finance Summary

Project costs will be met via equity of \$365,675 and equipment/renovation lease of \$1,097,020 (5 yrs. @ 5.7%).

Incremental Budget:	<i>Revenues:</i>	\$ 3,953,232
	<i>Expenses:</i>	<u>3,521,663</u>
	<i>Gain/(Loss):</i>	\$ 431,569

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of an executed equipment/renovation lease that is acceptable to the Department of Health. [BFA]
3. The submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]

Approval conditional upon:

1. The submission of Final Construction Documents, signed and sealed by the project architect, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
2. The applicant shall complete construction by December 31, 2014. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval, and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

August 9, 2012.

Need Analysis

Background

10 NYCRR Section 709.17 states that the planning areas for determining the public need for long-term ventilator beds on Long Island shall be the combined areas of Nassau and Suffolk counties. Estimates of ventilator bed need are therefore to be calculated based on the application of the need factors set forth in the 709.17 methodology to the two counties as a whole. This calculation results in a finding of a current lack of need for additional ventilator beds in the Nassau-Suffolk planning area.

Based on descriptions of problems in access to ventilator bed care presented by applicants proposing to add ventilator units in nursing homes in Suffolk County, the PHHPC asked the Department to evaluate the need for ventilator beds in Suffolk County separately from Nassau County, even though section 709.17 states that need shall be calculated for Nassau and Suffolk Counties combined. Noting a provision in section 709.17 which states that estimates of bed need derived from the methodology may be modified based on significant local factors, the Department concludes that distinctive features of the planning area and the current configuration of services therein warrant consideration of bed need in Suffolk County separately from the combined Nassau-Suffolk planning area. This approach indicated a need for 33 ventilator beds in Suffolk County and the three applications from nursing homes in Suffolk County were reviewed on that basis. The key features of the planning area are:

- Suffolk County has an east-west length of 86 miles in a land area of 912 square miles. The county experiences considerable traffic congestion and lacks significant mass transit, which makes travel within this elongated jurisdiction, and to neighboring Nassau County, difficult;
- Suffolk County has a population of 1.5 million, but there are currently only two nursing homes in Suffolk County certified to operate ventilator beds, with a combined total of 48 such beds;
- A total of 114 of Long Island's 162 certified ventilator beds are concentrated in Nassau County, which has a population of 1.3 million in an area of 285 square miles, much smaller than Suffolk County.

These figures show that Suffolk County has 54% of the population of the Nassau-Suffolk planning area but only 42% of its certified ventilator beds; and that these beds must serve a geographic area nearly 70% larger than Nassau County, which has 46% of the planning area's population but 58% of its certified ventilator beds.

The Department concludes that the geography of Suffolk County and the current uneven distribution of ventilator beds on Long Island are local factors that warrant the consideration of bed need in Suffolk County alone rather than as part of the Nassau-Suffolk planning area. This conclusion is reinforced by discussions between Department staff and administrators of hospitals in Suffolk County, who consistently said that discharge of ventilator-dependent patients to nursing homes in the county was problematic, and who believed that more ventilator beds were needed in nursing homes in the jurisdiction.

Application of the need methodology to Suffolk County indicates a need for 33 additional beds, as shown below:

<i>Total live discharges for DRG (003, 004, and 207)</i>	
Suffolk County:	636 live discharges
Plus 10%:	700 discharges
.32 = long-term vent patients:	224
ALOS = 125 days:	28,000 total patient days
Average daily census:	77
Occupancy Rate = .95:	81 ventilator beds
Existing and Approved beds:	48
<i>Remaining Need: 33 beds</i>	

Source: SPARCS 2009

<i>Suffolk County - Existing Ventilator Beds</i>		
<i>Facility</i>	<i>Vent Beds</i>	<i>Occupancy, 2010</i>
Medford Multicare Center for Living	20	96.3%
Gurwin Jewish Nursing & Rehab Center	28	90.9%
<i>Total</i>	48	

Source: RHCf Cost Report, 2010

Solicitation

In May 2012, Department staff conducted individual conference calls with each of the three Suffolk County applicants. Each applicant was informed of the status of the Department's review and our efforts to further evaluate need on a county specific basis pursuant to direction handed down from PHHPC. Applicants were asked to submit additional information addressing local factors that would affect need for the additional vent beds they are proposing.

Analysis

The three qualifying applications were ultimately reviewed competitively on criteria that included, but were not limited to:

- experience operating a ventilator unit with beds in a discrete space;
- ability of the facility to serve hard-to-place ventilator-dependent patients, such as those requiring renal dialysis or bariatric services;
- a comprehensive program to reduce re-hospitalizations for ventilator patients;
- in-house clinical laboratory services;
- in-house radiology services;
- in-house pharmacy;
- presence or planning for a step-down unit adjacent to a certified ventilator unit;
- geographic location central to the target population; and,
- cost of ventilator operations.

As a result of this competitive review, one applicant is being recommended for approval, requesting a total of 20 ventilator beds.

This CON application addressed the review criteria well enough to merit being awarded ventilator beds and is, therefore, recommended for approval.

Recommendation

From a need perspective, approval is recommended

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Affinity Skilled Living and Rehabilitation Center	Same
<i>Address</i>	305 Locust Avenue Oakdale, NY 11769	Same
<i>RHCf Capacity</i>	280 RHCf beds	260 RHCf beds 20 Ventilator Dependent Beds
<i>Type of Operator</i>	Limited Liability Company	Same
<i>Class of Operator</i>	Proprietary	Same
<i>Operator</i>	Oakwood Operating Co., LLC	Same

Character and Competence

This 280-bed facility located in the densely populated southwest region of Suffolk County has consistently shown a satisfactory surveillance history. Affinity provides piped oxygen, medical air and suction to all resident beds at the facility. Transfer agreements are in place with Brookhaven and Southside hospitals. The owners of Affinity also own RHCs that provide vent bed services and will access staff experienced in working with vent-dependent residents to assist with start up. The applicant has experience designing and operating step down units and weaning programs. The owners of Affinity also have experience designing and managing comprehensive programs to reduce rehospitalization of vent bed residents.

The 20 bed vent unit will be located in the northeast corner of the first floor with the opposite wing of the same nursing unit assigned as the respiratory care step down unit. The vent beds will be located in 4 single bedded rooms and 8 double bedded rooms, meeting the 20% single-bedded rooms criteria.

Affinity will meet staffing requirements for the vent unit, and will provide 24 hour 7 day a week respiratory therapy coverage.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total project cost for renovations and the acquisition of moveable equipment is estimated at \$1,462,695, broken down as follows:

Renovation and Demolition	\$420,000
Design Contingency	42,000
Construction Contingency	42,000
Fixed Equipment	420,000
Architect/Engineering Fees	113,400
Other Fees (Consultant)	89,250
Moveable Equipment	210,000
Telecommunications	27,563
Financing Costs	55,165
Interim Interest Expense	34,073
CON Fee	1,250
Additional Processing Fee	<u>7,994</u>
Total Project Cost	\$1,462,695

Project costs are based on a September 1, 2012 construction start date and a six month construction period.

The applicant's financing plan appears as follows:

Equity	\$365,675
Equipment/Renovation Lease (5.70% interest rate for a five year term)	1,097,020

Operating Budget

The applicant has submitted an incremental operating budget, in 2011 dollars, for the first and third years, summarized below:

Year One Year Three

Revenues	\$3,745,223	\$3,953,232
Expenses:		
Operating	\$3,251,388	\$3,222,470
Capital	<u>299,193</u>	<u>299,193</u>
Total Expenses	\$3,550,581	\$3,521,663
Net Income	\$194,642	\$431,569
Utilization: (patient days)	6,570	6,935
Occupancy	90.00%	95.00%
Cost Per Patient Day	\$540.42	\$507.81

The following is noted with respect to the submitted RHCF operating budget:

- The case management index is 1.14.
- Medicaid, Medicare and Private Pay rates are based on reimbursement methodologies for ventilator dependent services.

Utilization by payor source during the first and third years for the 20 ventilator dependent beds is as follows:

	<u>Year One</u>	<u>Year Three</u>
Medicaid	84.99%	84.99%
Medicare	5.01%	5.01%
Private Pay	10.00%	10.01%

Expense and utilization assumptions are based on the current data from the facility, adjusted for the projected changes for the costs associated within the vent beds.

Capability and Feasibility

The applicant will finance \$1,097,020 via an equipment/renovation lease at an interest rate of 5.70% for a five year term. The remainder, \$365,675, will be provided as equity from the members of Affinity Skilled Living and Rehabilitation Center. Presented as BFA Attachment A is the personal net worth statement of the members of Affinity Skilled Living and Rehabilitation Center, indicating the availability of sufficient funds for the equity contribution.

The submitted budget projects a net income of \$194,642 and \$431,569 during the first and third years, respectively. Staff notes that with the expected 2014 implementation of managed care for nursing home residents, Medicaid reimbursement is expected to change from a state-wide price with a cost based capital component payment methodology to a negotiated reimbursement methodology. Facility payments will be the result of negotiations between the managed long term care plans and the facility. At this point in time it cannot be determined what financial impact this change in reimbursement methodology will have on this project. The budget appears reasonable. Revenues are based on current reimbursement methodologies for ventilator dependent services.

Presented as BFA Attachment B is a financial summary of Affinity Skilled Living and Rehabilitation Center. As shown on Attachment B, the facility had an average negative working capital position and an average positive net asset position during the period shown. Also, the facility achieved an average net income of \$1,266,915 during the period shown.

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Attachments

- BFA Attachment A Personal Net Worth Statement of the Members of Affinity Skilled Living and Rehabilitation Center
- BFA Attachment B Financial Summary of Affinity Skilled Living and Rehabilitation Center
- BHFP Attachment Map

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Residential Health Care Facilities - Construction

Exhibit #4

<u>Number</u>	<u>Applicant/Facility</u>
1. 121432 C	Greater Harlem Nursing Home Company Inc (New York County)



Public Health and Health Planning Council

Project # 121432-C Greater Harlem Nursing Home Company, Inc.

County: New York (New York)
Purpose: Construction

Program: Residential Health Care Facility
Submitted: June 12, 2012

Executive Summary

Description

Greater Harlem Nursing Home Company, Inc., a 200-bed not-for-profit residential health care facility (RHCF) located at 30 West 138th Street, New York, requests approval for renovation of the existing facility, land purchase, building construction and decertification of 25 RHCF beds, while developing a 30-bed Assisted Living Program (ALP).

This application amends and supersedes CON #101082-C, approved by the State Hospital Review and Planning Council in November 2010. This application is considered an amendment pursuant to 10 NYCRR 710.5(b)(2) because of the reduction of project scope. The financing arrangement is now 100% HEAL NY - Phase 12, and no taxable FHA mortgage will be sought. The project has been revised as stated below.

The existing 34-year old facility will receive the following improvements:

- Renovation of the spa/bathing rooms and dining/lounge areas on the resident care floors.
- New state of the art equipment in an enlarged physical therapy space.
- Floors 2 and 3 will house 34 residents each in 6 single rooms and 14 double rooms; Floor 4 will house 35 residents in 5 single rooms and 15 double rooms; and Floors 5 and 6 will house 36 residents each in 4 single rooms and 16 double rooms.
- Enlarged recreation/dining areas on each floor from 500 square feet to 1,024 SF.

The newly constructed 22,408 SF building will be dedicated to the ALP and consist of six floors with residents on Floors 4, 5 and 6. The first floor will be a dedicated entry lobby at street level with one elevator servicing all six floors of the ALP, reception area, public toilet and storage room. The second floor will be the home care staff office for the ALP, and the third floor will

be resident dining with serving pantry, meeting and activity spaces, staff/administration offices, janitor closet, resident laundry room and public and staff toilets.

Total project costs are estimated at \$5,358,349.

DOH Recommendation
Contingent approval.

Need Summary

There will be a decertification of 25 residential health care beds and an addition of 30 assisted living beds, which will allow Greater Harlem Nursing Home to treat its patients in the appropriate care setting and to operate at optimal capacity.

Current	Change	After Completion
200	-25	175

Program Summary

Greater Harlem Nursing Home Inc. is currently in substantial compliance with the applicable codes, rules and regulations.

Financial Summary

Project costs will be fully-financed via HEAL NY – Phase 12. The following budget was previously approved under CON #101082-C:

Budget:	Revenues:	\$ 19,457,450
	Expenses:	<u>19,358,154</u>
	Gain/(Loss):	\$ 99,296

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There is no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a commitment from the Board of Directors to renovate all resident rooms and bathrooms for handicapped accessibility, and to update the facility to meet current Code standards within three years, or as soon as funds become available. [HSP]
3. Submission and programmatic review and approval of the final floor plans which fully satisfy the noted design issues. [HSP]
4. The submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]

Approval conditional upon:

1. The submission of Final Construction Documents, signed and sealed by the project architect, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
2. The applicant shall complete construction by January 1, 2014 in accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

August 9, 2012.

Need Analysis

Background

Greater Harlem Nursing Home received HEAL 12 grant funding to renovate and adapt to the changing patient need and the shift to assisted living care. The facility will be able to better serve patients in the community by adding a 30 unit assisted living program and decertifying 25 RHCF beds.

The facility is currently operating at 96.1%. The decertification of the 25 RHCF beds, the transitioning of 9 physical A's and B's to the assisted living program, and patient attrition will bring the facility to capacity upon project completion.

Analysis

Greater Harlem Nursing Home utilization is similar to New York County for 2008, 2009, and 2010 as shown in the table below:

<i>RHCF Occupancy</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Greater Harlem Nursing Home	96.9%	96.1%	96.1%
New York County	96.9%	96.7%	96.5%
New York City Region	94.5%	95.0%	94.8%

The facility's occupancy is above the region's average each year under consideration but did not surpass the 97% planning optimum for 2009 or 2010. As indicated below in the table below, the project 2016 bed need for the New York Region is 7,649.

<i>RHCF Bed Need</i>	<i>New York City</i>
2016 Projected Need	51,071
Current Beds	43,343
Beds Under Construction	79
Total Resources	43,422
Unmet Need	7,649

Greater Harlem Nursing Home has 8 Physical A's and 1 Physical B.

Conclusion

There will be a decertification of 25 residential health care beds and an addition of 30 assisted living beds, which will allow Greater Harlem Nursing Home to treat its patients in the appropriate care setting and to operate at optimal capacity.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Greater Harlem Nursing Home Company, Inc.	Same
<i>Address</i>	30 West 138 th Street New York, NY 10037	Same
<i>RHCF Capacity</i>	200	175
<i>ADHC Program Capacity</i>	N/A	N/A

<i>Type of Operator</i>	Corporate	Same
<i>Class of Operator</i>	Voluntary	Same
<i>Operator</i>	Greater Harlem Nursing Home Company, Inc.	Same

Program Review

Greater Harlem Nursing Home Company, Inc. (GHNHC) is a 200 bed nursing home located in the Harlem Community of Northern Manhattan in New York City. GHNHC is the recipient of a HEAL 12 Grant in support of its rightsizing proposal to reduce the bed complement from 200 to 175 SNF beds and develop of a 30 bed Assisted Living Program (ALP). Previously, as approved under project 101082, GHNHC proposed to construct an addition which would expand the square footage on all floors in order to bring the facility up to current environmental, accessibility and safety standards. Under the original plan the 30 ALP beds were to be located on the sixth floor and share the mechanical, electrical, plumbing and fire protection infrastructure with the nursing home. However, due to the inability of the applicant to obtain timely financing, GHNHC has elected to downsize the project to a level which can be entirely supported by the \$25 million HEAL grant.

Under the amended proposal the ALP/adult home will be located in a freestanding six story building constructed on the site of an adjacent parking lot, which will be purchased by GHNHC. The new building will connect with the existing nursing home structure, and certain administrative offices for the nursing home will be located in the new building. The five nursing units will remain on the second through sixth floors, but beds will be decertified on each floor resulting in nursing units which range from 34 to 36 beds. The renovation of the nursing units will be substantially curtailed, with essential upgrades to the infrastructure contained in the original project, including the installation of a mandated sprinkler system, to be addressed through a companion limited review application.

Physical Environment

The revised construction plan for the nursing home, with the scope deleted from the earlier project noted, is outlined below.

Basement

No renovations to this area; the barber and beauty salon will be relocated to the first floor. The replacement of the outmoded kitchen equipment to support the implementation of a resident-centered food service delivery system is deleted.

First Floor

Renovation to the first floor will be mainly confined to the renovation and expansion of the physical therapy suite. The adjoining men's bathroom will be converted to a handicapped accessible toilet. The barber and beauty salon will be relocated to the area of the current administrator and assistant administrator offices. The adjoining recreation and activities room will be expanded to create a more inviting space. A new admissions office and waiting area will be located in the area surrounding the relocated barber and beauty salon. The creation of a "Great Room" which would open onto a renovated outdoor terrace is deleted.

Second – Sixth Floors

Under the revised plan the sixth floor remains as a nursing home floor. The second and third floors will consist of 34 beds arrayed in 6 singles and 14 double bedrooms; the fourth floor will consist of 35 beds arrayed in 5 singles and 15 double bedrooms; and the fifth and sixth floors will consist of 36 beds arrayed in 4 singles and 16 double bedrooms. The revised plan will renovate and expand the existing on-floor dining areas to enable single shift dining for all residents. A new lounge will be constructed adjacent to the dining area to provide needed recreation space. The existing tub room on each floor will be completely renovated to create an appealing spa-type bathing area, and a new shower area will be constructed on the opposite end of the floor adjacent to the new adult home building.

A connection into the new adult home building will be available from the second and fifth floors. Administrative offices currently on the first floor of the nursing home will be located to the second floor of the new building, including administrator, assistant administrator and finance, as well as additional training and conference rooms.

The following components are deleted from the scope of the earlier project:

- Refurbished fully handicapped accessible resident rooms which include individual showers;
- Multiple lounge and dining areas;
- “Country Kitchen” style food service program.

Conclusion

The reduced renovation project will provide more recreation and dining space on the nursing units, and the bathing rooms will undergo significant improvement. However, the elimination of the upgrades planned for the nursing home in the original HEAL 12 project will result in a less appealing living environment. Code related issues, significantly the lack of handicapped accessible resident rooms, and the aging kitchen and food service delivery system will require attention in the near future. A contingency to approval will be required for the submission of a subsequent project to address all Code-related issues at the nursing home.

The relocation of administrative offices into generously-sized areas in the new ALP building will not improve the residential living environment, and should be re-examined in the final design. The conversion of double bedrooms to singles should include the limited renovations necessary to create handicapped accessible toilet rooms. The applicant is encouraged to re-allocate the double bed conversions to equalize the number of beds on all floors. The end result would be the availability of one single bedroom with a handicapped accessible toilet room on each nursing unit.

In the interim several minor renovations should be undertaken to increase the number of handicapped toilets in the nursing home:

- A handicapped accessible toilet must be located adjacent to the expanded physical therapy area; the renovation of the existing men’s bathroom will satisfy this requirement;
- A handicapped accessible toilet must be located adjacent to, or in close proximity to, the resident dining room on each floor.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total project costs are estimated at \$5,358,349 broken down as follows:

Land Acquisition	\$299,453
New Construction	356,000
Renovation & Demolition	1,865,295
Temporary Utilities	12,000
Asbestos Abatement or Removal	39,000
Architect/Engineering Fees	1,179,755
Construction Manager Fees	322,000
Consultant Fees	898,547
Movable Equipment	305,000
Telecommunications	50,000
CON Application Fee	2,000
Additional Processing Fee	<u>29,299</u>
Total Project Cost	\$5,358,349

Project cost is based on an October 1, 2012 construction start date and a seventeen month construction period and will be fully financed with HEAL NY – Phase 12.

Capability and Feasibility

The applicant will finance total project costs of \$5,358,349 with a portion of their HEAL-NY phase 12 award of \$25,000,000. The remaining \$19,641,651 HEAL– NY phase 12 award will be used to finance the construction of the ALP. As shown on BFA Attachment A, Greater Harlem Nursing Company, Inc. has experienced negative working capital, negative net asset position while experiencing operating losses of \$2,748,131 and \$876,450 for 2010 and 2011, respectively. The losses have improved over the last three years due to the following initiatives:

- A management company was hired to review the systems within various departments to improve communications.
- Training of admissions, nursing and rehabilitation staff to ensure effective communication amongst the departments so that all services rendered were appropriately and accurately recorded.
- Review of accounts receivable to identify problem areas and ensure timely submission of Medicaid applications.
- Reduction in expenses by reviewing all current contracts to ensure that pricing was consistent with industry standards, and putting certain contracts out to bid to ensure more competitive pricing was obtained
- Cutting back on non-essential staff. Consultants and excess administrative staff positions were eliminated.

Results of these initiatives include new purchasing agreements which will result in a savings of \$25,000 and retirements, resignations and terminations of positions that will not be filled will result in a savings of \$225,000. As of April 30, 2012 the facility experienced a loss of \$240,424, which shows a decrease from previous years. Based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

<h2>Attachments</h2>

BFA Attachment A	Draft Financial Summary, Greater Harlem Nursing Home, Inc.
BFA Attachment B	Internal Financial Summary as of April 30, 2012, Greater Harlem Nursing Home, Inc.

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Certified Home Health Agencies –Construct

Exhibit #5

<u>Number</u>	<u>Applicant/Facility</u>
1. 121182 C	Mcauley-Seton Home Care Corporation (Niagara County)



Public Health and Health Planning Council

Project # 121182-C McAuley-Seton Home Care Corporation

County: Niagara (Lockport)
Purpose: Construction

Program: Certified Home Health Agency
Submitted: April 3, 2012

Executive Summary

Description

McAuley-Seton Home Care Corporation (MSHC), an existing Article 36 not-for-profit corporation, requests approval to acquire Niagara County Department of Health's Certified Home Health Agency (CHHA) and Long Term Home Health Care Program (LTHHCP), which serves Niagara County. This application is the outcome of Niagara County Department of Health's Request for Proposals (RFP) to sell its CHHA and LTHHCP programs.

McAuley-Seton Home Care Corporation is part of the Catholic Health System (CHS), which includes other local long-term care facilities, acute care facilities, and health care related entities. CHS is jointly-sponsored by the Sisters of Mercy, Ascension Health System, the Franciscan Sisters of St. Joseph and the Diocese of Buffalo. Through its sponsorship by the Sisters of Mercy, CHS is affiliated with Catholic Health East.

DOH Recommendation
Contingent approval.

Need Summary

As this project involves only an acquisition of an existing CHHA and LTHHCP, no Need recommendation is required.

Program Summary

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary

The \$2,650,000 purchase price for Niagara County's CHHA and LTHHCP operating certificates will be provided from the applicant's liquid resources. There are no project costs associated with this application.

Incremental Budget:	<i>Revenues:</i>	\$ 2,986,389
	<i>Expenses:</i>	<u>2,978,336</u>
	<i>Gain/(Loss):</i>	\$ 8,053

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of executed operating certificate purchase agreement that is acceptable to the Department of Health. [BFA]

Council Action Date

August 9, 2012.

Programmatic Analysis

Background

McAuley Seton Home Care Corporation, a not-for-profit certified home health agency (CHHA) located in Cheektowaga, New York and approved to serve patients in Erie County, proposes to purchase, acquire and merge the Niagara County Department of Health certified home health agency (CHHA) and long term home health care program (LTHHCP). The sole member of McAuley Seton Home Care Corporation is Catholic Health System, Inc., a not-for-profit corporation. McAuley Seton Home Care Corporation is proposing a branch office to be located at 310 South Transit Road, Lockport, New York 14904 to serve Niagara County patients

The members of the Board of Directors of McAuley Seton Home Care Corporation consist of the following individuals:

Li Lin, Chairperson

Professor, University of Buffalo

Affiliation: Catholic Health,
Catholic Health Home Care

Mark A. Sullivan, Secretary

Executive VP/COO, Catholic Health System

Affiliation: Catholic Health Home Care

Clayton C. Osborne, Treasurer

VP of Finance, Catholic Health System

Affiliation: Catholic Health Home Care

Peter U. Bergmann

CEO, Sisters of Charity Hospital

Affiliation: Catholic Health Acute Care,
Sisters Hospital Foundation,
Catholic Health Home Care,
Good Samaritan Regional Medical Center

Nils J. Gunnersen

CEO, Bertrand Chaffee Hospital

Affiliation: Catholic Health Home Care

Dennis R. Horrigan

CEO/President, Catholic Medical Partners

Affiliation: Catholic Health Home Care

Joyce A. Markiewicz, R.N.

President/CEO, Catholic Health Home Care

Affiliation: Catholic Health Home Care

Joseph D. McDonald

President/CEO, Catholic Health System

Affiliation: HANYS, American Hospital
Association, Canisius College

Brian T. O'Herron

Director of Clinical & Aging Services,

Monsignor Carr Institute

Affiliation: Quality Behavioral Health IPA,

Catholic Health Home Care

Katherine L. Rogala-Scherer, R.N.

Director of Case Management,

Roswell Park Cancer Institute

Affiliation: Catholic Health Home Care

Miguel Santos

Regional Consumer Advocate,

National Grid

Affiliation: Catholic Health Home Care

Gary C. Tucker, R.N.

COO, Mount St. Mary's Hospital

Affiliation: Catholic Health Home Care

Sr. Sheila A. Walsh

Director of Sisters Services,

Sisters of Mercy

Monsignor Robert E. Zapfel

Pastor, St. Leo the Great Church

Affiliation: Catholic Health,
Catholic Health Acute Care

The members of the Board of Directors of Catholic Health System, Inc. consist of the following individuals:

Dennis J. Dombek, Chairperson

Retired

Affiliation: Catholic Health Acute Care

James R. Boldt, C.P.A. Vice Chairperson

Chairman/CEO, Computer Task Group

d/b/a CTG

Sr. Margaret Tuley, Secretary
Board Chair, Mount St. Mary's Hospital
and Health Center
Affiliation: Mt. St. Mary's Hospital,
Lourdes Hospital,
Mt. St. Mary's Hospital & Our Lady of Peace, Inc.

William K. Buscaglia, Jr., Esq., Treasurer
Executive VP, Despirt Mosaic &
Marble Co., Inc.

Carlton N. Brock
VP East Great Lakes Area,
US Division, St. Jude Medical S.C., Inc.

Clotilde Dedecker
President/CEO, Community Foundation
for Greater Buffalo

Shelley C. Drake
President/Chairman, M&T Bank
Charitable Foundation

David J. Durante, M.D.
Self-employed Physician, Pulmonary Medicine
and Critical Care

Sr. Nancy J. Hoff
President, Sisters of Mercy
Affiliation: St. James Mercy
Health System, Holy Cross
Health Ministries, Pittsburgh
Mercy Health System

Li Lin
(disclosed above)

Ramesh Luther, M.D.
Physician, Digestive Health Physicians

Joseph D. McDonald
(disclosed above)

Kelli Arnold McLeod
VPI Team Leader Not-for-Profit Group
HSBC Bank, N.A. USA

John C. Notaro, M.D.
Primary Care Internist, Buffalo Medical Group

Linus L. Ormsby, Jr.
Retired

Jack Quinn, Jr.
President, Erie Community College

Joseph A. Ralabate, M.D.
Self-employed Surgeon
Chief of Surgery, Kenmore Mercy
Hospital

Sharon D. Randaccio
President, Performance Management
Partners, Inc. (management consulting)

Arthur A. Russ, Jr., Esq.
Retired

Cary A. Vastola, D.O.
Managing Partner, Primary Care of Western
New York
Affiliation: Univera (Health Insurance)

Cynthia A. Zane, R.N.
President, Hilbert College
Affiliation: Catholic Health Acute Care

Monsignor Robert E. Zapfel
(disclosed above)

A search of the individuals named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The Office of the Professions of the State Education Department, the New York Physician Profile and the Office of Professional Medical Conduct, where appropriate, indicates no issues with the licenses of the health care professionals associated with this application.

A Certificate of Good Standing has been received for all attorneys.

McAuley Seton Home Care Corporation proposes to offer the following health care services: audiology, home health aide, medical social services, medical supply, equipment and appliances, nursing, nutritional, occupational therapy, personal care, physical therapy, respiratory therapy and speech language pathology.

A 10 year review of the operations of the following agencies/facilities was performed as part of this review (unless otherwise noted):

- Catholic Health Home Care (2003 – present)
- Father Baker Manor
- Kenmore Mercy Hospital
- Lourdes Hospital (2011 – present)
- McAuley Seton Home Care Corporation
- Mercy Hospital of Buffalo
- Mt. St. Mary's Hospital (2007 – present)
- Mt. St. Mary's Hospital & Our Lady of Peace, Inc. (2004 – present)
- Nazareth Nursing Home
- Niagara Home Maker Services (LHCSA)
- Sisters of Charity Hospital of Buffalo, NY
- St. Francis Home of Williamsville
- St. Elizabeth's Home of Lancaster, NY
- St. James Mercy Health System (2008 – present)
- St. Vincent's Home for the Aged
- Good Samaritan Regional Medical Center (PA) (2003 – 2006)
- Pittsburgh Mercy Health System (PA) (2008 – present)
- Holy Cross Health Ministries (FL) (2008 – present)

The Division of Certification and Surveillance has indicated the following:

St. James Mercy Health System was fined \$4,000 in 2003 based on failure of an on call physician to return to the hospital in a timely manner resulting in a death.

Sisters of Charity Hospital of Buffalo NY was fined \$14,000 in 2004 based on a case of delayed treatment for a newborn who died.

The information provided by the Division of Certification and Surveillance has indicated that the hospitals reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The Division of Assisted Living has indicated the following:

St. Elizabeth's Home of Lancaster, NY was fined \$1,000 for a pursuant to a stipulation and order dated May 25, 2005 for surveillance findings of December 30, 2004. Deficiencies were found under 18 NYCRR 486.5(a)(4)(iii) Endangerment, and 18 NYCRR 487.7(d)(6)(iii)(a-b) Supervision.

St. Elizabeth's Home of Lancaster, NY was fined \$7,500 for a pursuant to a stipulation and order dated October 4, 2004 for surveillance findings of March 24, 2004. Deficiencies were found under 18 NYCRR 486.5(a)(4)(v) Systemic Endangerment, and 18 NYCRR 487.7(d)(1) Supervision.

The information provided by the Division of Assisted Living has indicated that the adult care facilities reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The Bureau of Quality Assurance and Surveillance has indicated the following:

St. Francis of Williamsville was fined \$10,000 pursuant to a stipulation and order dated January 18, 2011 for surveillance findings of October 28, 2011. Deficiencies were found under 10 NYCRR 415.12 Quality of Care Highest Practicable Potential.

St. Francis of Williamsville was fined \$1,000 pursuant to a stipulation and order dated February 26, 2008 for surveillance findings of March 23, 2007. Deficiencies were found under 10 NYCRR 415.12 Quality of Care.

The information provided by the Bureau of Quality Assurance and Surveillance has indicated that the residential health care facilities reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Division of Home and Community Based Services has indicated that the home care agency reviewed has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Pennsylvania Department of Health has indicated that the hospitals reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The Department was not able to receive information from the State of Florida regarding the compliance history of Holy Cross Health Ministries.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Cost and Financing

There are no project costs associated with this application.

Purchase Agreement

The change in ownership will be effectuated in accordance with a draft operating certificate purchase agreement, the terms of which are summarized below:

<i>Date:</i>	March 1, 2012
<i>Sellers:</i>	County of Niagara, a political subdivision of New York State – also known as Niagara County Department of Health Nursing Division of CHHA and LTHHCP
<i>Buyers:</i>	McAuley Seton Home Care Corporation (MSHC)
<i>Purchased:</i>	Good and valid title to New York State Certified Home Health Agency (CHHA) operating certificate number 3101600 and New York State Long Term Home Health Care Program (LTHHCP) operating certificate number 3101901L.
<i>Assumed Liabilities</i>	No liabilities assumed
<i>Purchase Price:</i>	\$2,650,000
<i>Payment Terms:</i>	\$795,000 deposit \$1,855,000 at closing (closing date will be determined after CON approval)

The applicant has provided an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 36 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility.

Staffing Support Agreement

On March 1, 2012, the applicant entered into staffing agreements with Niagara County Department of Health to provide their CHHA and LTHHCP patients with medical social worker services at \$65.00 per visit. Also on March 1, 2012, the applicant entered into staffing agreements with Niagara County Department of Health to provide their CHHA and LTHHCP patients with physical therapy services at \$85.00 per visit. The contracts will end on February 28, 2013, but will remain in effect during review and renegotiation, if necessary.

Operating Budget

The applicant has submitted first and third years incremental operating budgets, in 2012 dollars, as summarized below:

<u>Combine CHHA & LTHHCP Services</u>	<u>Year One</u>	<u>Year Third</u>
Revenues	\$2,718,742	\$2,986,389
Expenses	<u>2,804,290</u>	<u>2,978,336</u>
Net Income (Loss)	(\$85,548)	\$8,053

<u>CHHA Services</u>	<u>Year One</u>	<u>Year Third</u>
Revenues	\$1,630,437	\$1,877,297
Expenses	<u>1,625,943</u>	<u>1,759,476</u>
Net Income (Loss)	\$4,494	\$117,821

<u>LTHHCP Services</u>	<u>Year One</u>	<u>Year Third</u>
Revenues	\$1,088,305	\$1,109,092
Expenses	<u>1,178,347</u>	<u>1,218,860</u>
Net Income (Loss)	(\$90,042)	(109,768)

Expenses and utilization for LTHHCP are detailed as follows:

LTHHCP – Year One

<u>Service</u>	<u>Total Cost</u>	<u>Visits/Hours</u>	<u>Cost/Visit/Hour</u>
Nursing	\$295,693	2,546	\$116.14
Physical Therapy	122,961	1,169	105.18
Speech Pathology	2,349	18	130.50
Occupational Therapy	30,735	292	105.26
Home Health Aide *	359,385	10,806	33.26
Personal Care*	283,477	7,498	37.81
Medical Social Services	<u>83,747</u>	857	97.72
Total	\$1,178,347		

*Presented in hours.

Utilization by payor source for the first & third year is anticipated as follows:

	<u>CHHA</u>	<u>LTHHCP</u>
Medicaid - Fee-for-Service	25.0%	84.1%
Medicare - Fee-for-Service	33.6%	10.1%
Commercial - Fee-for-Service	39.4%	3.8%
Charity Care	2.0%	2.0%

Utilization projections were based upon Niagara County’s current cost reports plus analyzing data from facilities operating within the proposed service area. Direct expenses were based upon volume and expected productivity while other expenses were estimated based on a percentage of revenue.

The average CHHA Medicaid episode payment is expected to be \$3,323.07, which has been adjusted for the local wage index factor for Western New York of .903208 along with case mix factor of .6531488. The applicant states the case mix is based on a straight average from current patients.

Capability and Feasibility

There are no project costs associated with this application. The \$2,650,000 purchase price for Niagara County's CHHA and LTHHCP will be funded from McAuley Seton Home Care liquid resources. Presented as BFA Attachment A is McAuley Seton Home Care Corporation 2010 and 2011 certified financial summary, which shows sufficient resources for this purpose

Working capital requirements are estimated at \$496,389, which appears reasonable based upon two months of third year expenses. A review of BFA Attachment A demonstrates that McAuley Seton Home Care has the ability to provide the financial support needed for this project.

The budgets project an overall first year operating loss of \$85,548 and an operating surplus of \$8,053 for year three. The CHHA budget shows an operating surplus in both the first and third years of \$4,494 and \$117,821, respectively. The applicant said that in creating the profit and loss statement for the LTHHCP, they took the Medicaid Redesign Team's recommendations into careful consideration and developed a very conservative forecast. The applicant further states that they are committed to assuring the present patients in Niagara County's LTHHCP will be provided with a continuum of care, and the overall surplus by the third year of operations indicates the project is viable. The budget appears to be reasonable.

As shown on BFA Attachment A, McAuley Seton Home Care Corporation had an average excess of revenues over expenses of \$1,997,796, and had an average positive working capital and net asset position.

It appears the applicant has demonstrated the capability to proceed in a financially feasible manner, and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary for 2010 and 2011, McAuley Seton Home Care Corporation
BFA Attachment B	Organizational Chart

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Ambulatory Surgery Centers - Establish/Construct

Exhibit #6

<u>Number</u>	<u>Applicant/Facility</u>
1. 111142 B	Stoneleigh Avenue Pain Management ASC, LLC (Putnam County)
2. 121353 E	Crystal Run Ambulatory Surgery Center of Middletown (Orange County)



Public Health and Health Planning Council

Project # 111142-B Stoneleigh Avenue Pain Management ASC, LLC

County: Putnam (Carmel)

Program: Ambulatory Surgery Center

Purpose: Establishment and Construction

Submitted: January 27, 2011

Executive Summary

Description

Stoneleigh Avenue Pain Management ASC, LLC, a limited liability company, requests approval to establish and construct a diagnostic and treatment center certified for freestanding ambulatory surgery (FASC), to specialize in pain management services. The FASC will be located in renovated space in an existing building on the Putnam Hospital Center Campus, located at located 670 Stoneleigh Avenue, Carmel, which is currently being leased by a private physician practice. Putnam Hospital Center is currently the sole member of Stoneleigh Avenue Pain Management ASC, LLC, and will enter a joint venture with Douglas Fauser, MD., and Joel Buchalter, MD., to form Stoneleigh Avenue Pain Management ASC, LLC.

The ownership of Stoneleigh Avenue Pain Management is as follows:

Putnam Hospital Center	49.0%
Douglas Fauser, MD.	25.5%
Joel Buchalter, MD.	25.5%

Putnam Hospital Center is an existing 164-bed not-for-profit hospital that is the sole provider of acute care services in Putnam County. The applicant will have a transfer and affiliation agreement with Putnam Hospital Center.

Total project costs are estimated at \$1,967,416.

DOH Recommendation
Contingent approval.

Need Summary

Stoneleigh Avenue Pain Management ASC, LLC projects that there will be 1,400 visits in year one and 2,600 in year three.

Program Summary

Based on the information reviewed, staff found nothing that would reflect adversely upon the applicant's character and competence or standing in the community.

Financial Summary

Project costs will be met from accumulated funds from the proposed members of Stoneleigh Avenue Pain Management, LLC.

Budget:	Revenues:	\$ 4,176,019
	Expenses:	<u>3,190,470</u>
	Gain/(Loss):	\$ 985,549

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Section 2802.7 states that all sponsors whose applications require review by the State Hospital Review and Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. The satisfactory review, prior to presentation at the Public Health and Health Planning Council meeting, of all Putnam Hospital Center and Health Quest Systems, Inc. board members. [HSP]
3. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
4. Submission of executed sublease agreements that is acceptable to the Department. [BFA]
5. The submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
6. Submission of a photocopy of the executed Certificate of Amendment of the Articles of Organization of Stoneleigh Pain Management ASC, LLC, acceptable to the Department. [CSL]
7. Submission of a photocopy of the executed Operating Agreement of Stoneleigh Pain Management ASC, LLC, acceptable to the Department. [CSL]
8. Submission of an explanation of the role, if any, of Somers Support Services, LLC with respect to the operation of facility, acceptable to the Department. [CSL]
9. Submission of an explanation of the role, if any, of Somers Orthopedic Surgery and Sports Medicine, PLLC with respect to the operation of facility, acceptable to the Department. [CSL]
10. Submission of an explanation of the role, if any, of Health Quest Systems, Inc. with respect to the operation of facility, acceptable to the Department. [CSL]

Approval conditional upon:

1. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
2. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
3. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
4. The clinical space must be used exclusively for the approved purpose. [HSP]
5. The submission of Final Construction Documents, signed and sealed by the project architect, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
6. The applicant shall complete construction by March 1, 2013 in accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

August 9, 2012.

Need Analysis

Background

Putnam Hospital Center (PHC) is a 164-bed acute care hospital located at 670 Stoneleigh Avenue, Carmel, 10512, in Putnam County. The hospital seeks approval to establish Stoneleigh Avenue Pain Management ASC, LLC as a multi specialty Article 28 Diagnostic and Treatment Center.

Stoneleigh Avenue Pain Management ASC, LLC will offer Ambulatory Surgery - Multi Speciality Pain Management services.

Putnam Hospital Center (PHC) is a member of the Health Quest System and the sole community provider of acute care services in Putnam County. PHC proposes to establish Stoneleigh Avenue Pain Management ASC for the following reasons:

- A. to enter into a joint venture with Dr. Douglas Fauser and Dr. Joel Buchalter (In the venture PHC will own 49% and the doctors will collectively own 51%. Any new physicians entering into the partnership will hold a portion of the 51% share.); and
- B. to construct and operate a pain management suite of the same name, to be located in renovated space in an existing building on PHC's campus.

The applicant indicates that pain management services are currently offered within the surgical suite of the hospital but that the location is not conducive to patient access and limits the number of pain procedures that can be done because the suite at the hospital is near capacity. The redevelopment of the pain management suite will allow the hospital to create a separate and distinct unit outside the operating suite and accomplish the following goals:

- better patient experience;
- enhanced patient satisfaction;
- care in a more appropriate setting;
- more robust pain management service; and
- expansion of service.

The unit will be designed with one pain management treatment room and four exams rooms and allow for 3,000-pain management procedures. The suite will be opened Monday – Friday from 7:00am to 3:30pm.

The new suite will allow the hospital to improve its throughput and improve patient satisfaction. Because of the addition of a second physician and dedicated space, PHC expects its pain management procedures to exceed its prior experience. The hospital anticipates approximately 1,400 procedures in its first year of operation, growing to more than 2,600 procedures by year 3 of operation.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

Establish a diagnostic and treatment center that will also be federally certified as an ambulatory surgery center.

Proposed Operator	Stoneleigh Avenue Pain Management ASC, LLC
Site Address	670 Stoneleigh Avenue, Carmel
Surgical Specialties	Pain Management
Operating Rooms	0
Procedure Rooms	1

Hours of Operation	Monday through Friday from 7:00 am to 5:00 pm
Staffing (1 st Year / 3 rd Year)	8.6 FTEs / 10.6 FTEs
Medical Director(s)	Jason Melnick, MD
Emergency, In-Patient and Backup Support Services Agreement – Distance	Expected to be provided by Putnam Hospital Center Located on the same campus
On-call service	Will be available 24 hours per day 7 days per week.

Character and Competence

The members of the LLC are:

<u>Name</u>	
Putnam Hospital Center	49.0%
Somers Support Services, LLC	51.0%
Joel S. Buchalter, MD (50%)	
Douglas J. Fauser, MD (50%)	

The two individual members of Somers Support Services, LLC are orthopedic surgeons in private practice. Putnam Hospital Center is part of Health Quest Systems, Inc. As such, the board members for both Putnam Hospital and Health Quest were subjected to a character & competence review.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and a disclosure of the applicant's and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

Dr. Janusz Rudnicki, ex officio voting board member of Putnam Hospital Center, disclosed one pending malpractice case.

Additionally, the staff from the Division of Certification & Surveillance reviewed the ten-year surveillance history of all associated facilities. Sources of information included the files, records, and reports found in the Department of Health. Included in the review were the results of any incident and/or complaint investigations, independent professional reviews, and/or comprehensive/focused inspections.

Northern Dutchess Hospital, a member of Health Quest Systems, Inc. paid a \$14,000 fine based on the investigation of a 2006 occurrence of wrong-sided lipoma removal resulting from failure to mark surgical site and failure to review CT scan.

The review found that any citations were properly corrected with appropriate remedial action. Based on this information, staff concluded that the applicant have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

Integration with Community Resources

The center plans to work with patients to educate them regarding the availability of local physicians and services. Additionally, the center is committed to becoming a network provider in the provider-led health homes designated by the New York State Department of Health for Putnam County and the surrounding counties in Phase II of the health home implementation and will consider joining any Accountable Care Organizations Putnam Hospital joins. A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services.

The center plans to implement the same electronic medical record system currently used by Putnam Hospital as well as investigate the potential for affiliating with the same Regional Health Information Organization as Putnam Hospital.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Sublease Rental Agreement

The applicant provided draft subleases agreement for the site that they will occupy, which is summarized below:

Premises: 1,031 sq. ft. located at 664 Stoneleigh Avenue, Carmel, New York
Sublessor: Somers Orthopedic Surgery and Sports Medicine Group, P.L.L.C
Sublessee: Stoneleigh Avenue Pain Management ASC, LLC
Term: Five (5) years with a five (5) year renewal term.
Rental: Year 1 through Year 4- \$22,166.50 (\$21.50 per sq. ft.)
 Year 5- \$22,831.50 (\$22.15 per sq. ft.) and then a 3% increase each year thereafter.
Provisions: The sublessee shall be responsible for insurance and utilities.

Premises: 1,880 sq. ft. located at 664 Stoneleigh Avenue, Carmel, New York
Sublessor: Putnam Hospital Center
Sublessee: Stoneleigh Avenue Pain Management ASC, LLC
Term: Five (5) years with a five (5) year renewal term.
Rental: Year 1 through 10- \$43,066.24 (\$22.90 per sq. ft.)
Provisions: The sublease shall responsible for insurance and utilities.

The applicant has indicated that both subleases are non-arms length lease relationships.

Total Project Cost and Financing

Total project cost, which is for renovations and the acquisition of moveable equipment, is estimated at \$1,967,416, itemized as follows:

Renovation and Demolition	\$955,750
Construction Contingency	95,575
Architect/Engineering Fees	63,340
Moveable Equipment	840,000
CON Fee	2,000
Additional Processing Fee	<u>10,751</u>
Total Project Cost	\$1,967,416

Project costs are based on an October 1, 2012 construction start date and a two months construction period.

The applicant will provide equity to meet the total project cost.

Operating Budget

The applicant has submitted an operating budget, in 2012 dollars, for the first and third years, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$3,034,211	\$4,176,019
Expenses:		
Operating	\$2,180,370	\$2,886,978
Capital	<u>286,716</u>	<u>303,492</u>
Total Expenses	\$2,467,086	\$3,190,470
Net Income	<u>\$567,125</u>	<u>\$985,549</u>
Utilization: (Procedures)	2,745	3,561
Cost Per Procedure	\$898.76	\$908.60

Utilization by payor source for the first and third years is as follows:

	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	3.64%	3.65%
Commercial Managed Care	26.38%	26.34%
Medicare Managed Care	55.00%	55.01%
Medicaid Managed Care	14.98%	15.00%

Expense and utilization assumptions are based on the historical experience of Putnam Hospital Center for these procedures.

Capability and Feasibility

The applicant will provide equity from the proposed members to meet the project cost of \$1,967,416.

Working capital requirements are estimated at \$531,745, which appears reasonable based on two months of third year expenses. The applicant will provide equity from accumulated funds to meet the working capital requirement. Presented as BFA Attachment A and B are the personal net worth statements for the individual members, and the 2010 and 2011 certified financial statements of Putnam Hospital Center, which indicates the availability of sufficient funds to meet the project cost and the working capital requirement. Presented as BFA Attachment C is the pro-forma balance sheet of Stoneleigh Avenue Pain Management ASC, LLC as of the first day of operation, which indicates a positive net asset position of \$2,499,161 as of the first day of operation.

The submitted budget indicates a projected net income of \$567,125 and \$985,549 during the first and third years, respectively. Revenues are based on current reimbursement rates for ambulatory surgery services.

As shown on Attachment B, Putnam Hospital Center had an average positive working capital position and an average positive net asset position from 2010 through 2011. Also, the facility achieved an average operating gain of \$8,333,500 from 2010 through 2011.

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement of Proposed Individual Members
BFA Attachment B	Financial Summary- Putnam Hospital Center
BFA Attachment C	Pro-forma Balance Sheet
BHFP Attachment	Map



Public Health and Health Planning Council

Project # 121353-E

Crystal Run Ambulatory Surgery Center of Middletown

County: Orange (Middletown)
Purpose: Establishment

Program: Ambulatory Surgery Center
Submitted: April 27, 2012

Executive Summary

Description

Crystal Run Ambulatory Surgery Center of Middletown, LLC, an existing limited liability company, was approved as an ambulatory surgery center by the Public Health Council in April 2010. The applicant currently requests approval to transfer ownership interests of thirty-seven (37) new partners into Crystal Run Healthcare, LLP.

The current members of Crystal Run Ambulatory Surgery Center of Middletown, LLC are Crystal Run Healthcare, LLP (60%), comprised of 59 partners, and Orange Regional Medical Center (40%). Upon approval, Crystal Run Healthcare, LLP will have 96 partners, each with 1.0417% membership interest.

The proposed issuance of new membership interests, when combined with issuances over the past two years, would in aggregate exceed 25% within five years, thereby requiring Public Health and Health Planning Council approval. The previous transactions were made with prior notice to the Department in accordance with Public Health Law Section 2801-a(4)(b).

DOH Recommendation
Contingent approval.

Need Summary

As this project involves only a minor change in the ownership interests, no Need recommendation is required.

Program Summary

Based on the information reviewed, staff found nothing that would reflect adversely upon the applicants' character and competence or standing in the community.

Financial Summary

There are no budgeted incremental operating expenses or revenues associated with this project, since patient care services will not be affected or interrupted.

Purchase price of \$7,400,000 will be met with a \$200,000 promissory note from each of the 37 proposed new partners. To secure repayment of the promissory notes, Crystal Run Healthcare will withhold the amount due from each proposed new partner's semi-monthly partnership distribution.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of an executed partnership agreement from each of the proposed new members that is acceptable to the Department of Health. [BFA]
2. Submission of an executed promissory note from each of the proposed new members that is acceptable to the Department. [BFA]
3. Submission of photocopies of executed Certificates of Partnership, acceptable to the Department. [CSL]

Council Action Date

August 9, 2012.

Programmatic Analysis

Background

Crystal Run Ambulatory Surgery Center of Middletown is an operational ambulatory surgery center. The members of Crystal Run Ambulatory Surgery Center are Orange Regional Medical Center (40%) and Crystal Run Healthcare, LLP (60%). This proposal is to add 37 new partners (all practicing physicians) in Crystal Run Healthcare, LLP. Upon approval there will be a total of 97 partners, with a 1.04% share of the partnership. There will be no change in the direct membership percentages of the ambulatory surgery center.

Character and Competence

The partners in Crystal Run Healthcare, LLP are:

Proposed Partners (subject of CON)

Shawkat Massih	Ramzi Tawil
Ralph G. Anderson	Rocco Bassora
Zewditu Bekele-Arcuri	Paul Eugenio
Thomas Booker	Andrew Faskowitz
Wico Chu	John Fiorianti
Felix Davelman	Anousheh Ghezel-Ayagh
D'mitri Gorelov	Aleksandr Guchinskiy
Michael Hoffman	Geoffrey Hulse
Syed Jafri	Malloy Nair
Hanna Kim	Vipul Patel
Liby Mathew	Riaz Rahman
Jacqueline Todd	Rob Scoyni
Mirilini Yeddu	Elizabeth George
Howard Yeon	Ed Pinto
Alex Gershenhorn	Pankaj Kaw
Anthony Koehler	Khawaja Mir
G. Varuni Kondagunta	Romeo Quilatan
Kristen Mercado	Lin Lin Remenar
Tapti Panda	

Current Partners (already approved)

Hal Teitelbaum	Sally Levine
Dumisa Adams	Kaiyu Ma
Eric Barbanel	Jim McLaughlin
Andrew Beharrie	Robert Menezes Jr
Mark Bele	Jonathan Nasser
James Brouckunier	Julian Nelson
Rosa Cirillo	Laura Nicoli
Randolph Cohen	Manuel Perry
Margaret Coughlin	Tal Ronen
Edward Croen	Sharon Rosenberg
Robert dinsmore	Steven Rowe
Sandy Doti	Jonathan Rudnick
Jinlin Du	Tim Rydell
Karen Finnigan	Sandra Sacks
Lisette Giraud	Scot Selbo
Noemi Gonzalez-Klayman	Gary Silverman
William Gotsis	Sandeep Singh
Steven Grundfast	Samir Sodha
Scott Hines	Deborah Spencer
Ali Hmidi	Gregory Spencer
V. Christopher Inzerillo	Laurence Tawil

David Jaeger
John Juliano
David Kang
Robin Karpfen
Howard Karpoff
Lezode Kipoliongo
Michelle Koury
Stanislaw Landau
Sophia Lee

Arthur Tolis
Daniel Tomlinson
Kevin Trapp
Alvin Viray
Robert Walker
Alicia Weissman
Sherma Winchester-Penny
Ilan Zedek

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and a disclosure of the applicant's ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management, the Office of Professional Medical Conduct, and the Education Department databases as well as the US Department of Health and Human Services Office of the Inspector General Medicare exclusion database.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Partnership Agreement

The applicant has submitted executed Certificates of Partnership, in which each proposed new partner agrees to the terms and conditions of the Third Amended and Restated Agreement of Partnership. Upon Department approval, each proposed new partner will execute a signature page to the Partnership Agreement and a promissory note for the \$200,000 purchase price per new partner.

Operating Budgets

The applicant has indicated there are no incremental operating expenses or revenues associated with this project since patient care services will not be affected or interrupted.

Capability and Feasibility

Purchase price of \$7,400,000 will be met with a \$200,000 promissory note from each new proposed partner. To secure repayment of the promissory notes, Crystal Run Healthcare will withhold the amount due from each new partner's semi-monthly partnership distribution.

CMS has approved Crystal Run Ambulatory Surgery Center as a member of an Accountable Care Organization (ACO). The future payment model has no bearing on this application since the ACO model cannot be projected at this time by the Department or applicant.

Presented as BFA Attachment B, a financial summary for Crystal Run Ambulatory Surgery Center of Middletown, LLC indicates that the facility has experienced average negative working capital, maintained average positive member's equity and generated an average net income of \$9,899 for the period shown. The applicant has indicated the reason for the negative working capital was due to start up in 2010 as a new operator.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Partner Listing and Ownership Interests
BFA Attachment B	Financial Summary, Crystal Run Healthcare, LLP
BFA Attachment C	Internal Financial Summary as of March 31, 2012, Crystal Run Healthcare, LLP

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Diagnostic and Treatment Centers - Establish/Construct

Exhibit #7

	<u>Number</u>	<u>Applicant/Facility</u>
1.	121180 E	Gotham Health FQHC (New York County)
2.	121340 E	Metro Community Health Center (New York County)



Public Health and Health Planning Council

Project # 121180-E

Gotham Health FQHC

County: New York (New York)
Purpose: Establishment

Program: Diagnostic and Treatment Center
Submitted: April 2, 2012

Executive Summary

Description

Gotham Health FQHC, Inc. (Gotham), a to-be-formed not-for-profit corporation, is seeking approval to become the co-operator and co-applicant with New York City Health and Hospitals Corporation (HHC) of six community-based primary care diagnostic and treatment centers (D&TCs) for the medically underserved, in order to achieve Federally Qualified Health Center (FQHC) "look-alike" status under Health Resources and Services Administration (HRSA) law. HHC will seek Section 330 status at a later date. Gotham will serve as the health center's community-based governing board of the six project sites.

HHC is committed to the medically underserved population in the New York City area. FQHC status will allow the six D&TC sites to better align with HHC's strategic goals to develop care coordination, and provide patient-centered medical homes through its primary care services, in alignment with state and national efforts in health reform.

The six sites are located in three Counties as follows:

<u>Site</u>	<u>County</u>	<u>Address</u>
Segundo Ruiz Belvis D&TC	Bronx	545 East 142 nd St. Bronx
Morrisania D&TC	Bronx	1225-1257 Gerard Ave. Bronx
Renaissance Healthcare Network	New York	215 West 125 th St. New York
Cumberland D&TC	Kings	100 N. Portland Ave. Brooklyn
East NY D&TC	Kings	2094 Pitkin Ave. Brooklyn
Gouverneur D&TC	New York	227 Madison St. New York

DOH Recommendation
 Contingent approval.

Need Summary

HHC will employ the public entity model developed by HRSA by entering into a co-applicant agreement with the Gotham Health FQHC, Inc., meeting all Section 330 requirements. The co-applicant agreement will delineate the roles, responsibilities, and authorities of both the public entity, HHC, and the independent co-applicant, Gotham Health FQHC, Inc. The six HHC facilities will receive the FQHC "look-alike" designation and Gotham Health FQHC, Inc., as the co-applicant, will serve as the health center's community-based governing board.

The six sites have served 160,420 patients with a total of 812,091 visits.

Program Summary

Based on the information reviewed, staff found nothing that would reflect adversely upon the applicant's character and competence or standing in the community.

Financial Summary

There are no project costs associated with this application.

Budget:	<i>Revenues:</i>	<i>\$188,459,148</i>
	<i>Expenses:</i>	<i>216,714,664</i>
	<i>Gain/(Loss):</i>	<i>(\$28,255,516)</i>

HHC is committed to the medically underserved that these six D&TC facilities will serve, and is prepared to underwrite the projected loses.

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of revised by-laws to change the number of required board members to correspond with number of board members submitted and reviewed. [HSP]
2. Submission of an executed co-applicant agreement that is acceptable to the Department of Health. [BFA]

Council Action Date

August 9, 2012.

Need Analysis

Background

Gotham Health FQHC, Inc. (Gotham) seeks to become the established co-operator with New York City Health and Hospitals Corporation of six diagnostic and treatment centers (D&TCs) currently operated solely by the New York City Health and Hospital Corporation (HHC).

The conversion of the six D&TCs to FQHC “look-alike” status will allow HHC to more efficiently and effectively meet the needs of the medically underserved by better positioning the D&TCs to provide medical homes for their patients. HHC has obtained NCQA Level 3 Patient Center Medical Home designation for its primary care clinics, including the D&TCs. As FQHC “look-alikes”, the D&TCs will be able to provide patient-centered, comprehensive, and coordinated care in a cost effective manner based on the medical home model.

The following zip codes define the service area for the six HHC clinics by site:

- Gouverneur - 10002, 11220, 10009, 11373, 11355, 10038, 11368, 11219, 12208, 11211
- Renaissance - 10027, 10039, 10030, 10026, 10031, 10034, 10032, 10037, 10040, 10035, 10033, 10029, 10452, 10468, 10453, 10456, 10457
- Cumberland - 11225, 11226, 11211, 11206, 11201, 11205, 11208, 11207, 11238, 11236, 11221, 11216, 11233, 11212, 11203, 11213, 11237
- East New York - 11207, 11208, 11212, 11233, 11236, 11213
- Segundo - 10454, 10455, 10451, 10472, 10456, 10459, 10460
- Morrisania - 10452, 10456, 10453, 10457, 10451, 10468, 10458

For fiscal year 2010, July 1, 2010 to June 30, 2011, HHC provided services for the following number of patients with the respective number of visits, which are combined primary care and specialty care visits, at each of the six service delivery sites:

<u>Site</u>	<u>Patients</u>	<u>Visits</u>
Gouverneur	48,326	343,941
Renaissance	23,781	88,323
Cumberland	26,634	120,995
East New York	23,767	97,910
Segundo	14,112	69,526
Morrisania	23,800	91,396
TOTAL	160,420	812,091

The target population currently receives services at the six HHC D&TCs. HHC’s six health centers have responded to identified health care needs in the following ways:

- extended evening and weekend hours to increase access to services beyond traditional business hours;
- availability of sliding fee scale discounts for low income uninsured patients;
- transportation assistance for patients;
- programs and services specifically developed to address identified health care needs;
- collaboration and coordination of services with other community health care providers to ensure continuity of care and reduce duplication of services; and

- providing services to enable access including eligibility assistance, interpretation and translation, and case management.

HHC's six D&TCs have achieved NCQA Patient Centered Medical Home (PCMH) Level 3 certification as of March 2011, demonstrating a multi-disciplinary team approach to providing comprehensive primary care. Each D&TC is also a certified NCQA Diabetes Preferred Health Center.

Conclusion

The conversion of the HHC clinics to FQHC Look Alike status aligns with HHC's overall strategic goals to develop care coordination and provide patient-centered medical homes through its primary care services. This will be especially beneficial to the clientele projected to use the six D&T center sites, over 75 percent of whose visits will be covered by Medicaid or charity care.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Program Proposal

Establish Gotham Health FQHC, Inc. as the co-operator of six diagnostic and treatment centers and their extension clinics currently owned and operated by the New York City Health and Hospitals Corporation. The co-operator is being established in order for the clinics to qualify as Federally Qualified Health Center Look-Alikes.

Character and Competence

Gotham Health FQHC, Inc. is a to-be-formed not-for-profit corporation. The initial board of directors is:

Elissa Macklin
Maria Vega
Dolores R. McCray
Antoinette Brown
Vivian Y. Bright

The board members have varied backgrounds, which are those of a business manager, a retired director of operations of Ambulatory Care at Woodhull Medical Center, a job placement consultant, a business development manager and the Deputy Director of Administrative Payroll for the NYC Department of Education.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and a disclosure of the applicant's ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management, the Office of Professional Medical Conduct, and the Education Department databases as well as the US Department of Health and Human Services Office of the Inspector General Medicare exclusion database.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Background

Segundo Ruiz Belvis D&TC has one extension clinic located at 348 East 156th St., Bronx.

Morrisania D&TC has two extension clinics located at 401 East 168th St. and 1309 Fulton Ave., along with six school-based clinics all within the Bronx.

Renaissance Health Care Network has six extension clinics located at 2698 8th Ave., 175 Nagle Ave., 3170 Broadway, 34 West 118th Street, 281 West 127th Street, 600 West 168th Street, and nine school-based clinics, all within New York City.

Cumberland D&TC has seven extension clinics located at 485 Throop Avenue, 388 Pulaski Street, 295 Flatbush Ave. Extension, 833 Roebling Street, 434 Dekalb Avenue, 47 Marcus Garvey Blvd., and 151 Maujer Street, all within Brooklyn.

East NY D&TC has three extension clinics located at 259 Bristol Street, 51 Stuyvesant Place, and 1091 Sutter Avenue, along with two school-based clinics, all within Brooklyn.

Gouverneur D&TC has seven extension clinics located at 280 Delancey Street, 227 Madison Street, 227 Madison Avenue, 34 Spring Street, 540 East 13th Street, 60 Madison Street, and 215 Avenue B, all located in New York City.

Operating Budget

The applicant has submitted an operating budget for all six D&TC sites, in 2012 dollars, which is summarized below:

	<u>Current Year</u>	<u>Years One and Three</u>
Revenue	\$151,094,880	\$188,459,148
Expenses:		
Operating	\$202,690,735	\$209,068,903
Capital	<u>8,338,285</u>	<u>7,645,761</u>
Total Expenses	\$211,029,020	\$216,714,664
 Excess (Loss) of Revenues over Expenses	 \$(59,934,140)	 \$(28,255,516)
 Utilization: (Visits)	 780,960	 786,666
 Cost Per Visit	 \$270.22	 \$275.14

Utilization by payor source for the first and third years is as follows:

	<u>Years One and Three</u>
Medicaid Fee-for-Service	11.1%
Medicaid Managed Care	43.1%
Medicare Fee-for-Service	6.3%
Medicare Managed Care	6.8%
Commercial Managed Care	2.9%
Commercial Fee-For-Service	3.6%
Private Pay/Other	0.5%
Charity Care	25.7%

Expense and utilization assumptions are based on the historical experience of all six sites operated by HHC.

Capability and Feasibility

There are no project costs associated with this application.

Working capital requirements have been estimated at \$36,074,111 based on third year budgeted expenses and will be funded through current operations, which appears reasonable based on BFA Attachment B, Financial Summary of New York Health and Hospital Corporation.

The submitted budget projects a loss of revenues over expenses of \$28,255,516 during the first year and third years. HHC will reduce the current loss from operations of its six D&TC sites by \$31,678,624 by achieving FQHC status. Medicaid revenues reflect prevailing reimbursement methodologies. Gotham Health has elected to forgo APG reimbursement under FQHC status. Revenues were calculated based on the enhanced Medicaid rate and the Medicare rate, which will be received under the FQHC status. All other revenues reflect current reimbursement rates. HHC is committed to the medically underserved population in the New York City area, and seeking FQHC status will allow the six D&TC sites to better align with HHC's strategic goals.

Presented as BFA Attachment A is the audited financial summary of New York City Health and Hospitals Corporation, in which HHC Health and Home Care is a Division within the system. The June 30, 2011 financials show the applicant has maintained positive working capital, experienced deficit net assets, and a net loss of \$442,534,000 from operations for 2011. HHC relies on supplemental Medicaid Disproportionate Share Hospital and Upper Payment Limit funds to support its operations, which are estimated at \$1,722,000,000 for fiscal year 2012. As shown on BFA Attachment A, HHC has experienced net deficit positions and maintained positive working capital during the period shown. HHC has also experienced negative income from operations and has implemented the following management initiatives as of May 2010 into 2014, to increase income from operations:

- Phase I-\$300 million in benefits resulting from a hiring freeze, a reduction in supply costs, improved utilization management, and enhanced collection through improved documentation and coding.
- Phase II-\$300 million in savings through a restructuring program and the implementation of future initiatives to be in place by 2014. These initiatives include this application.

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Organizational Charts
BFA Attachment B	Financial Summary of New York Health & Hospitals Corporation-2011
BFA Attachment C	Financial Summary of New York Health & Hospitals Corporation-draft December 31, 2011
BFA Attachment D	Pro- forma Balance Sheet, Gotham Health FQHC, Inc.
BHFP Attachment	Map



Public Health and Health Planning Council

Project # 121340-E Metro Community Health Center

County: Richmond (Staten Island)
Purpose: Establishment

Program: Diagnostic and Treatment Center
Submitted: April 24, 2012

Executive Summary

Description

Metro Community Health Center (Metro Community), a to-be established not-for-profit corporation and Federally-Qualified Health Center (FQHC), requests approval to become the new operator of four diagnostic and treatment centers providing primary medical care and psychology to people with disabilities and chronic health conditions, currently being operated by Cerebral Palsy Associations of New York State (CPA of NYS). The four centers are as follows:

- Koicheff Health Care Center (Staten Island)
- Metro Community Health Center (Bronx)
- Linda Bush Gherardi Community Health Care Center (Brooklyn)
- Queens Health Care Center (Woodside)

Metro Community will create a unique health care service delivery network that will meet the standards of FQHC designation by the U.S. Health Resources Services Administration (HRSA) and an Enhanced Patient Centered Medical Home (PCMH), recognized by the National Committee on Quality Assurance (NCQA) with certified interoperable Health Information Technology. The network is sponsored by and created through collaboration and partnership with CPA of NYS and an affiliation with Urban Health Plan, an FQHC operating in Bronx and Queens.

CPA of NYS has over 60 years of experience as a non-profit service provider of health, rehabilitation, long term care, residential and day habilitation services, vocational services, case management, and a wide range of community support services to individuals of all ages with a variety of disabilities, and to their families.

Urban Health Plan was founded in 1974 as a not-for-profit, Article 28 diagnostic and treatment center and obtained FQHC designation in 1999.

DOH Recommendation
Contingent approval.

Need Summary

Metro Community's network will offer primary and specialty services at each site, either directly or through referrals targeting chronic health conditions, including: cardiology, dermatology, endocrinology, gastroenterology, gynecology, neurology, podiatry, pulmonology, physiatry, psychiatry, dental, mental health, occupational and physical therapy, and speech and language pathology services, and lab services.

Program Summary

Based on the information reviewed, staff found nothing that would reflect adversely upon the applicant's character and competence or standing in the community.

Financial Summary

CPA of NYS will loan Metro Community \$2,281,000 with a five-year term at an interest rate equal to the prime rate (3.25%, as of 7/10/12), for working capital and start-up costs, which include: equipment balance transfer, legal, accounting and filing fees and cash flow advance. In addition, Metro Community will pay CPA of NYS an annual amount equal to a full year of depreciation, which is approximately \$82,568, until such time that the equipment from all four sites has no remaining net asset value.

Budget:	Revenues:	\$ 9,378,916
	Expenses:	<u>8,829,786</u>
	Gain/(Loss):	\$ 549,130

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of an executed Contractor Agreement that is acceptable to the Department of Health. [BFA]
2. Submission of an executed fixed rate Loan and Security Agreement that is acceptable to the Department of Health. [BFA]

Approval conditional upon:

1. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
2. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
3. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
4. The clinical space must be used exclusively for the approved purpose. [HSP]

Council Action Date

August 9, 2012.

Need Analysis

Background

Metro Community Health Center (MCHC) seeks to become the operator of four diagnostic and treatment centers currently operated by Cerebral Palsy Association of New York State. The D&TCs with their assumed names and locations are as follows:

- a) MCHC-Bronx
979 Cross Bronx Expressway Service Road North
Bronx, 10460, Bronx County
- b) Linda Buch Gherardi MCHC
921 East New York Avenue
Brooklyn, 11203-1309, Kings County
- c) MCHC-Queens
51-40 59th Street
Woodside, 11377-7415, Queens County
- d) Koicheff MCHC
2324 Forest Avenue
Staten Island, 10303-1506, Richmond County

Analysis

The proposed service area for the four sites is as follows:

Bronx Service Area

Zip codes: 10453, 10456-10460, 10462, and 10472.

Brooklyn Service Area

Zip codes: 11203, 11205-11208, 11212, 11213, 11216, 11217, 11221, 11225, 11226, 11233, 11237, and 11238.

Queens-Woodside Service Area

Zip codes: 11368-11370, 11372, 11373, and 11377

Queens - Jamaica Service area (plans being developed to move back to Jamaica-site search expected to be completed in 2013)

Zip codes: 11420, 11432-11434, 11436, and 11451.

Staten Island Service Area

Zip codes: 10301-10303 and 10310.

The target population is people with disabilities and chronic health conditions in the Bronx, Brooklyn, Queens, and Staten Island in the zip codes listed above, which are in close proximity to the health center locations and have received physician shortage designations.

The MCHC-Bronx, Linda Buch Gherardi MCHC-Brooklyn, and Koicheff MCHC-Staten Island sites are co-located with a day habilitation program and other programs operated by the Cerebral Palsy Association of NYS serving people with developmental disabilities and disabilities with similar service needs.

The number of projected visits for each site is as follows:

<u>Projected Visits</u>	<u>Bronx</u>	<u>Brooklyn</u>	<u>Queens</u>	<u>Staten Island</u>
Current Year	7,985	14,666	11,653	4,419
First Year	8,384	15,398	12,231	4,641
Third Year	8,719	16,020	12,729	4,824

The prevention quality indicators (PQIs) are rates of admissions to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization or for which early intervention can prevent complications or more severe disease.

<u>PQIs: # of admissions per 100,000 adult population</u>	<u>Bronx-Service Area Zip Codes</u>	<u>Brooklyn Service Area Zip Codes</u>	<u>Queens: Expected Service Area Zip Codes (Excludes 11451) in 2013</u>	<u>Staten Island Service Area Zip Codes</u>	<u>NYS</u>
All PQIs	4,194	2,544	2,060	1,938	1,563
All Acute	996	579	529	513	526
All Circulatory	1,269	804	701	497	456
All Diabetes	735	542	433	351	224
All Respiratory	1,153	599	395	568	357

The PQIs for the proposed service areas for the four sites are significantly poor compared with those of the State (Source: NYSDOH)

Brookdale University Medical Center, Elmhurst Hospital Center, Jacobi Medical Center, Lincoln Medical and Mental Health Center, Richmond University Medical Center, and Staten Island University Hospital will provide backup services to the four MCHC sites.

Conclusion

This network of clinics will provide enhanced access to services for individuals with disabilities who also have chronic health conditions. Coordinated primary and specialty services will be provided to patients living in communities that have been designated as Health Professional Shortage and Medically Underserved Areas.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Program Proposal

Establish a diagnostic and treatment center with three extension clinics through the acquisition of four sites from the United Cerebral Palsy Associations of New York State, Inc (UCP). One location (Queens) had been operating by UCP under a temporary operating certificate. Upon approval of this project that site will obtain an operating certificate with no expiration date.

Proposed Operator	Metro Community Health Centers, Inc.	
Operator Type	Not-for-Profit	
Site Addresses	Metro-Bronx 979 Cross Bronx Expwy Svc Rd North, Bronx	Linda Buch Gerardi Metro 921 East New York Ave, Brooklyn
	Koicheff Metro 2324 Forest Ave, Staten Island	Metro – Queens 51-40 59 th St, Woodside
Hours of Operation	Monday through Friday from 7:00 am to 5:00 pm (Extended as necessary to accommodate patient needs).	

Staffing (1 st Year / 3 rd Year)	56.8 FTEs / 57 FTEs
Medical Director(s)	Raojibhai S. Patel
Emergency, In-Patient and Backup Support Services Agreement and Distance	Various agreements are in place.

Character and Competence

The board members are:

- James Johansen, Chair
- Lee Allen
- J. David Seay
- Howard Siegel
- Lynn Arola
- Mae Covington Coggins
- Deborah Farruggia
- Victoria Ruisi
- Monique Dennis-Farrington

James Johansen is the president of a lawn and garden sales company and has served on the board of the Cerebral Palsy Associations of New York State since 1995. Lee Allen is the owner of a commercial real estate company. J. David Seay is an attorney who is currently general counsel to United Cerebral Palsy Associations of New York State. Howard Siegel is the CEO of an insurance and risk management company. The remaining proposed board members are parents of patients with disabilities. Federal requirements for FQHCs state that greater than 50% of the board must be comprised of patients or their parents/legal representatives.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and a disclosure of the applicant's ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management, the Office of Professional Medical Conduct, and the Education Department databases as well as the US Department of Health and Human Services Office of the Inspector General Medicare exclusion database.

Additionally, the staff from the Division of Certification & Surveillance reviewed the ten-year surveillance history of all associated facilities. Sources of information included the files, records, and reports found in the Department of Health. Included in the review were the results of any incident and/or complaint investigations, independent professional reviews, and/or comprehensive/focused inspections. The review found that any citations were properly corrected with appropriate remedial action.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the facility conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The facility's admissions policy will include anti-discrimination regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, or source of payment. All procedures will be performed in accordance with all applicable federal and state codes, rules and regulations, including standards for credentialing, anesthesiology services, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements.

Conclusion

Based on the information reviewed, staff found nothing that would reflect adversely upon the applicant's character and competence or standing in the community.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Loan and Security Agreement

Dated: April 12, 2011
Lender: United Cerebral Palsy Association of New York State, Inc.
(CP of NYS)
Borrower: Metro Community Health Centers, Inc. (Metro)
Amount: Up to but not exceeding \$2,281,000
***Terms:** 5 years – interest rate floats at prime rate- (presently 3.25%- as of 7/10/2012)
Provisions: CP of NYS will transfer all equipment currently utilized in the four health centers to Metro. Metro will pay an annual amount equal to full year depreciation, which is approximately \$82,568, until equipment has no remaining asset value.

**Staff notes that variable floating interest rate is contrary to department acceptable reimbursement policy. A contingency requiring an acceptable fixed rate loan has been applied.*

The applicant has provided an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law, with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liabilities and responsibilities.

Lease Agreements

The applicant has submitted separate executed lease agreements for each location site dated April 12, 2012, the terms of which are summarized below:

Bronx Metro Community Health Center, Bronx Site

Landlord: 1880 Boston Road, LLC
Sub lessor: United Cerebral Palsy Associations of New York State, Inc. d/b/a Cerebral Palsy Association of New York State
Sub lessee: Metro Community Health Centers, Inc.
Premises: Approximately 24,322 sq. ft. on the second floor in the building known as the Metro Community Health Center, 1880 Boston Road, Bronx
Term: 5 years with the option to renew for an additional 5 years.
Rent: \$1,094,490/year (\$45/sq. ft.) plus \$62,400/year for parking (26 spaces @ \$200/mo.) with a 3.5% increase yearly.
Provisions: The sub lessee shall be responsible for utilities, insurance and maintenance.

Linda Buch Gherardi Metro Community Health Center, Brooklyn Site

Landlord: Blake Christopher Corp.
Sub lessor: United Cerebral Palsy Associations of New York State, Inc. d/b/a Cerebral Palsy Association of New York State
Sub lessee: Metro Community Health Centers, Inc.
Premises: Approximately 6,245 sq. ft. in the building known as the Linda Buch Gherardi Health Center, 921 East New York Ave., Brooklyn
Term: 4 years with the option to renew for an additional 5 years.
Rent: \$156,125/year (\$25/sq. ft.) plus \$5,700/year for additional rent for common space with a 3% increase yearly
Provisions: The sublessee shall be responsible for utilities, insurance and maintenance.

Queens Metro Community Health Center, Woodside Site

Master
Landlord: 59th Realty, Inc.
Sub landlord: Cerebral Palsy Transport, Inc.
Sub lessor: United Cerebral Palsy Associations of New York State, Inc. d/b/a Cerebral Palsy Association of New York State
Sub lessee: Metro Community Health Centers, Inc.
Premises: Approximately 2,587 sq. ft. in the building known as the Queens Health Care Center, 51-40 59th Street, Woodside
Term: 5 years with the option to renew for an additional 5 years.
Rent: \$46,566/year (\$18/sq. ft.) plus \$6,683/year for additional rent for common space with a 3% increase yearly.
Provisions: The sub-sublessee shall be responsible for utilities, insurance and maintenance.

Koicheff Metro Community Health Center, Staten Island Site

Landlord: United Cerebral Palsy Association of New York State, Inc. d/b/a Cerebral Palsy Association of New York State.
Lessee: Metro Community Health Centers, Inc.
Premises: Approximately 7,312 sq. ft. in the building known as the Koicheff Health Care Center, 2324 Forest Ave, Staten Island
Term: 5 years with the option to renew for 5 years.
Rent: \$182,800/year (\$25/sq. ft.) with a 3% increase yearly
Provisions: The lessee shall be responsible for utilities, insurance and maintenance.

The lease agreements are non-arm’s length agreements and Letters of Opinion from Licensed Commercial Real Estate Brokers have been submitted indicating rent reasonableness.

Administrative Services and Employee Lease Agreement

The applicant has submitted an executed administrative services and employee lease agreement, the terms of which are summarized below:

Date: April 12, 2012
Facility Operator: Metro Community Health Centers, Inc.
Provider: Cerebral Palsy Associations of New York State, Inc., d/b/a Cerebral Palsy Association of New York State.
Services Provided: Accounting, bookkeeping, billing, accounts receivable, accounts payable, purchasing, payroll, human resources and benefits management, IT and telecommunications networking, and leased employees for administrative purposes.
Term: 5 years with the option to renew every 5 years.
Compensation: \$349,565/year

Contractor Agreement

The applicant has submitted a draft contractor agreement, the terms of which are summarized below:

Facility Operator Metro Community Health Centers, Inc.
Contractor: Urban Health Plan
Services Provided: Technical assistance, assessment of feasibility and development of a Joint Commission compliance plan, training for providers and clinical staff, consultation on health informatics, FQHC standards, and health center and service developments.
Term: On-going until either party terminates with 30 days prior written notice to the other.
Compensation: \$100,000/year

The agreements appear reasonable.

Operating Budget

The applicant has submitted an operating budget in 2012 dollars, for the first year subsequent to change in operator:

Revenues:	\$9,378,916
Expenses:	
Operating	\$6,999,953
Capital	<u>1,829,833</u>
Total Expenses:	\$8,829,786
 Net Income:	 \$549,130
 Utilization:	 42,759
Cost per visit:	\$206.50

Utilization by payor source for the first year is as follows:

Commercial Managed Care	0.7%
Medicare Fee-for-Service	23.5%
Medicaid Fee-for-Service	66.9%
Medicaid Managed Care	1.8%
Charity Care	2.0%
Private Pay/Other	5.1%

Expense and utilization assumptions are based on historical experience of the existing diagnostic and treatment centers.

Capability and Feasibility

Cerebral Palsy Association of New York State, Inc. will loan Metro \$2,281,000 with a five year term at an interest rate equal to the prime rate (3.25% as of 7/10/12) to cover working capital and start-up costs, which include equipment balance transfer, legal, accounting and filing fees, and cash flow advance. Presented as BFA Attachment A, is the financial summary of United Cerebral Palsy Associations of New York State, Inc., which indicates the availability of sufficient funds.

Working capital requirements are estimated at \$1,471,631 based on two months of first year expenses and is being provided by CP of NYS as part of the loan to Metro. The submitted budget for all four sites indicates a net income of \$549,130 during the first year subsequent to the change in operator. The budget appears reasonable.

As shown on BFA Attachment B, the financial summary of United Cerebral Palsy Associations of New York State, Inc. indicates that the facility has experienced positive working capital, positive net asset position and generated a net income of \$2,708,020 and \$1,755,227 for 2010 and 2011, respectively.

Based on the preceding, and subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Organizational Chart
BFA Attachment B	Financial Summary, United Cerebral Palsy Association of New York State, Inc.
BFA Attachment C	Internal Financial Summary as of April 30, 2012, United Cerebral Palsy Association of New York, Inc.
BFA Attachment D	Projected Balance Sheet

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Residential Health Care Facilities - Establish/Construct

Exhibit #8

	<u>Number</u>	<u>Applicant/Facility</u>
1.	082143 E	OMOP, LLC d/b/a Orchard Manor, Inc. (Orleans County)
2.	121103 E	HRNC Operating, LLC d/b/a Highland Rehabilitation and Nursing Center (Orange County)
3.	121168 E	Oak Hollow NC Corp. d/b/a Oak Hollow Nursing Center (Suffolk County)
4.	121174 E	Crest Hall Corp. d/b/a Lakeview Rehabilitation and Care Center (Suffolk County)
5.	121175 E	Crown Nursing Home Associates, Inc. d/b/a Crown Nursing and Rehabilitation Center (Kings County)



Public Health and Health Planning Council

Project # 082143-E

OMOP, LLC
d/b/a Orchard Manor, Inc.

County: Orleans (Medina)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: November 7, 2008

Executive Summary

Description

OMOP, LLC, a limited liability company, is seeking approval to purchase the operation of Orchard Manor, Inc., a voluntary 160-bed residential health care facility (RHCF) located at 600 Bates Road, Medina. Ownership of the operation before and after the requested change is as follows:

<u>Before</u>		<u>After</u>	
Orchard Manor, Inc.	100%	OMOP, LLC	100%
<u>Sole Member</u>		<u>Sole Member</u>	
Medina Memorial Hospital		Moshe Scheiner	

The proposed members have ownership interest in additional RHCFs: Indian River Rehabilitation and Nursing Center, Gowanda Rehabilitation and Nursing Center, and Westledge Rehabilitation and Nursing Center. The applicant does not expect to enter into any administrative and consulting service arrangements.

DOH Recommendation
 Contingent approval.

Need Summary

Orleans County is under the county bed need by 10 beds.

<u>RHCF Bed Need – Orleans County</u>	
2016 Projected Need	360
Current Beds	310
Total Resources	310
Unmet Need	50

Utilization at Orchard Manor and in Orleans County is below the expected 97.0% occupancy rate, with Orchard

Manor's occupancy showing a 7% percent decrease from 89.3% in 2007 to 82.9% in 2009.

Program Summary

No adverse information has been received concerning the character and competence of any of the applicants. No changes in the program are proposed in this application.

Financial Summary

There are no project costs associated with this application. Purchase price of \$100,000 will be met with cash at closing.

Budget:	<i>Revenues:</i>	\$ 9,682,705
	<i>Expenses:</i>	<u>9,411,350</u>
	<i>Gain/(Loss):</i>	\$ 271,355

Subject to noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Submission of a plan to enhance access to Medicaid residents. As a minimum, the plan should include, but not necessarily be limited to, ways in which the facility will:
 - (a) Reach out to hospital discharge planners and make them aware of the facility's Medicaid Access Program;
 - (b) Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
 - (c) Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy; and
 - (d) Submit an annual report for two years to the Department which demonstrates progress with the implementation of the plan. The report should include, but not be limited to
 - Information on activities relating to (a) - (c) above;
 - Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
 - Other factors as determined by the applicant to be pertinent.

The Department reserves the right to require continued reporting beyond the two-year period. [RNR]

3. Completion of the final executed Stipulation Agreement by the Commissioner Health for Indian River Rehabilitation and Nursing Center. [LTC]
4. Submission of a loan commitment that is acceptable to the Department of Health. [BFA]
5. Submission of an executed building lease that is acceptable to the Department of Health. [BFA, CSL]
6. Submission of a photocopy of the executed Certificate of Amendment of the Articles of Organization of OMOP, LLC, acceptable to the Department. [CSL]
7. Submission of a photocopy of an executed amendment to the Operating Agreement of OMOP, LLC, acceptable to the Department. [CSL]

Council Action Date

August 9, 2012.

Need Analysis

Background

Utilization at Orchard Manor and in Orleans County is below the expected 97.0 percent occupancy rate, with Orchard Manor's occupancy showing a 7% percent decrease from 89.3 percent in 2007 to 82.9 percent in 2009.

There will be no change in the facility's beds or services upon approval.

Analysis

Orchard Manor, Inc. an existing Article 28 RHCF, has utilization below that of Orleans County as shown in the table below:

<u>Facility/County/Region</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Orchard Manor Inc.	89.26%	90.73%	82.90%
Orleans County	91.31%	94.06%	88.30%

The facility's occupancy is almost three percentage points below the county average for each year under consideration. At the end of January 2010, the facility's case mix index (CMI) was .94 for 136 residents of whom five were Physical A's and one was a Physical B.

Ownership of the operation after the requested change is as follows:

Moshe Scheiner	100.00%
----------------	---------

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Orchard Manor Nursing Home	Orchard Manor Rehabilitation and Nursing Center
<i>Address</i>	600 Bates Road Medina, NY 14103	Same
<i>RHCF Capacity</i>	160	Same
<i>ADHC Program Capacity</i>	NA	Same
<i>Type of Operator</i>	Corporation	Limited Liability Company
<i>Class of Operator</i>	Voluntary	Proprietary
<i>Operator</i>	Orchard Manor Inc. <u>Sole Member</u> Medina Memorial Health Care System, Inc.	OMOP LLC <u>Sole Member</u> Moshe Scheiner – 100%

Character and Competence

• FACILITIES REVIEWED:

Residential Health Care Facilities

Indian River Rehabilitation and Nursing Center	1/1/2007 to present
Gowanda Rehabilitation and Nursing Center	8/1/2007 to present
Sunshine Children's Home and Rehabilitation Center	1/1/2009 to present
West Ledge Rehabilitation and Nursing Center	1/1/2008 to present

• INDIVIDUAL BACKGROUND REVIEW:

Moshe Scheiner indicates he is self-employed as a nursing home operator. Mr. Scheiner discloses the following health facility interests:

Indian River Rehabilitation and Nursing Center	1/1/2007 to present
Gowanda Rehabilitation and Nursing Center	8/1/2007 to present
West Ledge Rehabilitation and Nursing Center	1/1/2008 to present
Sunshine Children's Home and Rehabilitation Center	1/1/2009 to present

Character and Competence – Analysis:

No adverse information has been received concerning the character and competency of the applicant.

A review of the Indian River Rehabilitation and Nursing Center for the period reveals the following:

- The facility has agreed to a proposed fine of \$8,000 pursuant to a Stipulation and Order issued February 28, 2012 for surveillance findings of February 23, 2011. Deficiencies were found under 10 NYCRR 415.4(b)(1)(i) Free from Abuse, 415.4(b)(1)(ii) Investigate Report Allegations, 415.26 Administration and 415.27(a-c) Quality Assurance. The proposed stipulation agreement is in the final stages of review by the Commissioner of Health.

The review of Indian River Rehabilitation and Nursing Center for the time periods listed reveals that a substantially consistent high level of care has been provided, since there were no repeat enforcements.

The review of Gowanda Rehabilitation and Nursing Center, West Ledge Rehabilitation and Nursing Center and Sunshine Children's Home and Rehabilitation Center for the time periods listed reveals that a substantially consistent high level of care has been provided, since there were no enforcements.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Operations Transfer Agreement

The change in ownership of operation will be effectuated in accordance with the terms of the executed Operations Transfer Agreement, summarized below:

<i>Seller:</i>	Orchard Manor, Inc.
<i>Purchaser:</i>	OMOP, LLC
<i>Dated:</i>	September 10, 2008

Assets Transferred: The business and operation of the facility: furniture, fixture and equipment, all transferable contracts; the name and the facility's current telephone number, fax numbers, e-mail addresses and web site; resident accounts; all other assets, except "Excluded Assets".

Assets Excluded: All cash, cash equivalents, accounts receivable, deposits and investments with respect to the facility.

Liabilities Assumed: All obligations for contracts and leases on or after the closing. All other liabilities related to the operation of the facilities arising after the closing shall be assumed by buyers.

Purchase Price: \$100,000

Payment Of Purchase Price: Cash at closing

Lease Agreement and Medicaid Capital Reimbursement

OMOP, LLC will occupy the premise under the terms of a lease agreement, summarized as follows:

Lessor: Orchard Manor, Inc.
Lessee: OMOP, LLC
Premises: 160-Bed Skilled Nursing Facility located at 600 Bates Road, Medina, NY
Term: 7 Years with 1 (7 year) renewal option
Annual Rental: \$700,000
Other: Tenant pays insurance, taxes, repairs & maintenance and utilities
Type: Net, arms length

Operating Budget

The applicant has submitted an operating budget, in 2011 dollars, for the first year of operations subsequent to the change in operator, summarized below:

	<u>Per Diem</u>	<u>Total</u>
Revenues:		
Medicaid	\$128.33	\$5,088,285
Medicare	425.00	1,844,500
Private Pay/Other	266.47	<u>2,749,920</u>
Total		\$9,682,705
Expenses:		
Operating		\$8,665,353
Capital		\$745,997
Total		\$9,411,350
Net Income		<u>\$271,355</u>
Utilization(Patient days)		54,310
Occupancy		92.74%

The following is noted with respect to the submitted operating budget:

- The capital component is based on return on and return of reimbursement methodology.
- Overall utilization is projected at 92.74%, which is 6% greater than the 2010 utilization related to the 160 Total RHCF beds reported, this increase is due to the seller changing the admissions director position

from a part time to a full time position, allow for greater referrals from hospitals in the surrounding Buffalo area. They have also indicated that the closure a several nursing homes in the Buffalo area has resulted in an increased number of referrals to the facility and also the number of referrals from Medina Memorial Health System has increased as well. Utilization by payor source is expected as follows:

Medicare	8.00%
Medicaid	73.00%
Private Pay	19.00%

- Breakeven occupancy is projected at 90.12%

Currently, Medicaid capital reimbursement is based on interest and depreciation reimbursement methodology. After the change in ownership, capital cost reimbursement will be based on return of equity reimbursement methodology. The facility has a remaining useful life of 4 years.

Presented as BFA Attachment G is a schedule comparing capital reimbursement vs. lease rental payments, which indicates an average Medicaid reimbursement shortfall of \$412,994 to 2021, which is the year the lease expires.

Capability and Feasibility

The purchase price and initiation of operations, as a financially viable entity, will be financed by equity of \$100,000.

The applicant has estimated working capital requirements at \$1,568,558, which is approximately two months' of first year expenses. The proposed member will provide a total of \$818,558 towards the working capital necessary for the project, cash equity of \$68,558 will be provide from Mr. Scheiner's personal assets with the remaining portion of the member's contribution to working capital coming from a personal loan to Mr. Scheiner from TL Management at an interest rate of Libor plus 350 basis points or approximately 4.549% interest as of May 3rd, 2012 with a 5 year term. A Letter of Interest from TL Management has been provided for the personal loan to cover the member's portion of the working capital requirement. A Letter of Interest has been provided for the working capital loan, indicating a rate of Libor plus 425 basis points or approximately 5,299% interest as of May 3rd 2012 with a 3 year term. HHC Finance has supplied a Letter of Interest for the working capital loan.

Review of BFA Attachment A reveals the collective availability of acquisition and working capital equity funds. BFA Attachment C, the applicants' pro-forma balance sheet, indicates that the applicant will initiate operation with member's equity of \$850,000. The submitted budget indicates that a net income of \$271,355 would be maintained during the first year following change in ownership. The budget appears reasonable.

Staff notes that with the expected 2014 implementation of managed care for nursing home residents, Medicaid reimbursement is expected to change from a state-wide price with a cost-based capital component payment methodology to a negotiated reimbursement methodology. Facility payments will be the result of negotiations between the managed long term care plans and the facility. At this point in time it cannot be determined what financial impact this change in reimbursement methodology will have on this project.

As shown on BFA Attachment B, the Financial Summary for Orchard Manor Nursing Home, had an average negative working capital position and an average positive net asset position, and generated an average net loss of \$20,350 during the period 2008-2011. In 2009, the facility experienced a \$262,362 loss. The reason for the loss is two-fold. In 2009, the facility had a cut in the Medicaid reimbursement rate as well as a decline in admissions and a lower census at the facility due to a decline in nursing home demand in the market area. To correct the loss, the facility has embarked on an aggressive marketing campaign, using various media to reach out to potential patients. This campaign appears to be working. As of December 2010 and 2011, the facility has brought the loss to only \$17,627 and 57,080 for both years respectively, showing a positive trend in getting the facility to either a breakeven or profitable position.

As shown on BFA Attachment D, the Financial Summary for Indian River Rehabilitation and Nursing Center, had an average negative working capital position and an average positive net asset position, and generated an average net income of \$861,443 during the period 2008-2011.

The loss for 2008 was caused by the facility still being in its first two years of operation under the new owners. The facility changed ownership on January 1, 2007. The facility has improved their fiscal position during the period 2008 through 2010, and the facility has been able to achieve a significant net income from 2009 through 2011.

As shown on BFA Attachment E, the Financial Summary for Gowanda Rehabilitation and Nursing Center had average negative working capital and net asset positions, and generated an average net income of \$1,219,750 during the period 2008-2011. The loss in 2008 and 2009 were caused due to the facility starting up operations under the new owners as of August 1, 2007, and not receiving their revised rate as of yet. The facility has improved their fiscal position during 2008 and 2009, and the facility has been able to achieve a positive net income in 2010 of 3.8 million dollars, due to the facility receiving their revised rates and a retroactive rate adjustment. In 2011 the facility also achieved a positive net income of 2.8 million dollars in operations.

As shown on BFA Attachment F, the Financial Summary for West Ledge Rehabilitation and Nursing Center, had average negative working capital and net asset positions, and generated an average net income of \$68,908 during the period 2008-2011. The 2008 and 2009 loss was caused by the facility still being under its initial rates from the first year of operation under a new owner. The facility's change in ownership happened January 1, 2008. The facility will have their rates adjusted to show a higher rebased rate and they will receive a retroactive reimbursement check for the rebased rate from the change of ownership. In 2010, it appears that the facility received the rebased rates and the retroactive reimbursement check, as the net income for 2010 was \$1,668,929. In 2011 the facility also posted a positive net income of \$499,869

As shown on BFA Attachment G, the Financial Summary for MSAF Group LLC d/b/a Sunshine Children's Home and Rehab Center, had average negative working capital and net asset positions, and generated an average net loss of \$466,684 during the period 2009-2011. The loss was caused by the facility still being under its initial rates from the first year of operation under a new owner. The facility's change in ownership happened September 1, 2009. The facility will have their rates adjusted to show a higher rebased rate and they will receive a retroactive reimbursement check for the rebased rate from the change of ownership. In 2011, it appears that the facility received the rebased rates and the retroactive reimbursement check, as the net income for 2011 was \$2,274,620.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth of Proposed Member
BFA Attachment B	Financial Summary, Orchard Manor, Inc. for 2008-2011
BFA Attachment C	Pro-forma Balance Sheet, Orchard Manor, d/b/a OMOP, LLC
BFA Attachment D	Financial Summary, Indian River Rehabilitation and Nursing Center for 2008-2011
BFA Attachment E	Financial Summary, Gowanda Rehabilitation and Nursing Center for 2008-2011
BFA Attachment F	Financial Summary, West Ledge Rehabilitation and Nursing Center for 2008-2011
BFA Attachment G	Financial Summary, Sunshine Children's Home and Rehabilitation Center for 2009-2011

BFA Attachment H Comparison of Reimbursement vs. Lease Rental and Debt Service

BFA Attachment I Establishment Checklist



Public Health and Health Planning Council

Project # 121103-E

HRNC Operating, LLC
d/b/a Highland Rehabilitation and Nursing Center

County: Orange (Middletown)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: February 28, 2012

Executive Summary

Description

HRNC Operating, LLC, d/b/a Highland Rehabilitation and Nursing Center (Highland) a limited liability company, is seeking approval to be established as the operator of St. Teresa's Nursing & Rehabilitation Center (St. Teresa's), a voluntary not-for profit 98-bed residential health care facility (RHCF) located at 120 Highland Avenue, Middletown.

This change of ownership for both the real property and the operations began on January 13, 2012 when St. Teresa's entered into an asset purchase and sale agreement with HRNC Realty, LLC, which is comprised of the same members as HRNC Operating, LLC. After the initial change of ownership, HRNC Operating, LLC will receive via transfer from HRNC Realty, LLC the operating interests in St. Teresa's while the Real Property remains with HRNC Realty, LLC. Ownership of the operation and real estate before and after the requested change is as follows:

REAL ESTATE	
Before St. Teresa's Nursing Home, Inc.	
<u>MEMBER</u>	<u>Interest</u>
St. Teresa's Nursing Home, Inc.	100%
After HRNC Realty, LLC	
<u>MEMBER</u>	<u>Interest</u>
-- Ephraim Zagelbaum	45%
-- Alexander Barth	20%
-- Yoel Zagelbaum	10%
-- Yechiel Zagelbaum	10%
-- Pincus Zagelbaum	10%
-- Yehuda Walden	5%

OPERATION	
Before St. Teresa's Nursing Home, Inc.	
<u>MEMBER</u>	<u>Interest</u>
St. Teresa's Nursing Home, Inc.	100%
After HRNC Operating, LLC d/b/a Highland Rehabilitation and Nursing Center	
<u>MEMBER</u>	<u>Interest</u>
-- Ephraim Zagelbaum	45%
-- Alexander Barth	20%
-- Yoel Zagelbaum	10%
-- Yechiel Zagelbaum	10%
-- Pincus Zagelbaum	10%
-- Yehuda Walden	5%

DOH Recommendation
 Contingent approval.

Need Summary
 Highland's utilization was above the 97% planning optimum for 2008, 2009, and 2010.

Program Summary
 No adverse information has been received concerning the character and competency of the applicant.

Financial Summary
 There are no project costs associated with this application.

Budget:	Revenues:	\$ 8,890,550
	Expenses:	<u>8,534,484</u>
	Gain/(Loss):	\$ 356,066

Subject to noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA review of this project.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a commitment that is acceptable to the Department of Health, for a permanent mortgage from a recognized lending institution at a prevailing rate of interest. Included with the submitted permanent mortgage commitment must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. [BFA]
2. Submission of an executed working capital loan that is acceptable to the Department of Health. [BFA]
3. Submission of an original affidavit from the applicant members (or stockholders or partners) making a commitment to personally fund the balloon payment on the proposed mortgage, should terms acceptable to the Department of Health be unavailable at the time of refinancing. [BFA]
4. Submission of a photocopy of an executed Certificate of Assumed Name of HRNC Operating, LLC, acceptable to the Department. [CSL]
5. Submission of a photocopy of an executed amendment to Certificate of Formation of HRNC Operating, LLC, acceptable to the Department. [CSL]
6. Submission of a photocopy of an executed amendment to the Operating Agreement of HRNC Operating, LLC, acceptable to the Department. [CSL]
7. Submission of a photocopy of an executed Application for Authority of HRNC Operating, LLC, acceptable to the Department. [CSL]
8. Submission of a photocopy of an executed amendment to the Lease Agreement of HRNC Operating, LLC, acceptable to the Department. [CSL]
9. Submission of a photocopy of an executed amendment to the Asset Purchase Agreement and Sale Agreement between St. Teresa's Nursing Home, Inc. and HRNC Realty, LLC, acceptable to the Department. [CSL]

Council Action Date

August 9, 2012.

Need Analysis

Background

St. Teresa's Nursing Home utilization is higher than RHCFC Utilization in Orange County overall for all years in question, as shown in the table below:

<u>RHCFC Utilization</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
St. Teresa's Nursing Home	97.3%	97.3%	97.0
Orange County	85.6%	93.3%	95.0%

<u>RHCFC Bed Need</u>	<u>Orange County</u>
2016 Projected Need	2,122
Current Beds	1,438
Beds Under Construction	- 20
Total Resources	1,418
Unmet Need	704

Conclusion

Highland Rehabilitation and Nursing Center's utilization is above the planning optimum of 97%. There will be no change in services or capacity.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Facility Information

	<u>Existing</u>	<u>Proposed</u>
<i>Facility Name</i>	St. Teresa's Nursing and Rehabilitation Center	Highland Rehabilitation and Nursing Center
<i>Address</i>	120 Highland Avenue Middletown, NY 10940	Same
<i>RHCFC Capacity</i>	98	Same
<i>ADHC Program Capacity</i>	NA	Same
<i>Type Of Operator</i>	Corporation	Limited Liability Company
<i>Class Of Operator</i>	Voluntary	Proprietary
<i>Operator</i>	St. Teresa's Nursing Home, Inc.	HRNC Operating, LLC d/b/a <u>Membership</u> Ephraim Zagelbaum 45% -- Managing Member Alexander Barth 20% Yechiel Zagelbaum 10% Yoel Zagelbaum 10% Pincus Zagelbaum 10% Yehuda Walden 5%

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Alpine Rehabilitation and Nursing Center	7/29/2009 to present
Cambridge Rehabilitation and Nursing Center (MA)	9/23/2010 to present
Norwich Rehabilitation and Nursing Center	1/1/2011 to present
Tarrytown Hall Care Center	4/1/2008 to present

- INDIVIDUAL BACKGROUND REVIEW:

Ephraim Zagelbaum is the current Administrator of Record at Windsor Park Nursing Home in Queens Village having served in the position since May, 2004. Mr. Zagelbaum is a licensed New York State nursing home administrator with license in good standing. Mr. Zagelbaum discloses the following health facility ownership interests:

Alpine Rehabilitation and Nursing Center	7/29/2009 to present
Cambridge Rehabilitation and Nursing Center (Cambridge, MA)	9/23/2010 to present
Norwich Rehabilitation and Nursing Center	1/1/2011 to present
Tarrytown Hall Care Center	4/1/2008 to present

Alexander Barth is the current Administrator of Record at Tarrytown Hall Care Center, having served in the position since January, 2007. Mr. Barth is a licensed New York State nursing home administrator with license in good standing. Mr. Barth previously held a valid EMT license but is not currently registered. Mr. Barth discloses the following health facility ownership interests:

Alpine Rehabilitation and Nursing Center	7/29/2009 to present
Cambridge Rehabilitation and Nursing Center (Cambridge, MA)	9/23/2010 to present
Norwich Rehabilitation and Nursing Center	1/1/2011 to present
Tarrytown Hall Care Center	1/1/2011 to present

Yechiel Zagelbaum is a pediatrician in private practice in Brooklyn since 2002. Dr. Zagelbaum is a New York State physician with license in good standing. Mr. Zagelbaum discloses the following health facility ownership interests:

Alpine Rehabilitation and Nursing Center	7/29/2009 to present
Cambridge Rehabilitation and Nursing Center (Cambridge, MA)	9/23/2010 to present
Norwich Rehabilitation and Nursing Center	1/1/2011 to present
Tarrytown Hall Care Center	4/1/2008 to present

Yoel Zagelbaum is an attorney in good standing who serves as the President of Riverside Abstract, LLC, a title insurance company which he also owns, located in Brooklyn. Mr. Zagelbaum discloses the following health facility ownership interests:

Alpine Rehabilitation and Nursing Center	7/29/2009 to present
Cambridge Rehabilitation and Nursing Center (Cambridge, MA)	9/23/2010 to present
Norwich Rehabilitation and Nursing Center	1/1/2011 to present
Tarrytown Hall Care Center	4/1/2008 to present

Pincus Zagelbaum is the Vice-President/CEO of St. Mary's Healthcare System for Children, a specialty nursing home located in Bayside, Queens. Mr. Zagelbaum is a licensed New York State nursing home administrator with license in good standing. Mr. Zagelbaum discloses the following health facility ownership interests:

Alpine Rehabilitation and Nursing Center	7/29/2009 to present
Cambridge Rehabilitation and Nursing Center (Cambridge, MA)	9/23/2010 to present
Norwich Rehabilitation and Nursing Center	1/1/2011 to present
Tarrytown Hall Care Center	4/1/2008 to present

Yehuda Walden is employed as the manager of Personal Healthcare, a healthcare company located in Tarrytown. Mr. Walden discloses the following health facility ownership interest:

Cambridge Rehabilitation and Nursing Center (Cambridge, MA) 9/23/2010 to present

Character and Competence – Analysis:

A review of the operations of Alpine Rehabilitation and Nursing Center, Norwich Rehabilitation and Nursing Center and Tarrytown Hall Care Center for the time periods listed reveals that a substantially consistent high level of care has been provided, since there were no enforcements.

The review of Cambridge Rehabilitation and Nursing Center (MA) for the time periods listed reveals that a substantially consistent high level of care has been provided, since there were no enforcements.

Project Review – Analysis:

No changes in the program or physical environment are proposed in this application. No administrative services/ consulting agreement is proposed in this application.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreements

The change in ownership of operation and real estate will be effectuated in accordance with the terms of the Asset Purchase Agreements, summarized below:

Operations and Real Estate

<i>Seller:</i>	St. Teresa’s Nursing Home, Inc.
<i>Purchaser:</i>	Highland RNC Realty, LLC
<i>Assets Transferred:</i>	The Parcel or parcels of land described in Exhibit A (land), together with any and all rights, privileges and easements appurtenant thereto owned by seller, together with all buildings and improvements located thereon, including , the facility (collectively, “ improvements”; the land, together with the improvements thereon, the real property. All personal property of seller to be sold to buyer pursuant to the terms of the Bill of sale as shown in exhibit C, any unpaid award for any taking of condemnation or any damage to the land or the improvements by reason of change of grade of any street or highway. All easements, licenses, rights and appurtenances relating to any of the foregoing; any tangible property of seller, including without limitation, all good will, if any. All assignable warranties and guaranties made by or received from any person with respect to the improvements or personal property. All available building plans, floor plans and specifications and surveys relating to real property. All assignable licenses, permits, building inspection approvals, certificates of occupancy, approvals, subdivision maps, accreditations and entitlements issued, approved or granted by governmental authorities in connection with the ownership and operation of the real property.
<i>Assets Excluded:</i>	Cash, bank accounts, investments, accounts receivable (including amounts earned through the closing date but not yet billed), the proceeds of all pending Medicaid or other rate appeals and any Medicaid or Medicare reimbursements for services rendered prior to the closing date, computer software licenses and the name of the seller “St. Teresa’s Nursing Home, inc, or “St. Teresa’s Nursing and Rehabilitation Center”. Seller will however enter into a License agreement

containing conditions mutually acceptable to seller and buyer which allow Buyer to continue to use the "St. Teresa's" name for a period of 2 years after the closing date.

Liabilities Assumed: None
Purchase Price: \$6,250,000
Payment of Purchase Price: \$625,000 in escrow with \$5,625,000 paid at closing. \$5,000,000 will come from a loan with a 5.6% interest rate and 10 year term with a 20 year amortization. The remaining will come from member's equity.

The applicant has Submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. Currently there are no outstanding audit liabilities for this facility.

Lease Agreement and Medicaid Capital Reimbursement

HRNC Operating, LLC d/b/a Highland Rehabilitation and Nursing Center (The Center) will occupy the premise under the terms of a lease agreement, summarized as follows:

Lessor: HRNC Realty, LLC
Lessee: HRNC Operating, LLC d/b/a Highland Rehabilitation and Nursing Center (The Center)
Premises: 98-Bed Skilled Nursing Facility located at 120 Highland Avenue, Middletown ,NY
Term: 5 Years with 15 automatic (1) year extensions
Annual Rental: \$421,875 (\$35,156.25 per month)
Type: Double Net lease - related party

Operating Budget

The applicant has submitted an operating budget, in 2012 dollars, for the first year of operations subsequent to the change in operator, summarized below:

	<u>Per Diem</u>	<u>Total</u>
Revenues:		
Medicaid Fee-for-Service	\$190.31	\$5,063,890
Medicare Fee-for-Service	464.41	2,932,724
Private Pay	461.74	<u>893,936</u>
Total		\$8,890,550
Expenses:		
Operating		\$8,072,781
Capital		<u>461,704</u>
Total		\$8,534,485
Net Income		<u>\$356,065</u>
Utilization(Patient days)		34,859
Occupancy		97.45%

The following is noted with respect to the submitted operating budget:

- Overall utilization is projected at 97.45%, Utilization by payor source is expected as follows:

Medicare Fee-for-Service	18.12%
Medicaid Fee-for-Service	76.33%
Private Pay	5.55%

- Breakeven occupancy is projected at 93.55% %

Capability and Feasibility

The issue of capability centers on the applicant's ability to meet the purchase price, working capital requirements, and initiate operations as a financially viable entity. The proposed members will provide equity of \$1,250,000 from personal resources and a loan of \$5,000,000 from the above stated terms for the purchase price. Presented as BFA Attachment A is the Net worth of proposed members, which shows the overall availability of funds to meet all the needs for the project. Mr. Ephraim Zagelbaum has provided an affidavit that states he will cover any of the members' unmet equity requirements.

The applicant has estimated working capital requirements at \$1,422,414, which is approximately two months' of first year expenses. The proposed members will provide equity of \$711,199 toward working capital, and borrow the remainder of \$711,215. A letter of interest has been provided for the working capital loan, indicating repayment terms of 5.6% interest over 5 years. M&T bank has supplied a letter of interest for the working capital loan.

Review of BFA Attachment A reveals the collective availability of acquisition and working capital equity funds. BFA Attachment C Pro-forma HRNC Operating, LLC indicates that the applicant will initiate operation with member's equity of \$711,215. BFA Attachment D, the Pro-forma for HRNC Realty, LLC indicates they will initiate operation with member's equity of \$1,250,000.

The issue of feasibility is centered on the applicant's ability to offset expenses with revenues and maintain a viable operating entity. The submitted budget indicates that a net income of \$356,065 would be maintained during the first year following change in ownership. Following, is a comparison of the current year revenues and expenses and projected revenue and expense:

Annual 2011 Income	\$8,951,681
Annual 2011 Expense	9,067,918
Annual 2011 Net Income	- \$116,237
Projected incremental Income	-\$61,132
Projected incremental Expense	-533,434
Projected incremental Net Income	\$472,302
Incremental Net Income (Loss)	\$356,065

Projected income includes revenues at budgeted occupancy and payor source, to accommodate Medicaid access requirements as well as the difference between current year and projected levels. Projected expenses include acquisition capital expenses, expenses at budgeted occupancy, and the difference between current year and projected levels. The budget appears reasonable.

Staff notes that with the expected 2014 implementation of managed care for nursing home residents, Medicaid reimbursement is expected to change from a state-wide price with a cost-based capital component payment methodology, to a negotiated reimbursement methodology. Facility payments will be the result of negotiations between the managed long term care plans and the facility. At this point in time, it cannot be determined what financial impact this change in reimbursement methodology will have on this project.

As shown on BFA Attachment B Financial Summary for St. Teresa's Nursing & Rehabilitation Center, the facility had an average negative working capital position, an average negative net asset position, and generated an average net income of \$140,777 during the period 2009 through 2011. The 2011 loss is due to approximately a \$270,000 decline in revenues from 2010 to 2011. It is also noted that operating expenses included \$345,000 in management fees associated with Catholic Health Care Systems, which will not be applicable after the change in ownership. If the facility had not had these fees, it would have given the facility a positive operating income for 2011.

As shown on BFA Attachment E Financial Summary for Tarrytown Hall Care Center and Alpine Rehabilitation and Nursing Center, the facility had an average negative working capital position and an average positive net asset position, and generated an average net income of \$969,367 during the period 2009 through 2011. The 2009 loss was attributable to the fact that the facility's 90% cost reporting period for rebasing purposes was completed in the second quarter of 2009, and the facility had not received its rebased Medicaid rate on the transfer of ownership related to Project No. 062303. Upon receipt of its rebased Medicaid rate, the facility's operating income shows positive net income, which can be seen in the 2010 and 2011 financial summary for the facility.

As shown on BFA Attachment F Financial Summary for Alpine Rehabilitation and Nursing Center, the facility had an average negative working capital position and an average positive net asset position, and generated an average net income of \$157,114 during the period 2010 through 2011.

The 2011 loss was due to two adjustments in the facility's Medicaid rate; one adjustment was completed in April 2011 with the facility receiving their revised Medicaid rates, which resulted in a reduction of over \$80,000 dollars in revenue, and the second adjustment was completed in November of 2011, which reduced the revenue by approximately \$100,000 dollars. Due to the fact that the final adjustment happened so late, the facility was not able to act in time to reduce expenses to eliminate the operating loss for 2011, but they have taken these adjustments into consideration for 2012.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth of Proposed Members
BFA Attachment B	Financial Summary St. Teresa's Nursing & Rehabilitation Center
BFA Attachment C	Pro-forma Balance Sheet HRNC Operating, LLC
BFA Attachment D	Pro-forma Balance Sheet, HRNC Realty, LLC
BFA Attachment E	Financial Summary Tarrytown Hall Care Center
BFA Attachment F	Financial Summary Alpine Rehabilitation and Nursing Center



Public Health and Health Planning Council

Project # 121168-E

**Oak Hollow NC Corp.
d/b/a Oak Hollow Nursing Center**

County: Suffolk (Middle Island)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: March 30, 2012

Executive Summary

Description

Oak Hollow NC Corp., d/b/a Oak Hollow Nursing Center, an existing proprietary business corporation and 164-bed residential health care facility (RHCF) located at 49 Oakcrest Avenue, Middle Island, is seeking approval for a transfer in ownership. Ownership of the facility before and after the requested change is as follows:

<u>Before</u>		<u>After</u>	
<u>Name</u>	<u>Interest</u>	<u>Name</u>	<u>Interest</u>
Dr. Jacob Dimant	94%	Dr. Jacob Dimant	10%
Dr. Rose Dimant	6%	Dr. Rose Dimant	10%
		Elliot A. Dimant	40%
		Kevin B. Teitler	40%

Dr. Rose Dimant is Dr. Jacob Dimant's wife; Elliot A. Dimant is his son; and Kevin B. Teitler is his step-son. There will be no financial impact related to the transfer of ownership.

The proposed members also are concurrently seeking establishment approval to acquire ownership of Crown Nursing and Rehabilitation Center (CON #121175-E) and Lakeview Rehabilitation and Care Center (CON #121174-E). All three applications will be processed concurrently.

The proposed members have submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time

prior to the applicant acquiring interest, without releasing the transferor of its liability and responsibility.

DOH Recommendation
Contingent approval.

Need Summary

As this application merely involves member changes to an existing established entity, no Need review is required.

Program Summary

No negative information has been received concerning the character and competence of the above applicants. No changes in the program or physical environment are proposed in this application.

Financial Summary

There are no project costs associated with this application.

Budget:	<i>Revenues:</i>	\$ 13,192,400
	<i>Expenses:</i>	<u>12,385,225</u>
	<i>Gain/(Loss):</i>	\$ 807,175

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a photocopy of an executed Certificate of Amendment of the Certificate of Incorporation of Oak Hollow NC Corp., acceptable to the Department of Health. [CSL]
2. Submission of a photocopy of the amended bylaws of Oak Hollow NC Corp., acceptable to the Department. [CSL]

Council Action Date

August 9, 2012.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Oak Hollow Nursing Center	Same
<i>Address</i>	49 Oakcrest Avenue Middle Island, NY. 11953	Same
<i>RHCF Capacity</i>	164	Same
<i>ADHC Program Capacity</i>	N/A	N/A
<i>Type Of Operator</i>	Corporation	Corporation
<i>Class Of Operator</i>	Proprietary	Proprietary
<i>Operator</i>	Oak Hollow NC Corp. <u>Members:</u> Dr. Jacob Dimant.....94% Dr. Rose Dimant.....6%	Same <u>Managing Members:</u> Dr. Jacob Dimant.....10% Dr. Rose Dimant.....10% <u>Members:</u> Elliot Dimant.....40% Kevin Teitler.....40% <u>Member of Board</u> Menahem Dimant..... 0%

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Crown Nursing and Rehabilitation Center	7/1/1989 – present
Lakeview Rehabilitation and Care Center	1/1/1999 – present
Oak Hollow Nursing Center	1/1/1999 – present
Little Neck Nursing Home	1994 – 3/31/2011

- INDIVIDUAL BACKGROUND REVIEW:

Dr. Rose Dimant has disclosed ownership interest in the following Residential Health Care Facilities:

Crown Nursing and Rehabilitation Center	7/1/1989 – present
Lakeview Rehabilitation and Care Center	1/1/1999 – present
Oak Hollow Nursing Center	1/1/1999 – present

Elliot Dimant is NYS licensed attorney and is in good standing. He discloses no ownership interest in health facilities.

Kevin Teitler discloses no ownership interest in health facilities.

Dr. Menahem Dimant is a New York State licensed physician and is in good standing. He discloses ownership interest in the following Residential Health Care Facilities:

Crown Nursing and Rehabilitation Center	1/1/2011 – present
Lakeview Rehabilitation and Care Center	1/1/2011 – present
Oak Hollow Nursing Center	1/1/2011 – present
Little Neck Nursing Home	1994 – 3/31/2011

Character and Competence – Analysis:

No negative information has been received concerning the character and competence of the above applicants.

A review of operations for the **Crown Nursing and Rehabilitation Center** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no enforcements.

A review of the **Lakeview Rehabilitation and Care Center** for the period identified above reveals the following:

- The facility was fined \$4,000 pursuant to a Stipulation and Order for surveillance findings on August 25, 2006. Deficiencies were found under:
 1. 10 NYCRR 415.12 – Quality of Care.
 2. 10 NYCRR 415.12(f)(1) – Quality of Care: Mental and Psychosocial Functioning
 3. 10 NYCRR 415.12(h) – Quality of Care: Accidents

- The facility was fined \$2,000 pursuant to a Stipulation and Order for surveillance findings on January 25, 2008. Deficiencies were found under:
 1. 10NYCRR 415.12 – Quality of Care

A review of operations for **Lakeview Rehabilitation and Care Center** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no repeat enforcements.

A review of operations for the **Oak Hollow Nursing Center** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no enforcements.

A review of operations for the **Little Neck Nursing Home** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no enforcements.

Project Review

No changes in the program or physical environment are proposed in this application.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Operating Budget

Following is a summary of the submitted operating budget, presented in 2012 dollars, for the first year subsequent to change in ownership:

Revenues:	
Medicaid	\$8,757,600
Medicare	3,226,700
Private Pay/Other	<u>1,208,100</u>
Total	\$13,192,400
Expenses:	
Operating	\$11,379,200
Capital	<u>1,006,025</u>
Total	\$12,385,225
Net Income	<u>\$ 807,175</u>

- Medicaid capital component is based on the return of and return on equity methodology.
- Medicare and private pay revenues are based on current payment rates.
- Overall utilization is projected at 89.2%.
- Utilization by payor source is anticipated as follows:

Medicaid	79.6%
Medicare	14.3%
Private/Other	6.1%

- Breakeven utilization is projected at 83.8%.

Capability and Feasibility

There are no project costs associated with this application. There is no financial arrangement in regards to the transfer of ownership because Dr. Jacob Dimant is transferring 84% of his shares to the stated proposed members as a gift.

Working capital requirements are estimated at \$2,064,204, based on two months' of first year expenses; and will be satisfied from the facility's existing cash and receivables, and additional members' equity. Net cash and receivables (minus accounts payable) were \$699,530 on December 31, 2011, resulting in a need for additional equity of \$1,364,674 from the proposed members. Review of BFA Attachment A, net worth of proposed shareholders, reveal sufficient resources to satisfy the working capital requirements for all three of the RHC changes in ownership.

BFA Attachment B presents the pro-forma balance sheet of Oak Hollow Nursing Center. As shown, the facility will initiate operation with \$14,744 members' equity.

The submitted budget indicates that a net profit of approximately \$807,175 would be generated during the first year following change in ownership. The budget appears reasonable.

Review of BFA Attachment C, financial summary of Oak Hollow Nursing Center, indicates that the facility has experienced negative working capital and maintained positive equity positions, and experienced net losses from operations of \$456,299 and \$395,735 for 2011 and 2009, respectively. The facility experienced an average annual occupancy of 88.7% during 2009 to 2011.

The 2009 net loss from operations was due to a Trust litigation resulting in an increase for liability for workers compensation of approximately \$1 million. And in 2011 there was an approximate write-off of \$500,000 in bad debts and a reduction of occupancy due to renovations. These were both non-recurring items. The negative working capital was due to loans to related parties that had become current. BFA Attachment D, the internal financial summary of Crown Nursing & Rehab Center as of March 31, 2012, indicates that the facility has experienced negative working capital and maintained positive net equity and a net income from operations of \$176,332.

Review of BFA Attachment E, financial summary of Crown Nursing & Rehab Center, indicates that the facility has maintained positive working capital in 2010 and equity positions for 2009-2011, and generated average net income of \$990,073 for the period shown. The facility experienced an average annual occupancy of 92.6% during 2009 to 2011. The negative working capital for 2009 and 2011 is due to loans to related parties that had become current.

Review of BFA Attachment F, financial summary of Lakeview Rehabilitation & Center, indicates that the facility has experienced negative working capital and maintained positive equity positions, and generated net income of \$824,163 for the period shown. The facility experienced an average annual occupancy of 90.6% during 2009 to 2011. The negative working capital for 2009-2011 was due to loans to related parties that had become current.

Based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA-Attachment A	Net Worth of Proposed Members
BFA-Attachment B	Pro-forma Balance Sheet, Crown Nursing & Rehab Center
BFA-Attachment C	Financial Summary, Oak Hollow Nursing Center
BFA-Attachment D	Financial Summary, Oak Hollow Nursing Center Draft Financials as of March 31, 2012
BFA-Attachment E	Financial Summary, Crown Nursing & Rehab Center
BFA-Attachment F	Financial Summary, Lakeview Rehabilitation & Care Center



Public Health and Health Planning Council

Project # 121174-E

Crest Hall Corp. d/b/a Lakeview Rehabilitation and Care Center

County: Suffolk (Middle Island)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: March 30, 2012

Executive Summary

Description

Crest Hall Corp. d/b/a Lakeview Rehabilitation and Care Center, an existing proprietary business corporation and 120-bed residential health care facility (RHCF) located at 63 Oakcrest Avenue, Middle Island, is seeking approval for a transfer in ownership. Ownership of the facility before and after the requested change is as follows:

<u>Before</u>		<u>After</u>	
<u>Name</u>	<u>Interest</u>	<u>Name</u>	<u>Interest</u>
Dr. Jacob Dimant	94%	Dr. Jacob Dimant	10%
Dr. Rose Dimant	6%	Dr. Rose Dimant	10%
		Elliot A. Dimant	40%
		Kevin B. Teitler	40%

Dr. Rose Dimant is Dr. Jacob Dimant's wife; Elliot A. Dimant is his son; and Kevin B. Teitler is his step-son. There will be no financial impact related to the transfer of ownership.

The proposed members also are concurrently seeking establishment approval to acquire ownership of Crown Nursing and Rehabilitation Center (CON #121175-E) and Oak Hollow Nursing Center (CON #121168-E). All three applications will be processed concurrently.

The proposed members have submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring interest, without releasing the transferor of its liability and responsibility.

DOH Recommendation

Contingent approval.

Need Summary

As this application merely involves member changes to an existing established entity, no Need review is required.

Program Summary

No negative information has been received concerning the character and competence of the above applicants. No changes in the program or physical environment are proposed in this application.

Financial Summary

There are no project costs associated with this application.

Budget:	<i>Revenues:</i>	\$ 10,226,500
	<i>Expenses:</i>	<u>9,668,753</u>
	<i>Gain/(Loss):</i>	\$ 557,747

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA review of this project.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a photocopy of an executed Certificate of Amendment of the Certificate of Incorporation of Crest Hall Corp., acceptable to the Department of Health. [CSL]
2. Submission of a photocopy of the amended bylaws of Crest Hall Corp., acceptable to the Department. [CSL]

Council Action Date

August 9, 2012.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Lakeview Rehabilitation and Care Center	Same
<i>Address</i>	63 Oakcrest Avenue Middle Island, NY. 11953	Same
<i>RHCF Capacity</i>	120	Same
<i>ADHC Program Capacity</i>	N/A	N/A
<i>Type Of Operator</i>	Corporation	Corporation
<i>Class Of Operator</i>	Proprietary	Proprietary
<i>Operator</i>	Crest Hall Corp. <u>Members:</u> Dr. Jacob Dimant.....94% Dr. Rose Dimant.....6%	Same <u>Managing Members:</u> Dr. Jacob Dimant.....10% Dr. Rose Dimant.....10% <u>Members:</u> Elliot Dimant.....40% Kevin Teitler.....40% <u>Member of Board</u> Menahem Dimant.....0%

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Crown Nursing and Rehabilitation Center	7/1/1989 – present
Lakeview Rehabilitation and Care Center	1/1/1999 – present
Oak Hollow Nursing Center	1/1/1999 – present
Little Neck Nursing Home	1994 – 3/31/2011

- INDIVIDUAL BACKGROUND REVIEW:

Dr. Rose Dimant has disclosed ownership interest in the following Residential Health Care Facilities:

Crown Nursing and Rehabilitation Center	7/1/1989 – present
Lakeview Rehabilitation and Care Center	1/1/1999 – present
Oak Hollow Nursing Center	1/1/1999 – present

Elliot Dimant is NYS licensed attorney and is in good standing. He discloses no ownership interest in health facilities.

Kevin Teitler discloses no ownership interest in health facilities.

Dr. Menahem Dimant is a New York State licensed physician and is in good standing. He discloses ownership interest in the following Residential Health Care Facilities:

Crown Nursing and Rehabilitation Center
Lakeview Rehabilitation and Care Center
Oak Hollow Nursing Center
Little Neck Nursing Home

1/1/2011 – present
1/1/2011 – present
1/1/2011 – present
1994 – 3/31/2011

Character and Competence – Analysis:

No negative information has been received concerning the character and competence of the above applicants.

A review of operations for the **Crown Nursing and Rehabilitation Center** for the period identified above results in a conclusion of substantially consistent high level of care since there were no enforcements.

A review of the **Lakeview Rehabilitation and Care Center** for the period identified above reveals the following:

- The facility was fined \$4,000 pursuant to a Stipulation and Order for surveillance findings on August 25, 2006. Deficiencies were found under:
 1. 10 NYCRR 415.12 – Quality of Care.
 2. 10 NYCRR 415.12(f)(1) – Quality of Care: Mental and Psychosocial Functioning
 3. 10 NYCRR 415.12(h) – Quality of Care: Accidents

- The facility was fined \$2,000 pursuant to a Stipulation and Order for surveillance findings on January 25, 2008. Deficiencies were found under:
 1. 10NYCRR 415.12 – Quality of Care

A review of operations for **Lakeview Rehabilitation and Care Center** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no repeat enforcements.

A review of operations for the **Oak Hollow Nursing Center** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no enforcements.

A review of operations for the **Little Neck Nursing Home** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no enforcements.

Project Review

No changes in the program or physical environment are proposed in this application.

Recommendation

From a programmatic perspective, approval is recommended.

<h2>Financial Analysis</h2>

Operating Budget

Following is a summary of the submitted operating budget, presented in 2012 dollars, for the first year subsequent to change in ownership:

Revenues:	
Medicaid	\$5,714,200
Medicare	3,432,700
Private Pay/Other	<u>1,079,600</u>
Total	\$10,226,500

Expenses:	
Operating	\$9,047,100
Capital	<u>621,653</u>
Total	\$9,668,753
Net Income	<u>\$ 557,747</u>

- Medicaid capital component is based on the return of and return on equity methodology.
- Medicare and private pay revenues are based on current payment rates.
- Overall utilization is projected at 90.3%.
- Utilization by payor source is anticipated as follows:

Medicaid	74.9%
Medicare	18.5%
Private/Other	6.6%

- Breakeven utilization is projected at 85.4%.

Capability and Feasibility

There are no project costs associated with this application. There is no financial arrangement in regards to the transfer of ownership because Dr. Jacob Dimant is transferring 84% of his shares to the stated proposed members as a gift.

Working capital requirements are estimated at \$1,611,459, based on two months' of first year expenses; and will be satisfied from the facility's existing cash and receivables, and additional members' equity. Net cash and receivables (minus accounts payable) were \$764,892 at December 31, 2011, resulting in a need for additional equity of \$846,567 from the proposed members. Review of BFA Attachment A net worth of proposed shareholders, reveal sufficient resources to satisfy the working capital requirements for all three of the RHCF changes in ownership.

BFA Attachment B presents the pro-forma balance sheet of Lakeview Rehabilitation & Care Center. As shown, the facility will initiate operation with \$72,523 members' equity.

The submitted budget indicates that a net profit of approximately \$557,747 would be generated during the first year following change in ownership. The budget appears reasonable.

Review of BFA Attachment C, financial summary of Lakeview Rehabilitation & Center, indicates that the facility has experienced negative working capital and maintained positive equity positions, and generated net income of \$824,163 for the period shown. The facility experienced an average annual occupancy of 90.6% during 2009 to 2011. The negative working capital for 2009-2011 was due to loans to related parties that had become current. BFA Attachment D, the internal financial summary of Lakeview Rehabilitation & Center as of March 31, 2012, indicates that the facility has experienced negative working capital and maintained positive net equity and a net income from operations of \$17,289.

Review of BFA Attachment E, financial summary of Crown Nursing & Rehab Center, indicates that the facility has maintained positive working capital in 2010 and equity positions for 2009-2011, and generated average net income of \$990,073 for the period shown. The facility experienced an average annual occupancy of 92.6% during 2009 to 2011. The negative working capital for 2009 and 2011 is due to loans to related parties that had become current.

Review of BFA Attachment F, financial summary of Oak Hollow Nursing Center, indicates that the facility has experienced negative working capital and maintained positive equity positions, and experienced net losses from operations of \$456,299 and \$395,735 for 2011 and 2009, respectively. The facility experienced an average annual occupancy of 88.7% during 2009 to 2011.

The 2009 net loss from operations was due to a Trust litigation resulting in an increase for liability for workers compensation of approximately \$1 million and in 2011 there was an approximate write-off of \$500,000 in bad debts and a reduction of occupancy due to renovations. These were both non-recurring items. The negative working capital was due to loans to related parties that had become current.

Based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA-Attachment A	Net Worth of Proposed Members
BFA-Attachment B	Pro-forma Balance Sheet, Crown Nursing & Rehab Center
BFA-Attachment C	Financial Summary, Lakeview Rehabilitation & Care Center
BFA-Attachment D	Financial Summary, Lakeview Rehabilitation & Care Center Draft Financials as of March 31, 2012
BFA-Attachment E	Financial Summary, Crown Nursing & Rehab Center
BFA-Attachment F	Financial Summary, Oak Hollow Nursing Center



Public Health and Health Planning Council

Project # 121175-E
Crown Nursing Home Associates, Inc.
d/b/a Crown Nursing and Rehabilitation Center

County: Kings (Brooklyn)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: March 30, 2012

Executive Summary

Description

Crown Nursing Home Associates, Inc. d/b/a Crown Nursing and Rehabilitation Center, an existing proprietary business corporation and 189-bed residential health care facility (RHCF) located at 3457 Nostrand Avenue, Brooklyn, is seeking approval for a transfer in ownership. Ownership of the facility before and after the requested change is as follows:

<u>Before</u>		<u>After</u>	
<u>Name</u>	<u>Interest</u>	<u>Name</u>	<u>Interest</u>
Dr. Jacob Dimant	94%	Dr. Jacob Dimant	10%
Dr. Rose Dimant	6%	Dr. Rose Dimant	10%
		Elliot A. Dimant	40%
		Kevin B. Teitler	40%

Dr. Rose Dimant is Dr. Jacob Dimant's wife; Elliot A. Dimant is his son; and Kevin B. Teitler is his step-son. There will be no financial impact related to the transfer of ownership.

The proposed members also are concurrently seeking establishment approval to acquire ownership of Lakeview Rehabilitation and Care Center (CON #121174-E) and Oak Hollow Nursing Center (CON #121168-E). All three applications will be processed concurrently.

The proposed members have submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time

prior to the applicant acquiring interest, without releasing the transferor of its liability and responsibility.

DOH Recommendation
 Contingent approval.

Need Summary

As this application merely involves member changes to an existing established entity, no Need review is required.

Program Summary

No negative information has been received concerning the character and competence of the above applicants. No changes in the program or physical environment are proposed in this application.

Financial Summary

There are no project costs associated with this application.

Budget:	<i>Revenues:</i>	\$ 17,343,200
	<i>Expenses:</i>	<u>17,167,739</u>
	<i>Gain/(Loss):</i>	\$ 175,461

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a photocopy of the amended bylaws of Crown Nursing Home Associates, Inc., acceptable to the Department. [CSL]

Council Action Date

August 9, 2012.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Crown Nursing and Rehabilitation Center	Same
<i>Address</i>	3457 Nostrand Avenue Brooklyn, NY. 11229	Same
<i>RHCF Capacity</i>	189	Same
<i>ADHC Program Capacity</i>	N/A	N/A
<i>Type Of Operator</i>	Corporation	Corporation
<i>Class Of Operator</i>	Proprietary	Proprietary
<i>Operator</i>	Crown Nursing Home Associates, Inc. <u>Members:</u> Dr. Jacob Dimant.....100%	Same <u>Managing Members:</u> Dr. Jacob Dimant.....10% Dr. Rose Dimant.....10% <u>Members:</u> Elliot Dimant.....40% Kevin Teitler.....40% <u>Member of Board</u> Menahem Dimant.....0%

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Crown Nursing and Rehabilitation Center	7/1/1989 – present
Lakeview Rehabilitation and Care Center	1/1/1999 – present
Oak Hollow Nursing Center	1/1/1999 – present
Little Neck Nursing Home	1994 – 3/31/2011

- INDIVIDUAL BACKGROUND REVIEW:

Dr. Rose Dimant has disclosed ownership interest in the following Residential Health Care Facilities:

Crown Nursing and Rehabilitation Center	7/1/1989 – present
Lakeview Rehabilitation and Care Center	1/1/1999 – present
Oak Hollow Nursing Center	1/1/1999 – present

Elliot Dimant is NYS licensed attorney and is in good standing. He discloses no ownership interest in health facilities.

Kevin Teitler discloses no ownership interest in health facilities.

Dr. Menahem Dimant is a New York State licensed physician and is in good standing. He discloses ownership interest in the following Residential Health Care Facilities:

Crown Nursing and Rehabilitation Center
Lakeview Rehabilitation and Care Center
Oak Hollow Nursing Center
Little Neck Nursing Home

1/1/2011 – present
1/1/2011 – present
1/1/2011 – present
1994 – 3/31/2011

Character and Competence – Analysis:

No negative information has been received concerning the character and competence of the above applicants.

A review of operations for the **Crown Nursing and Rehabilitation Center** for the period identified above results in a conclusion of substantially consistent high level of care since there were no enforcements.

A review of the **Lakeview Rehabilitation and Care Center** for the period identified above reveals the following:

- The facility was fined \$4,000 pursuant to a Stipulation and Order for surveillance findings on August 25, 2006. Deficiencies were found under:
 1. 10 NYCRR 415.12 – Quality of Care.
 2. 10 NYCRR 415.12(f)(1) – Quality of Care: Mental and Psychosocial Functioning
 3. 10 NYCRR 415.12(h) – Quality of Care: Accidents

- The facility was fined \$2,000 pursuant to a Stipulation and Order for surveillance findings on January 25, 2008. Deficiencies were found under:
 1. 10NYCRR 415.12 – Quality of Care

A review of operations for **Lakeview Rehabilitation and Care Center** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no repeat enforcements.

A review of operations for the **Oak Hollow Nursing Center** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no enforcements.

A review of operations for the **Little Neck Nursing Home** for the period identified above results in a conclusion of substantially consistent high level of care, since there were no enforcements.

Project Review

No changes in the program or physical environment are proposed in this application.

Recommendation

From a programmatic perspective, approval is recommended.

<h2>Financial Analysis</h2>

Operating Budget

Following is a summary of the submitted operating budget, presented in 2012 dollars, for the first year subsequent to change in ownership:

Revenues:	
Medicaid	\$11,383,400
Medicare	3,613,100
Private Pay/Other	<u>2,346,700</u>
Total	\$17,343,200

Expenses:	
Operating	\$16,293,900
Capital	<u>873,839</u>
Total	\$17,167,739
Net Income	<u>\$ 175,461</u>

- Medicaid capital component is based on the return of and return on equity methodology.
- Medicare and private pay revenues are based on current payment rates.
- Overall utilization is projected at 91.5%.
- Utilization by payor source is anticipated as follows:

Medicaid	76.3%
Medicare	12.3%
Private/Other	11.4%

- Breakeven utilization is projected at 90.6%.

Capability and Feasibility

There are no project costs associated with this application. There is no financial arrangement in regards to the transfer of ownership because Dr. Jacob Dimant is transferring 90% of his shares to stated proposed members as a gift.

Working capital requirements are estimated at \$2,861,290, based on two months' of first year expenses; and will be satisfied from the facility's existing cash and receivables, and additional members' equity. Net cash and receivables (minus accounts payable) were \$644,454 at December 31, 2011, resulting in a need for additional equity of \$2,216,836 from the proposed members. Review of BFA Attachment A, net worth of proposed shareholders, reveal sufficient resources to satisfy the working capital requirements for all three of the RHCF changes in ownership.

BFA Attachment B presents the pro-forma balance sheet of Crown Nursing & Rehab Center. As shown, the facility will initiate operation with \$1,236,289 members' equity. The submitted budget indicates that a net profit of approximately \$175,461 would be generated during the first year following change in ownership. The budget appears reasonable.

Review of BFA Attachment C, financial summary of Crown Nursing & Rehab Center, indicates that the facility has maintained positive working capital in 2010 and equity positions for 2009-2011, and generated average net income of \$990,073 for the period shown. The facility experienced an average annual occupancy of 92.6% during 2009 to 2011. The negative working capital for 2009 and 2011 is due to loans to related parties which had become current. BFA Attachment D, the internal financial summary of Crown Nursing & Rehab Center as of March 31, 2012, indicates that the facility has experienced negative working capital and maintained positive net equity and a net income from operations of \$239,679.

Review of BFA Attachment E, financial summary of Lakeview Rehabilitation & Care Center, indicates that the facility has experienced negative working capital and maintained positive equity positions, and generated net income of \$824,163 for the period shown. The facility experienced an average annual occupancy of 90.6% during 2009 to 2011. The negative working capital for 2009-2011 was due to loans to related parties which had become current.

Review of BFA Attachment F, financial summary of Oak Hollow Nursing Center, indicates that the facility has experienced negative working capital and maintained positive equity positions, and experienced net losses from operations of \$456,299 and \$395,735 for 2011 and 2009, respectively. The facility experienced an average annual occupancy of 88.7% during 2009 to 2011.

The 2009 net loss from operations was due to a Trust litigation resulting in an increase for liability for workers compensation of approximately \$1 million and in 2011 there was an approximate write-off of \$500,000 in bad debts

and a reduction of occupancy due to renovations. These were both non-recurring items. The negative working capital was due to loans to related parties which had become current.

Based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA-Attachment A	Net Worth of Proposed Members
BFA-Attachment B	Pro-forma Balance Sheet, Crown Nursing & Rehab Center
BFA-Attachment C	Financial Summary, Crown Nursing & Rehab Center
BFA-Attachment D	Financial Summary, Crown Nursing & Rehab Center Draft Financials as of March 31, 2012
BFA-Attachment E	Financial Summary, Lakeview Rehabilitation & Care Center
BFA-Attachment F	Financial Summary, Oak Hollow Nursing Center

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Certified Home Health Agencies – Establish/Construct

Exhibit #9

<u>Number</u>	<u>Applicant/Facility</u>
1. 121135 E	Genesee Region Home Care Association, Inc. d/b/a Lifetime Care (Monroe County)



Public Health and Health Planning Council

Project # 121135-E
**Genesee Region Home Care Association, Inc.
d/b/a Lifetime Care**

County: Monroe (Rochester)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: March 16, 2012

Executive Summary

Description

Genesee Region Home Care Association, Inc. d/b/a Lifetime Care, an existing Article 36 not-for-profit corporation, located at 3111 South Winton Road, Rochester, seeks approval to purchase and become operator of the Yates County Certified Home Health Agency (CHHA) located at 417 Liberty Street, Yates.

Lifetime Care currently operates an Article 36 CHHA servicing Cayuga, Livingston, Monroe, Seneca, Ontario, Wayne and Yates Counties.

The Yates County CHHA currently operates under a management and administrative service agreement with Lifetime Care approved by the Department on September 29, 2011. Lifetime Care plans to maintain all existing CHHA services.

DOH Recommendation
Approval.

Need Summary

As this project involves only a change in the ownership of a CHHA, no Need recommendation is required.

Program Summary

A review of all personal qualifying information indicates there is nothing in the background of the board members of Genesee Region Home Care Association, Inc. d/b/a Lifetime Care, North Star Home Health Management, Inc., Excellus Health Plan, Inc. and Lifetime Healthcare, Inc. to adversely effect their positions on the boards. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary

The total purchase price of \$800,000 will be paid via equity from the applicant. There are no project costs associated with this application.

Budget:	<i>Revenues:</i>	\$ 1,417,627
	<i>Expenses:</i>	<u>1,293,936</u>
	<i>Gain/(Loss):</i>	\$ 123,936

The applicant has demonstrated the capability to proceed in a financially feasible manner and approval is recommended.

Recommendations

Health Systems Agency
Finger Lakes HSA recommends approval for this application.

Office of Health Systems Management
Approval.

Council Action Date
August 9, 2012.

Programmatic Analysis

Background

Genesee Region Home Care Association, Inc. d/b/a Lifetime Care is a not-for-profit corporation that operates an Article 36 certified home health agency (CHHA) located in Rochester and which is approved to serve patients in Cayuga, Livingston, Monroe, Ontario, Seneca and Wayne Counties. In addition, Lifetime Care also operates a long term home health care program (LTHHCP) approved to serve patients in Cayuga, Ontario, Seneca, Wayne and Yates Counties, and a freestanding hospice facility. The Public Health and Health Planning Council approved CON number 111413 for the acquisition of the CHHA operated by Schuyler County at the April 2012 meeting. Lifetime Care seeks approval to purchase and become the new operator of the CHHA currently operated by Yates County, which is approved to serve patients in Yates County.

Genesee Region Home Care Association, Inc. d/b/a Lifetime Care proposes to serve its CHHA patients residing in Yates County from a branch office to be located in Schuyler County. The Lifetime Care CHHA/LTHHCP main office will remain in Monroe County at 3111 South Winton Road, Rochester, New York 14623.

Lifetime Care will continue to provide the following home care services: home health aide, medical social services, medical supply, equipment and appliances, nursing, nutritional, occupational therapy, personal care, physical therapy, respiratory therapy and speech language pathology.

The sole corporate member of Genesee Region Home Care Association, Inc. d/b/a Lifetime Care, a not-for-profit corporation, is North Star Home Health Management, Inc., a not-for-profit corporation. The sole corporate member of North Star Home Health Management, Inc. is Excellus Health Plan, Inc. The sole corporate member of Excellus Health Plan, Inc. is Lifetime Healthcare, Inc., a not-for-profit holding company.

The Board of Directors of Genesee Region Home Care Association, Inc. d/b/a Lifetime Care consists of the following individuals:

Charles H. Stuart, Acting Chairman
Financial Advisor, Morgan Stanley
Smith Barney
Affiliations: Genesee Region
Health Care of Ontario County, Inc.

John B. Bielmiller, Director
Senior VP, Whitney & Co.
(investment management)
Affiliations: GRIPA (HMO),
Genesee Region Health
Care of Ontario County, Inc.

William A. Johnson, Jr., Director
Professor, Rochester Institute of
Technology
Affiliations: Genesee Region
Health Care of Ontario County, Inc.

Mordecai J. Kolko, Director
Retired

Jordan I. Brown, Treasurer
Executive VP, Lifetime Assistance, Inc.
(human services)
Affiliations: Genesee Region Health Care
of Ontario County, Inc.

Marilyn Dollinger, R.N., Director
Associate Dean, St. John Fisher College
Affiliations: St. John's Senior Services,
St John's Health Care Corporation,
Genesee Region Health Care of
Ontario County, Inc.

David H. Klein, Director
President/CEO/COO, Excellus Health
Plan, Inc.
Affiliations: Excellus Health Plan, Inc.
Genesee Region Health Care of Ontario
County, Inc., Sibley Nursing Personnel
Services, Inc., Genesee Valley Group
Health Association (D&T)

John J. Mahoney, Director
Founder/Principal, Summit Business Group, LLC
Affiliations: Genesee Region Health Care
of Ontario County, Inc.

Jagat S. Mehta, M.D., Director
Physician, Self-employed
Affiliations: Genesee Region
Health Care of Ontario County, Inc.

Hilda Rosario-Escher, Director
Vice President, Ibero American
Action League
Affiliations: Huther-Doyle
(substance abuse), Genesee
Region Health Care of
Ontario County, Inc., Rochester
Psychiatric Center, Office of Mental
Health

Seymour M. Zivan, Director
Retired

David D. Reh, Director
President, The Raytec Group, Inc.
(administrative services)
Affiliations: Excellus Health Plan, Inc.
Genesee Region Health Care of
Ontario County, Inc.

Manuel M. Matos, M.D., Director
Division Chief, Unity Health System
Affiliations: Genesee Region Health Care
of Ontario County, Inc.

The Board of Directors of North Star Home Health Management, Inc. consists of the following individuals:

Charles H. Stuart, Vice Chairperson
(disclosed above)

John B. Bielmiller, Director
(disclosed above)

William A. Johnson, Jr., Director
(disclosed above)

Mordecai J. Kolko, Director
(disclosed above)

Jagat S. Mehta, M.D., Director
(disclosed above)

Hilda Rosario-Escher, Director
(disclosed above)

Seymour M. Zivan, Director
(disclosed above)

Jordan I. Brown, Treasurer
(disclosed above)

Marilyn Dollinger, R.N., Director
(disclosed above)

David H. Klein, Director
(disclosed above)

John J. Mahoney, Director
(disclosed above)

David D. Reh, Director
(disclosed above)

Manuel M. Matos, M.D., Director
(disclosed above)

The Board of Directors of Excellus Health Plan, Inc. consists of the following individuals:

Randall L. Clark, Chairperson
Chairman, Dunn Tire, LLC

Hermes L. Ames, III, Director
Retired
Affiliations: Well Choice, Inc.
(Empire BCBS)

Austin T. Hildebrandt, Director
President, Hillside Children's
Foundation

John G. Doyle, Jr., Director
President, Doyle Security Systems, Inc.

Natalie L. Brown, Director
Executive Director, YWCA Mohawk Valley
Affiliations: Faxton-St. Luke's Healthcare

Thomas Y Hobart, Jr., Director
Retired

Dennis P. Kessler, Director
Owner, The Kessler Group, Inc.
Owner, The Kessler Family, LLC
Professor, University of Rochester
Affiliations: Genesee Region
Health Care of Ontario County, Inc.
University of Rochester Medical Center

Charles H. Stuart, Director
(disclosed above)

David H. Klein, Director
(disclosed above)

Joseph F. Kurnath, M.D., Director
Physician/Partner, Partners in Internal Medicine
Affiliations: Genesee Region Health Care of
Ontario County, Inc.

Patrick A. Mannion, Director
Chairman/President/CEO/COO, EVP
& SVP, Unity Mutual Life Insurance
Company

Alfred D. Matt, Director
President/CEO, F.X. Matt Brewing Company

Colleen E. O'Leary, M.D., Director
Professor, SUNY Upstate Medical
University

Sandra A. Parker, Director
President/CEO, Rochester Business Alliance

Thomas E. Rattmann, Director
Chairman/CEO/President, Columbian
Financial Group

George F.T. Yancey, Jr., Director
Managing Director, Delta Point Capital

William H. Goodrich, Director
CEO/President, LeChase Construction
Affiliations: Excellus Health Plan, Inc.

The Board of Directors of Lifetime Healthcare, Inc. consists of the following individuals:

Randall L. Clark, Chairperson
(disclosed above)

Dennis P. Kessler, Director
(disclosed above)

Hermes L. Ames, III, Director
(disclosed above)

Natalie I. Brown, Director
(disclosed above)

William H. Goodrich, Director
(disclosed above)

John G. Doyle, Jr., Director
(disclosed above)

Austin T. Hildebrandt, Director
(disclosed above)

Thomas Y. Hobart, Jr., Director
(disclosed above)

David H. Klein, Director
(disclosed above)

Joseph F. Kurnath, M.D., Director
(disclosed above)

Patrick A. Mannion, Director
(disclosed above)

Alfred D. Matt, Director
(disclosed above)

Colleen E. O'Leary, M.D., Director
(disclosed above)

Sandra A. Parker, Director
(disclosed above)

Thomas E. Rattmann, Director
(disclosed above)

George F.T. Yancey, Jr., Director
(disclosed above)

Charles H. Stuart, Director
(disclosed above)

A search of the individuals named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The Office of the Professions of the State Education Department, the New York State Physician Profile, and the Office of Professional Medical Conduct, where appropriate, indicate no issues with the licenses of the healthcare professionals associated with this application.

A ten year review of the operations of the following agencies/facilities was performed as part of this review (unless otherwise noted):

- Genesee Region Health Care of Ontario County, Inc. d/b/a Home Care Plus (LHCSA)
- Genesee Region Home Care Association, Inc. (hospice)
- Genesee Region Home Care Association, Inc. d/b/a Lifetime Care (CHHA)
- Genesee Region Home Care Association, Inc. d/b/a Lifetime Care (LTHHCP)
- Sibley Nursing Personnel Services, Inc. (LHCSA) (2003 – present)
- Genesee Valley Group Health Association, Inc. d/b/a Lifetime Health Medical Group (2003 – present)
- Excellus Health Plan, Inc. d/b/a Finger Lakes HMO, Upstate HMO & Univera Health Care (HMO)
- Well Choice, Inc. (Empire BCBS) (HMO) (2000 – 2005)
- Faxton-St. Luke's Healthcare (hospital) (2001 – 2004)
- University of Rochester Medical Center (hospital) (1/04 – 2/12)

The Division of Certification and Surveillance has indicated the following:

Faxton-St. Luke's Healthcare was fined \$20,000 in 2003 for failure to maintain adequate oversight of a physician's practice with multiple quality issues.

University of Rochester Medical Center (Strong Memorial) was fined \$20,000 in 2004 for violations of the UNOS guidelines for organ transplants.

The information provided by the Division of Certification and Surveillance has determined that the hospitals reviewed have provided sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Bureau of Managed Care Certification and Surveillance has indicated that the HMOs reviewed have provided sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Division of Home and Community Based Services has indicated that the LHCSAs, CHHA, LTHHCP and hospice reviewed have provided sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations.

A review of all personal qualifying information indicates there is nothing in the background of the board members of Genesee Region Home Care Association, Inc. d/b/a Lifetime Care, North Star Home Health Management, Inc., Excellus Health Plan, Inc. and Lifetime Healthcare, Inc. to adversely effect their positions on the boards. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement:

The applicant has submitted an executed asset purchase agreement, the terms of which are summarized below:

<i>Date:</i>	February 28, 2012
<i>Seller:</i>	County of Yates
<i>Buyer:</i>	Genesee Region Home Care Association, Inc.
<i>Assets Transferred:</i>	The home care business consisting of books and records, any permits and similar rights to the extent transferable and related solely to the operation of the home care business, patient medical records, and any contracts, leases or licenses.
<i>Assumed Liabilities:</i>	None
<i>Purchase Price:</i>	\$800,000
<i>Payment of Purchase Price:</i>	\$800,000 in cash at time of closing.

The applicant submitted an affidavit in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 36 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. Currently, there are no outstanding Medicaid overpayment liabilities.

Operating Budget

The applicant has submitted an operating budget for the first year in 2012 dollars, which is summarized below:

	<u>Year One</u>
Revenues:	
Medicaid	\$342,841
Medicare Managed Care	426,212
Commercial Managed Care	559,760
Commercial Fee-for-Service	16,974
Private Pay	45,965
Charity Care	<u>25,875</u>
Total Revenues	\$1,417,627
Expenses:	<u>1,293,691</u>
Gain/(Loss):	<u>\$ 123,936</u>

The Medicaid budget is based on the new Episodic Payment System (EPS) effective May 1, 2012. The EPS is based on a price for 60 day episodes, which will be adjusted by patient acuity and regional wage differences. The EPS was recommended by the Medicaid Redesign Team (MRT proposal #5) and authorized in the 2011-2012 enacted budget. The EPS is designed to address the issue of rapid growth in Medicaid costs per patient by better aligning payments with needed services, and is part of a broad effort to promote the development of care management arrangements for Medicaid recipients.

Utilization by payor source in the first year is as follows:

Medicaid Fee-for-Service	18%
Medicare Fee-for-Service	30%
Commercial Fee-for-Service	44%
Commercial Managed Care	2%
Charity Care	2%
Private Pay	4%

Expense and utilization assumptions are based on the existing Yates County CHHA Program's historical experience. Revenues are reflective of current payment rates.

Capability and Feasibility

The operational purchase price of \$800,000 will be satisfied with equity from the applicant.

Working capital requirements estimated at \$215,616 based on two months' of first year expenses will be provided by cash equity from the applicant. Presented as BFA Attachment B, is the financial summary of the Genesee Home Care Association, Inc., which indicated the availability of sufficient funds.

The submitted budget projects an excess of revenues over expenses of \$123,936 during the first year subsequent to the change in operator. The submitted budget is based on Lifetime Care's experience in the operation of its CHHA and current reimbursement rates. The submitted budget appears reasonable.

As shown on BFA Attachment B, a financial summary of Genesee Region Home Care Association, Inc. indicates that the facility has maintained positive working capital and net assets positions, and generated annual operating revenues of \$1,827,000 and \$881,000 for 2010 and 2011, respectively.

The applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Organizational Chart
BFA Attachment B	Financial Summary, Genesee Region Home Care Association, Inc.
BFA Attachment C	Pro-forma Balance Sheet

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Certificates

Certificate of Restated Certificate of Incorporation

Exhibit #10

Applicant

1. The Methodist Homes For The Aging of the Wyoming Conference in the State of New York

Certificate of Dissolution

Exhibit #11

Applicant

1. The Falck Foundation, Inc.
2. St. Clare Manor of Lockport, N.Y.
3. St. Joseph's Manor of Olean, N.Y.
4. St. Luke Manor of Batavia. N.Y.
5. St. Mary's Manor



STATE OF NEW YORK - DEPARTMENT OF HEALTH

MEMORANDUM

TO: Public Health and Health Planning Council (Council)
FROM: James E. Dering, General Counsel *JED*
DATE: July 9, 2012
SUBJECT: Proposed Restated Certificate of Incorporation of
The Methodist Homes for The Aging of the
Wyoming Conference in the State of New York

Attached for the Council's review and approval is a photocopy of the proposed Restated Certificate of Incorporation of The Methodist Homes for the Aging of the Wyoming Conference in the State of New York (Methodist Homes). Methodist Homes seeks approval from the Council to change its corporate name to "UMH NY Corp. (UMH)" which it believes is simpler, less cumbersome, less confusing and easier to use on a practical basis. Methodist Homes was originally formed under the Membership Corporation Law on September 25, 1958 and operates a nursing home, independent living facilities for seniors, adult care facilities and a home care agency basis.

The Council's approval for this name change is required pursuant to section 804(a)(ii) of the Not-for-Profit Corporation Law and Title 10 (Health) of the Official Compilation of the Codes, Rules and Regulations of the State of New York §§ 401.3(b)(2) and 600.11(a)(2).

In addition to the proposed Restated Certificate of Incorporation, also attached is a letter from UMH's attorney explaining in more detail the reason for the requested corporate name change.

The Restated Certificate of Incorporation is legally acceptable in form and the Department has no objection to its filing.

Attachments

Restated Certificate of Incorporation

of

**The Methodist Homes For The Aging of the
Wyoming Conference in the State of New York**

**Under Section 805 of the
Not-for-Profit Corporation Law**

We, the undersigned, for the purpose of amending and restating the Certificate of Incorporation of The Methodist Homes for the Aging of the Wyoming Conference in the State of New York under Section 805 of the Not-for-Profit Corporation Law of the State of New York, do hereby certify:

ONE: The name of the corporation is **THE METHODIST HOMES FOR THE AGING OF THE WYOMING CONFERENCE IN THE STATE OF NEW YORK**, hereinafter referred to as the "Corporation". The name under which the Corporation was formed is "The Methodist Home for the Aged Fund of the Wyoming Conference".

TWO: The date its Certificate of Incorporation was filed with the Department of State was September 25, 1958 under the Membership Corporation Law of the State of New York.

THREE: The Certificate of Incorporation is amended to effect the following amendments:

- (a) To change the name of the Corporation to "UMH NY Corp." and change paragraph 1 of the Certificate of Incorporation to effect such change;
- (b) To delete reference in paragraph 5(C) of the Certificate of Incorporation to the former State Board of Social Welfare;
- (c) To delete paragraph 5(J) of the Certificate of Incorporation relating to the establishment, maintenance and operation of programs of enriched housing;
- (d) To renumber and re-letter paragraph 5(F) of the Certificate of Incorporation as paragraph 5(K); and
- (e) To omit paragraph 14 of the Certificate of Incorporation relating to the

indemnification of directors, officers and committee members.

FOUR: The text of the Certificate of Incorporation of the Corporation is hereby restated as amended to read as herein set forth in full as follows:

CERTIFICATE OF INCORPORATION

OF

UMH NY CORP.

**Under Section 402 of the
Not-for-Profit Corporation Law**

1. The name of the corporation is UMH NY Corp., hereinafter referred to as the "Corporation".
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation as defined in Section 201 of that law.
3. The County within the state in which the office of the Corporation is to be located is the County of Broome.
4. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The post office address within this state to which the Secretary of State shall mail a copy of any process against it served upon him shall be 10 Acre Place, Binghamton, New York 13904.
5. The purposes for which the Corporation is formed, and the business and objects to be carried on and promoted by it, are as follows:
 - A. To solicit, collect, raise and receive money, funds and real and personal property for charitable, philanthropic and benevolent purposes, more particularly for the aged; to hold, invest, use, convert, expand, contribute, disburse and otherwise handle and dispose of same, and the income therefrom, for such purposes.
 - B. To receive and take by gift, grant, conveyance, devise or bequest, money, funds, or other real or personal property and to hold, administer, invest, use, convert, sell, distribute or otherwise dispose of such money, funds and property and the income therefrom, in accordance with the direction and intention of the donor of such money, funds and property, for

the charitable, philanthropic, and benevolent uses and purposes for which the corporation is formed.

C. To establish and maintain homes for the aged and retired persons and to provide for their social, religious, educational and physical welfare and for such purposes to acquire, hold and maintain real and personal property.

D. To purchase, acquire, hold and dispose of such property, real, personal and mixed as may be required for the transaction of its business or the conduct of its affairs subject to such limitations as are prescribed by statute.

E. To borrow money whether upon the security of any real property at any time held by the Corporation or otherwise.

F. To establish, operate and maintain a nursing home and health related facility at Elizabeth Church Manor, 863 Front Street, Binghamton, New York.

G. To establish, maintain and operate independent living facilities for senior citizens at Elizabeth Church Manor, 863 Front Street, Binghamton, New York.

H. To establish, maintain and operate independent living facilities for senior citizens at Hilltop Manor, 285 Deyo Hill Road, Johnson City, New York.

I. To establish, maintain and operate an adult home or homes, and establish, maintain and operate an Assisted Living Program.

J. To establish, maintain and operate a home care agency as authorized under New York Public Health Law Article 36.

K. To do all things necessary or proper in connection with or incidental to the foregoing purposes.

6. The Corporation is irrevocably dedicated to and operated exclusively for, non-profit purposes; and all income and earnings of the Corporation shall be used exclusively for corporate purposes. No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, director, officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation), and no member, trustee, officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

7. Nothing contained herein shall authorize the Corporation to establish or operate any adult care facility, or to solicit contributions for any such purpose, or to perform any of the other activities set forth in Section 404(b) through 404(w) of the Not-For-Profit Corporation Law

or Section 460-a of the Social Services Law of the State of New York, without first obtaining any and all of the consents or approvals required pursuant to Section 404(b) through 404(w) of the Not-For-Profit Corporation Law or Section 460-a of the Social Services Law of the State of New York.

8. Notwithstanding any other provisions of this Certificate of Incorporation, the Corporation is organized exclusively for one or more of the purposes as specified in §501(c)(3) of the Internal Revenue Code of 1986, and shall not carry on any activities not permitted to be carried on by a corporation exempt from Federal income tax under IRC §501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

9. In the event of the dissolution of the Corporation or the winding up of its affairs, or other liquidation of its assets, the Corporation's property shall not be conveyed to any organization created or operated for profit or to any individual for less than the fair market value of such property, and all of the remaining assets and property of the Corporation shall after payment of necessary expenses thereof be distributed to such organizations as shall qualify under section 501(c)(3) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent Federal tax laws. Any conveyance of the Corporation's property upon the dissolution of the Corporation or the winding up of its affairs shall be subject to the approval of a Justice of the Supreme Court of the State of New York.

10. No substantial part of the activities of the Corporation shall involve the carrying on of propaganda or otherwise attempting to influence legislation [except as otherwise provided in Internal Revenue Code Section 501(h)] and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidates for public office.

11. In any taxable year in which the Corporation is a private foundation as described in I.R.C. Section 509, the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under I.R.C. Section 4942, and the Corporation shall not (a) engage in any act of self-dealing as defined in I.R.C. Section 4941(d), retain any excess business holdings as defined in I.R.C. Section 4943(c), (b) make any investments in such manner as to subject the Corporation to tax under I.R.C. Section 4944, or (c) make any taxable expenditures as defined in I.R.C. Section 4945(d) or corresponding provisions of any subsequent Federal tax laws.

12. The Corporation does not contemplate pecuniary gain or profit, incidental or otherwise.

13. The Corporation shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity that would invalidate its status (a) as a corporation that is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Code, or (b) as a corporation, contributions to which are deductible under Section 170 of the

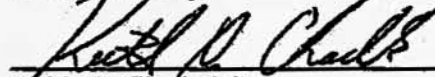
Code.

This Restatement of the Certificate of Incorporation of the Corporation was authorized by a vote of a majority of all members entitled to vote thereon at a meeting of the members.

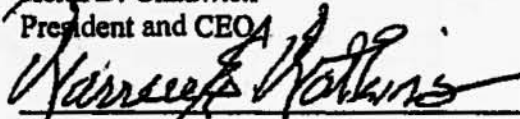
IN WITNESS WHEREOF, this certificate has been executed this 12th day of July, 2011, and is affirmed by the signers hereof as true under the penalties of perjury.

Dated: July 12th, 2011

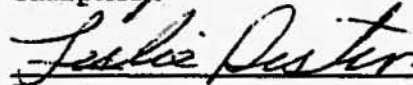
UMH NY Corp.



Keith D. Chadwick
President and CEO



Chairperson



Secretary

RESTATED CERTIFICATE OF INCORPORATION
OF
THE METHODIST HOMES FOR THE AGING OF THE WYOMING CONFERENCE
IN THE STATE OF NEW YORK

**Under Section 805 of the Not-for-Profit Corporation Law
of the State of New York**

Filed by: Levene Gouldin & Thompson, LLP
450 Plaza Drive
Vestal, New York 13850



LEVENE GOULDIN & THOMPSON, LLP
ATTORNEYS AT LAW

E-mail: phoffmann@binghamtonlaw.com
Direct Dial: 607.584.5667

Partners

Samuel K. Levene
David M. Gouldin
Michael H. Zuckerman
Eugene E. Peckham †
John J. Carlin
Sharon L. Dyer
Paul R. Hoffmann
Howard M. Rittberg
John J. Pollock **
John L. Perticone **
Michael R. Wright **
Philip C. Johnson
Elizabeth K. Joggerst
David F. McCarthy
Scott R. Kurkoski
John G. Grall **
Patricia M. Curtin
Caroline A. Vedala **
Albert B. Kukol **
Kathryn Grant Madigan
Jeffrey A. Loew
Gary W. Farneti
Robert G. Bullia
Dorian D. Ames **
Sam P. Monachino
Margaret J. Fowler **
Michael E. Osburn **
Cynthia Ann K. Manchester **
Heather M. Cornell ** †
Kevin T. Williams
Nicholas J. Scarantino **
Greg S. Catarella
Alyssa M. Barreiro
Janys L. Lindsey
Carris A. Wemban
Maria E. Lisi-Murray **
Sandra E. Malkin **

Associates

Holly L. Avery
Lauren A. Kiley
Terrance M. McGuinness
Daniel R. Norton
Karen J. McMullen
Lana D. DeLos Santos **
Sarah E. Nuffer **
Alson J. McKenna

Of Counsel

John H. Hartman
Richard N. Mattice †
John P. Rittinger
John R. Normillo, Jr.
Sanford P. Tanenhaus
Donald M. Flanagan
Bruno Colapietro †
John F. Artman **
Alan M. Zalowitz **

Special Counsel, Retired
Lawrence J. Schorr

† also admitted in FL
‡ also admitted in NJ
** also admitted in PA
* also admitted in MA

† 71 State Street
Binghamton, NY 13901

131 Front Street
Depoit, NY 13754

2912 US Route 11
Whitney Point, NY 13862

June 4, 2012

via hand delivery

Michele A. Petruzzelli, Esq.
Senior Attorney
Bureau of House Counsel
Division of Legal Affairs
NYS Department of Health
Corning Tower, Room 2464
Empire State Plaza
Albany, NY 12237

RE: Restated Certificate of Incorporation of The Methodist Homes for the Aging of the Wyoming Conference in the State of New York

Dear Ms. Petruzzelli:

We represent The Methodist Homes for the Aging of the Wyoming Conference in the State of New York (the "Corporation"), a New York not-for-profit corporation, with respect to its proposed filing of a Restated Certificate of Incorporation dated July 12, 2011 in the New York State Secretary of State's Office.

We understand that the New York State Department of Health has requested a letter to explain the nature of and reasons for the requested name change of the Corporation. This letter is intended to satisfy that request.

The current name of the Corporation is: "The Methodist Homes for the Aging of the Wyoming Conference in the State of New York."

The proposed name for the Corporation is: "UMH NY Corp."

The nature of and the reasons for the requested name change are as follows:

The current name of the Corporation is lengthy and cumbersome to use in practical applications. As a result of the length of the name, employees of the Corporation are often confused by and unsure of the Corporation's correct legal name. Therefore, when taking action on behalf of the Corporation which involves the use of the corporate name, employees often make errors in the name.

Main Office: 450 Plaza Drive • Vestal, NY 13850 • Phone: 607.763.9200
Mailing Address: P.O. Box F-1706 • Binghamton, NY 13902-0106 • Fax: 607.763.9211



Michele A. Petruzzelli, Esq.

2

June 4, 2012

Vendors and others with business relationships with the Corporation are also often unsure of the correct corporate name. In addition, because of the length of the name, the full, complete name of the Corporation sometimes does not fit within the space for the name on documents, whether paper or electronically submitted, used by some vendors. This can result in the use of a portion of the current name, which is potentially confusing.

Also, the Corporation is required to submit or file various documents, forms and information to governmental agencies, departments or bodies on a periodic basis. Many of those required filings are required to be made on-line, or on government provided forms, some of which do not accept names as lengthy as the Corporation's name. Similar to the confusion which can occur with vendors, this results in some governmental forms filed by the Corporation using an incomplete name. For example, when the Corporation recently filed its Certificate of Compliance with the Federal Deficit Reduction Act of 2005, with the New York State Office of the Medicaid Inspector General, the name of the Corporation was too long to fit in the on-line database and needed to be truncated.

The proposed name is intended to shorten and simplify the name of the Corporation to decrease confusion among employees and vendors of the Corporation, and simplify the filing of required governmental documents, forms and information. The letters "UMH" in the proposed name is an abbreviation for "United Methodist Homes" and recognizes that the Corporation has a connection with the United Methodist Church.

Thank you for your consideration. We trust that this letter responds to your request, but if you need further information please do not hesitate to contact us.


Very truly yours,

LEVENE GOULDIN & THOMPSON, LLP

By: Paul R. Hoffmann

PRH/lab

New York State Department Of Health
Memorandum

TO: Public Health and Health Planning Council
FROM: James E. Dering, General Counsel  JED
DATE: June 28, 2012
SUBJECT: Proposed Dissolution of The Falck Foundation, Inc.

The Falck Foundation, Inc. ("Falck Foundation") requests Public Health and Health Planning Council approval of its proposed Dissolution in accordance with the requirements of Not-For-Profit Corporation Law §1002(c) and §1003, as well as 10 NYCRR Part 650.

The Falck Foundation was formed in 1990 for the primary purpose of receiving and maintaining funds and property to be used for the benefit of Arnot Ogden Medical Center (hereinafter the "Medical Center"). The Falck Foundation seeks dissolution after a determination by the Falck Foundation's board of directors that continued commitment of financial and human resources to the operation of the Falck Foundation was unnecessary and inefficient, and that the assets held and managed by the Falck Foundation can be more effectively managed by the Medical Center itself. Pursuant to the Falck Foundation's Plan of Dissolution, if approved by the Attorney General, the Falck Foundation's remaining assets will be distributed to the Medical Center in accordance with the Falck Foundation's Certificate of Incorporation.

Attached are copies of the proposed Certificate of Dissolution, a letter from the Falck Foundation's attorney explaining the need for the proposed Dissolution, a proposed Plan of Dissolution, and a proposed Verified Petition seeking judicial approval of the Falck Foundation's Plan of Dissolution and distribution of assets.

The Certificate of Dissolution is in legally acceptable form.

Attachments

SAYLES & EVANS
ATTORNEYS AT LAW
ONE WEST CHURCH STREET
ELMIRA, NEW YORK 14901

JAMES F. YOUNG
JOHN R. ALEXANDER
LAWRENCE L. CLAIR
CLOVER M. DRINKWATER
STEVEN E. AGAN
CONRAD R. WOLAN
ANTHONY F. PAGANO
SETH T. HILAND
AARON T. ALSHEIMER

DARCY L. WOOD
MICHAEL E. NYRE
L. CRARY MYERS, III
LAUREN E. JONES

(807) 734-2271
FAX (807) 734-1754

aalsheimer@saylesevans.com

ALAN PARSONS
LEWIS W. MORSE, JR.
J. PHILIP HUNTER
CYNTHIA S. HUTCHINSON
OF COUNSEL

March 13, 2012

Ms. Colleen Frost, Executive Secretary
Public Health and Health Planning Council
New York State Department of Health
Corning Tower
Room 1441
Albany, New York 12237

Re: Request for Public Health and Health Planning Council Approval of the
Dissolution of The Falck Foundation, Inc.

Dear Ms. Frost:

I write on behalf of The Falck Foundation, Inc. (hereinafter, the "Foundation") to request that the Public Health and Health Planning Council (hereinafter, the "Council") approve the voluntary dissolution of the Foundation pursuant to section 650.1 of the regulations of the Department of Health.

The primary purpose of the Foundation has been to receive and maintain funds and property to be used for the benefit of Arnot Ogden Medical Center (hereinafter, the "Medical Center"). The Foundation's board of directors, after evaluating the Foundation's role in supporting the Medical Center, determined that the continued commitment of financial and human resources to the operation of the Foundation is unnecessary and inefficient and that the Foundation, therefore, should be dissolved. This determination reflects the directors' view that assets held and managed by the Foundation for the benefit of the Medical Center can be more effectively and efficiently managed by the Medical Center itself. Accordingly, the Plan of Dissolution and Distribution of Assets of the Foundation stipulates that the Medical Center receive all assets of the Foundation which remain after payment of the Foundation's liabilities.

Enclosed herewith please find the following items which are submitted for the Council's review in connection with its consideration of the Foundation's request:

- (1) Proposed Certificate of Dissolution of the Foundation;

- (2) Proposed Plan of Dissolution and Distribution of Assets of the Foundation; and
- (3) Proposed petition for judicial approval of the dissolution of the Foundation.

Should the Council require additional documentation or have any questions concerning this request for approval of the Foundation's voluntary dissolution, please do not hesitate to contact me at the address or telephone number set forth above. Once the Council completes its consideration of this matter and votes to approve the Foundation's dissolution, please provide evidence of such vote suitable for filing with the Supreme Court of the State of New York.

Thank you very much for your assistance.

Very truly yours,



Aaron Alsheimer

CERTIFICATE OF DISSOLUTION

OF

THE FALCK FOUNDATION, INC.

Under Section 1003 of the Not-for-Profit Corporation Law

I, Anthony J. Cooper, president of The Falck Foundation, Inc., hereby certify:

1. That the name of the corporation is The Falck Foundation, Inc.

2. That the Certificate of Incorporation of The Falck Foundation, Inc. was duly filed by the Department of State of the State of New York on the 20th day of March, 1990, and that a Certificate of Amendment of the Certificate of Incorporation of the Falck Foundation, Inc. was duly filed by the Department of State of the State of New York on the 15th day of October, 1990.

3. That the names, addresses, and titles of the officers and directors of the corporation are as follows:

<u>Name</u>	<u>Address</u>	<u>Title</u>
Anthony J. Cooper	600 Roe Avenue Elmira, New York 14905	President, Director
Ronald J. Kintz	600 Roe Avenue Elmira, New York 14905	Treasurer, Director
John R. Alexander	1 West Church Street Elmira, New York 14901	Secretary, Director

4. That at the time of dissolution, the corporation is a Type B not-for-profit corporation.

5. That on the 26th day of September, 2011, the dissolution of the corporation was authorized by the unanimous vote of the Board of Directors, which vote resulted in the adoption of the corporation's Plan of Dissolution and Distribution of Assets.

6. That at the time of adoption of the corporation's Plan of Dissolution and Distribution of Assets pursuant to Not-for-Profit Corporation Law Section 1002, the corporation held assets legally required to be used for a particular purpose.

7. That on the ____ day of _____, 2012, the New York State Supreme Court, Chemung County, issued an Order Approving the Plan of Dissolution and Distribution of Assets. A copy of said Order is annexed hereto, pursuant to Not-for-Profit Corporation Law § 1003(8).

8. That the corporation hereby elects to dissolve.

9. That approval of the dissolution by the Public Health and Health Planning Council of the State of New York Department of Health is required, and that such approval is attached.

10. That the corporation has carried out the Plan of Dissolution and Distribution of Assets.

11. That prior to the filing of this Certificate of Dissolution with the Department of State, the endorsement of the Attorney General of the State of New York will be attached.

IN WITNESS WHEREOF, the undersigned has signed the Certificate of
Dissolution of The Falck Foundation, Inc. this ____ day of _____, 2012.

Anthony J. Cooper
President

CERTIFICATE OF DISSOLUTION

OF

THE FALCK FOUNDATION, INC.

Under Section 1003 of the Not-for-Profit Corporation Law

Filed by: Sayles & Evans
Attorneys at Law
One West Church Street
Elmira, New York 14901

PLAN OF DISSOLUTION AND DISTRIBUTION OF ASSETS
OF
THE FALCK FOUNDATION, INC.

The Board of Directors of The Falck Foundation, Inc. (hereinafter sometimes referred to as the "Corporation"), at a special meeting duly convened on the 26th day of September, 2011, pursuant to notice given in accordance with applicable law, a quorum being present at all times, having considered the advisability of voluntarily dissolving the Corporation, and it being the unanimous opinion of the Board that dissolution is advisable and in the best interests of the Corporation, does hereby resolve that the Corporation be dissolved in accordance with the following plan:

1. There being no members of the Corporation, no vote of membership is required to approve the dissolution of the Corporation, and action of the Board of Directors is sufficient.
2. No approval of the dissolution of the Corporation is required by any government agency or officer.
3. As of August 31, 2011, the assets of the Corporation had a total value of \$1,861,351, which amount included the following:

Cash	\$	290,188
Money Market Account (Centric Bank, Harrisburg, Pennsylvania)	\$	256,162
Money Market Account (Community Bank, N.A., Elmira, New York)	\$	254,453
Investments (various mutual funds and separately-managed accounts, managed under the direction of Prime, Buchholz & Associates, Inc., Portsmouth, New Hampshire)	\$	1,060,548

Amounts held in the Corporation's money market accounts at Centric Bank and Community Bank, N.A. are required to be used exclusively for repayment of the balance owed on a certain note given by the Corporation to Arnot Ogden Medical Center.
4. The Corporation has liabilities of \$510,615, which amount represents the balance owed on a note give by the Corporation to Arnot Ogden Medical Center.
5. The assets of the Corporation remaining after payment of the aforementioned liabilities shall be distributed to Arnot Ogden Medical Center, as required under Paragraph 2 of the Corporation's Certificate of Incorporation. Arnot Ogden Medical Center is a charitable organization exempt from taxation pursuant to federal and state laws and engaged in activities substantially similar to those of the Corporation.

Annexed hereto and made a part hereof are the following documents pertaining to Arnot Ogden Medical Center:

Exhibit 1 – Copies of the Certificate of Incorporation and the By-laws of the organization, together with any and all amendments thereto;

Exhibit 2 – Copies of the last three annual financial reports of the organization;

Exhibit 3 – Sworn affidavit from a director and officer of the organization stating the purposes of the organization and that the organization is currently exempt from federal income taxation;


Exhibit 4 – Copy of the Internal Revenue Service letter of determination that the organization is exempt from taxation.

6. The Corporation shall carry out this plan as expeditiously as possible, but in any event within 270 days from the date this plan is approved by a Justice of the Supreme Court of the State of New York, or such additional or extended period of time not less than 30 days nor more than one year as the Attorney General of the State of New York may allow upon a showing of good cause by the Corporation that the plan cannot be carried out within the prescribed time.
7. After the distribution of the Corporation's assets within the time period described in Paragraph 6 hereof, a certificate of dissolution shall be executed, and all approvals required under New York Not-for-Profit Corporation Law § 1002 shall be obtained prior to filing the certificate of dissolution with the Department of State of the State of New York as required by law.

CERTIFICATION

I, John R. Alexander, Secretary of The Falck Foundation, Inc., hereby certify that a special meeting of the Board of Directors of the Corporation was held on the 26th day of September, 2011, at Arnot Ogden Medical Center, 600 Roe Avenue, Elmira, New York, New York, and the within Plan of Dissolution and Distribution of Assets was duly submitted and approved by a unanimous vote of the Directors.

Dated: November 16, 2011



John R. Alexander
Secretary

STATE OF NEW YORK
SUPREME COURT, COUNTY OF CHEMUNG

-----X
In the Matter of the Application of

THE FALCK FOUNDATION, INC.

VERIFIED PETITION

For an Order Approving Its Plan of Dissolution and
Distribution of Assets Pursuant to Section 1002 of the
Not-for-Profit Corporation Law.

Index No.:
RJI No.:

-----X
Petitioner, The Falck Foundation, Inc., by its Secretary, John R. Alexander,
hereby respectfully alleges:

1. That The Falck Foundation, Inc. (hereinafter referred to as the
"Corporation"), having a principal address of One West Church Street, Elmira, New York
14901, is a corporation duly organized and existing under and by virtue of the Not-for-Profit
Corporation Law of the State of New York, its Certificate of Incorporation having been duly
filed by the Department of State on the 20th day of March, 1990. A copy of said Certificate of
Incorporation is annexed hereto as Exhibit A.

2. That a Certificate of Amendment of the Certificate of Incorporation of the
Corporation was duly filed by the Department of State on the 15th day of October, 1990. A copy
of said Certificate of Amendment is annexed hereto as Exhibit B.

2. That the Corporation is a Type B corporation.

3. That the purposes of the Corporation, as set forth in Paragraph 2 of its Certificate of Incorporation, as amended, are as follows:

To solicit, receive and maintain a fund or funds of property, both real and personal, and to devote the use of the real property to, and apply the income therefrom and the principal thereof exclusively for, the benefit of the Arnot-Ogden Memorial Hospital, a New York not-for-profit corporation, and its corporate successor or successors; to acquire, purchase and construct buildings, fixtures, leasehold improvements and other facilities and make them available by lease, gift or otherwise to the said Arnot-Ogden Memorial Hospital. Nothing contained in the Certificate of Incorporation shall authorize the corporation to establish or operate a hospital or to provide hospital service or health related service, or to operate a home health agency, a hospice, a health maintenance organization, or a comprehensive health services plan, as provide for by Articles 28, 36, 40 and 44 respectively, of the Public Health Law, or to carry on any of the activities contained in Subsections (b) through (n), and (p) through (s), and (u) of Section 404 of the Not-for-Profit Corporation Law.

4. That the names, titles, and addresses of the officers and directors of the Corporation are as follows:

<u>Name</u>	<u>Title</u>	<u>Address</u>
Anthony J. Cooper	President, Director	600 Roe Avenue Elmira, New York 14905
Ronald J. Kintz	Treasurer, Director	600 Roe Avenue Elmira, New York 14905
John R. Alexander	Secretary, Director	1 West Church Street Elmira, New York 14901

5. That the assets of the Corporation as of August 31, 2011, had a total value of \$1,861,351, which amount included: (a) cash deposits totaling \$290,188; (b) a money market account at Centric Bank in Harrisburg, Pennsylvania, having a balance of \$256,162; (c) a money market account at Community Bank, N.A. in Elmira, New York, having a balance of \$254,453; and (d) various mutual funds and separately-managed investment accounts invested under the

direction of Prime, Buchholz & Associates, Inc. of Portsmouth, New Hampshire, having a total market value of \$1,060,548.

6. That the liabilities of the Corporation as of August 31, 2011 had a total value of \$510,615, which amount consists entirely of the balance owed on a note given by the Corporation to Arnot Ogden Medical Center.

7. That the dissolution of the Corporation is contemplated, and that the assets of the Corporation are to be distributed in accordance with the Plan of Dissolution and Distribution of Assets adopted by the Corporation's Board of Directors. A copy of said Plan is annexed hereto as Exhibit C.

8. That the Corporation is required to use the amounts held in its money market accounts at Centric Bank and Community Bank, N.A. exclusively for repayment of the balance owed on the aforementioned note given by the Corporation to Arnot Ogden Medical Center.

9. That the Board of Directors of the Corporation wishes to dissolve the Corporation for the following particular reason: the continued commitment of financial and human resources to the operation of the Corporation is unnecessary and inefficient, as the assets which are presently held and managed by the Corporation for the benefit of Arnot Ogden Medical Center can be held and managed directly by Arnot Ogden Medical Center.

10. That at a special meeting of the Board of Directors of the Corporation duly convened on September 26, 2011, at which meeting a quorum was present, the Board unanimously adopted the aforementioned Plan of Dissolution and Distribution of Assets and authorized the filing of a Certificate of Dissolution in accordance with Section 1003 of the Not-

for-Profit Corporation Law.

11. That the Corporation has no members, and that the adoption of the Plan of Dissolution and Distribution of Assets by the Board of Directors resulted in the approval of said Plan.

12. That Arnot Ogden Medical Center has agreed to accept the assets of the Corporation and to use and distribute such assets in accordance with the Plan of Dissolution and Distribution of Assets and as may be ordered and directed by the Court.

13. That Arnot Ogden Medical Center is a charitable organization engaged in activities substantially similar to the Corporation's activities and is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

14. That the following documents pertaining to Arnot Ogden Medical Center are attached as exhibits to the Plan of Dissolution and Distribution of Assets: (a) Certificate of Incorporation and By-Laws, together with any and all amendments thereto; (b) financial reports for each of the last three years; (c) Internal Revenue Service letter of determination that the organization is exempt from taxation; and (d) an affidavit from an officer of the organization stating the purposes of the organization and that it is currently exempt from taxation.

15. That a copy of this Petition and the aforementioned Plan of Dissolution and Distribution of Assets have been filed with the Attorney General of the State of New York.

16. That no government agency or officer is required to approve the dissolution of the Corporation.

17. That no previous application has been made for the relief requested herein.

WHEREFORE, Petitioner respectfully requests that this Court issue an Order:

(1) Approving the aforementioned Plan of Dissolution and Distribution of Assets of The Falck Foundation, Inc., a not-for-profit corporation, pursuant to Not-for-Profit Corporation Law Section 1002.

(2) Granting such other and further relief as the Court deems proper.

Dated: November 16, 2011

THE FALCK FOUNDATION, INC.

By *John R. Alexander*
John R. Alexander
Secretary

Dated: November 16, 2011

SAYLES & EVANS

Aaron T. Alsheimer

Aaron T. Alsheimer, of counsel
Attorneys for Petitioner
One West Church Street
Elmira, New York 14901
Telephone: (607) 734-2271

VERIFICATION

State of New York)
: ss.
County of Chemung)

John R. Alexander, being duly sworn, deposes and says that he is the person named in the foregoing Petition; that he has read the foregoing Petition and knows the contents thereof; that the same is true to the knowledge of the deponent, except as to matters therein stated to be alleged on information and belief, and as to those matters he believes to be true.

John R. Alexander

Sworn to before me

this 16 day of November, 2011.

Aaron T. Alsheimer
Notary Public.

AARON T. ALSHEIMER
Notary Public, State of New York
Steuben County No. 02AL6183547
Commission Expires March 17, 2012



STATE OF NEW YORK - DEPARTMENT OF HEALTH

MEMORANDUM

TO: Public Health and Health Planning Council
FROM: James E. Dering, General Counsel *JED*
DATE: July 9, 2012
SUBJECT: Proposed Dissolution of St. Clare Manor of Lockport, N.Y.

St. Clare Manor of Lockport, N.Y. requests Public Health and Health Planning Council approval of its proposed dissolution in accordance with the requirements of Not-For-Profit Corporation Law §1002(c) and §1003, as well as 10 NYCRR Part 650.

St. Clare Manor of Lockport, N.Y. was formed in 1961 under the Membership Corporations Law and operated a residential health care center in Niagara County until 2003, when St. Clare Manor of Lockport, N.Y. ceased operations and surrendered its operating certificates to the Department. Therefore, there is no longer a reason for St. Clare Manor of Lockport, N.Y. to exist. Pursuant to St. Clare Manor of Lockport, N.Y.'s Plan of Dissolution, if approved by the Supreme Court, St. Clare Manor of Lockport, N.Y.'s liabilities, if any, will be paid by Catholic Health System, Inc., the sole member of the corporation.

Attached are a copy of the duly executed proposed Certificate of Dissolution, a letter from St. Clare Manor of Lockport, N.Y.'s attorney explaining the need for the proposed dissolution, a proposed Plan of Dissolution, and a proposed Verified Petition seeking the Supreme Court's approval of St. Clare Manor of Lockport, N.Y.'s Certificate of Dissolution.

The Certificate of Dissolution is in legally acceptable form.

Attachments



Phillips Lytle LLP

Via FedEx

May 10, 2012

New York State Department of Health
Division of Legal Affairs
Bureau of House Counsel
24th Floor, Corning Tower
Empire State Plaza
Albany, New York 12237

RECEIVED

MAY 11 2012

NYS DEPARTMENT OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF HOUSE COUNSEL

Attn: David W. Quist, Associate Attorney

Re: Request for Approval of Voluntary Dissolution of St. Clare Manor of Lockport,
N.Y. (the "Corporation")

Dear Mr. Quist:

We represent the above-referenced Corporation in connection with its proposed voluntary dissolution under the New York State Not-for-Profit Corporation Law. The Corporation requests the approval of the New York State Public Health and Health Planning Council (the "Council") to voluntarily dissolve. Please note that the enclosed documents have been updated to incorporate the comments contained in your letter dated March 5, 2012, and, per our telephone discussion, have been revised to change the entity to which assets are proposed to be distributed upon dissolution.

We offer the following information regarding the Corporation, its public need for dissolution and the proposed disposition of its assets: the Corporation was incorporated on March 2, 1961 but no longer undertakes any substantive activity, voluntarily returned its operating certificate (Certificate #3101304N) to operate as a nursing home to the NYS Department of Health on November 19, 2003 and has no outstanding claims against it nor any liabilities. As such, the Corporation's board of directors and its member (with ratification by its member's corporate members and religious sponsors) have determined that there is no reason to continue the Corporation's existence and that any remaining assets could be better utilized by and should be transferred to the Corporation's sole member, Catholic Health System, Inc. upon dissolution. As discussed, the Corporation had initially determined that its affiliate, St. Francis Home of Williamsville should be the recipient of any remaining assets, but because of further internal considerations since the date of its initial

ATTORNEYS AT LAW

SHARON PRISK AZURIN, PARTNER DIRECT 716 847 7088 SAZURIN@PHILLIPSLYTLLE.COM

3400 HSBC CENTER BUFFALO, NY 14203-2887 PHONE 716 847 8400 FAX 716 852 6100
BUFFALO ALBANY CHAUTAUQUA GARDEN CITY NEW YORK ROCHESTER WWW.PHILLIPSLYTLLE.COM



New York State Department of Health
Page 2

May 10, 2012

application to the Council for approval to dissolve, the Corporation has determined that the assets are more appropriately transferred to Catholic Health System, Inc.

Enclosed are the following documents we understand are required by the Council to consider the requested approval of the Corporation's dissolution and distribution of assets:

1. The proposed executed Certificate of Dissolution;
2. The proposed Amended and Restated Plan of Dissolution and Distribution of Assets; and
3. The proposed Verified Petition for Order Approving Plan of Dissolution and Distribution of Assets.

Please do not hesitate to contact me should the Council's office require any additional information or documentation in connection with the Corporation's request for approval of voluntary dissolution.

We appreciate your assistance and the Council's consideration of this matter.

Very truly yours,

Phillips Lytle LLP

By 

Sharon Prise Azurin

SPAs

Enclosures

Doc # 01-2570623.1

cc: Nancy J. Sheehan RN, Esq. (w/o encls.)
Robert M. Greene, Esq. (w/o encls.)

CERTIFICATE OF DISSOLUTION

Certificate of Dissolution
of St. Clare Manor of Lockport, N.Y.
Under Section 1003 of the Not-for-Profit Corporation Law

I, Christine Kluckhohn, the President & CEO of St. Clare Manor of Lockport, N.Y. (the "Corporation") hereby certify:

1. The name of this Corporation is St. Clare Manor of Lockport, N.Y.
2. The Certificate of Incorporation of the Corporation was filed with the New York State Department of State on the 2nd day of March, 1961.
3. The names and addresses of each of the officers and directors of the Corporation and the title of each are as follows:

<u>Name</u>	<u>Title(s)</u>	<u>Address</u>
Edward Flynn	Director	MassMutual Financial Group 300 Corporate Parkway, Suite 216 N Amherst, New York 14226
Christine Kluckhohn	Director and President	CHS Continuing Care 291 North Street Buffalo, New York 14201
Joyce Markiewicz	Director	CHS Home Health Care 2875 Union Road, Suite 14 Cheektowaga, New York 14227
Joseph D. McDonald	Director	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Mark Meyerhofer	Director	Patricia Lynch Associates Inc. 726 Exchange Street, Suite 815 Buffalo, New York 14210
James Millard	Director	Kenmore Mercy Hospital 2950 Elmwood Avenue Kenmore, New York 14217
Robert Nasso	Director and Vice Chair	Rotenberg & Company LLP 1870 Winton Road South Rochester, New York 14618

Sherry Pomeroy	Director	University at Buffalo, SUNY School of Nursing 323 Wende Hall 304E 3435 Main Street Buffalo, New York 14214
Mark A. Sullivan	Director and Secretary	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Nancy Truver	Director	3525 Carnoustie Drive Martinez, Georgia 30907
Sr. Mary Anne Weldon, R.S.M.	Director	Sullivan House 688 Ridge Road Lackawanna, New York 14218
Monsignor Robert E. Zapfel	Director and Chair	St. Leo the Great 885 Sweet Home Road Amherst, New York 14226

4. At the time of dissolution the Corporation is a Type B New York not-for-profit corporation.
5. At the time of authorization of the Corporation's Amended and Restated Plan of Dissolution and Distribution of Assets pursuant to N-PCL §1002, the Corporation held no assets legally required to be used for a particular purpose.
6. The Corporation elects to dissolve.
7. An Amended and Restated Plan of Dissolution and Distribution of Assets was authorized by required vote of the Board of Directors of the Corporation on March 15, 2012 and approved by the sole member of the Corporation by required vote on March 29, 2012.
8. On _____, 20__, the New York State Supreme Court, Erie County, issued an Order Approving the Plan of Dissolution and Distribution of Assets. Prior to the filing of this Certificate of Dissolution with the Department of State, a copy of the Order will be annexed hereto, pursuant to N-PCL § 1003(a)(8).
9. Approval of the dissolution of the Corporation is required by the New York State Public Health and Health Planning Council and a copy of such approval will be attached prior to the filing of this Certificate of Dissolution with the Department of State.
10. The Corporation has carried out the Amended and Restated Plan of Dissolution and Distribution of Assets.

11. Prior to the filing of this Certificate of Dissolution with the Department of State, the endorsement of the Attorney General will be attached.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Dissolution of St. Clare Manor of Lockport, N.Y. this 26th day of April, 2012.



(Signature)

Name of Officer: Christine Kluckhohn

Title: President & CEO

Certificate of Dissolution

of

St. Clare Manor of Lockport, N.Y.

Under Section 1003 of the Not-for-Profit Corporation Law

Filed by:

**Phillips Lytle LLP
3400 HSBC Center
Buffalo, New York 14203**

**AMENDED AND RESTATED PLAN OF DISSOLUTION
AND DISTRIBUTION OF ASSETS**

**Amended and Restated Plan of Dissolution and Distribution of Assets
of St. Clare Manor of Lockport, N.Y., a New York
Not-for-Profit Corporation**

The Board of Directors of St. Clare Manor of Lockport, N.Y. (the "Corporation"), at a meeting duly convened on the 15th day of March, 2012, pursuant to notice given in accordance with the applicable law, a quorum being present at all times, having considered the advisability of voluntarily dissolving the Corporation, and it being the opinion of the Board of Directors that dissolution is advisable and in the best interests of the Corporation, and the Board of Directors having adopted, by required vote, a plan for a voluntary dissolution of the Corporation, does hereby recommend to the sole member of the Corporation for authorization that the Corporation be dissolved in accordance with the following plan:

1. Upon resolution of the Board of Directors adopting this plan of dissolution, the Board of Directors shall submit the plan of dissolution to a vote of the sole member of the Corporation for approval.
2. Approval of the dissolution of the Corporation is required to be obtained by the New York State Public Health and Health Planning Council, and a copy of such approval is attached.
3. The Corporation has assets. Such assets are not legally required to be used for any particular purpose. The Corporation's assets consist of cash in the approximate amount of \$252,000 as of February 29, 2012.
4. The assets owned by the Corporation subject to any unpaid liabilities of the Corporation shall be distributed to the following organization with substantially similar purposes, which qualifies as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended: Catholic Health System, Inc. The assets shall be used for purposes related to the provision and enhancement of long term health care programs and services consistent with the mission of providing care to elderly and disabled persons.

The following documents of Catholic Health System, Inc. are each attached to this Plan: the governing instrument and any amendments thereto, the financial reports for the last three years, the Internal Revenue Service group ruling that the organization is exempt from taxation as listed in "The Official Catholic Directory", and a sworn affidavit from a director and officer of Catholic Health System, Inc. stating the purposes of the organization and that it is currently exempt from federal income taxation.

5. The Corporation has no liabilities. Any liabilities related to the dissolution procedure, including accounting and legal fees estimated at \$8,500, shall be incurred and payable by Catholic Health System, Inc., the Corporation's sole member.
6. Within two hundred seventy days after the date that an Order Approving Plan of Dissolution and Distribution of Assets is signed by the Court, the Corporation shall carry out this Plan.

7. This Amended and Restated Plan of Dissolution and Distribution of Assets amends and restates in its entirety the Plan of Dissolution and Distribution of Assets approved by the Board of Directors of the Corporation at a meeting held on July 21, 2011.

Certification

I, _____, Secretary of the St. Clare Manor of Lockport, N.Y. hereby certify under penalties of perjury that a meeting of the Board of Directors of the Corporation was duly held at _____ on March 15, 2012 at _____ and the within Plan of Dissolution was duly submitted and passed by the required vote of the Directors, and that the sole member of the Corporation approved the Plan of Dissolution and Distribution of Assets.

(Signature)
(Name of Officer & Title)
Dated the ____ day of
_____, 2012

Doc # 01-2524901.2

**VERIFIED PETITION FOR ORDER APPROVING AMENDED AND RESTATED
PLAN OF DISSOLUTION AND DISTRIBUTION OF ASSETS**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----- X
In the Matter of the Application of :
St. Clare Manor of Lockport, N.Y. : VERIFIED PETITION
For Approval of Amended and Restated Plan of :
Dissolution and Distribution of Assets pursuant to : Index No.
Section 1002 of the Not-for-Profit :
Corporation Law. :
----- X

TO: THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

Petitioner, St. Clare Manor of Lockport, N.Y. by _____ of St. Clare Manor
of Lockport, N.Y. for its Verified Petition herein respectfully alleges:

1. St. Clare Manor of Lockport, N.Y. (the "Corporation"), whose principal address is
c/o Catholic Health System, Inc., 2121 Main Street, Suite 300, Buffalo, New York 14214, was
incorporated pursuant to New York's Membership Corporations Law on March 2, 1961. A copy
of the Certificate of Incorporation and any amendments are attached as Exhibit A.

2. The names, addresses and titles of the Corporation's officers and directors are as follows:

<u>Name</u>	<u>Title(s)</u>	<u>Address</u>
Edward Flynn	Director	MassMutual Financial Group 300 Corporate Parkway, Suite 216 N Amherst, New York 14226
Christine Kluckhohn	Director and President	CHS Continuing Care 291 North Street Buffalo, New York 14201
Joyce Markiewicz	Director	CHS Home Health Care 2875 Union Road, Suite 14 Cheektowaga, New York 14227
Joseph D. McDonald	Director	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Mark Meyerhofer	Director	Patricia Lynch Associates Inc. 726 Exchange Street, Suite 815 Buffalo, New York 14210

James Millard	Director	Kenmore Mercy Hospital 2950 Elmwood Avenue Kenmore, New York 14217
Robert Nasso	Director and Vice Chair	Rotenberg & Company LLP 1870 Winton Road South Rochester, New York 14618
Sherry Pomeroy	Director	University at Buffalo, SUNY School of Nursing 323 Wende Hall 304E 3435 Main Street Buffalo, New York 14214
Mark A. Sullivan	Director and Secretary	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Nancy Truver	Director	3525 Carnoustie Drive Martinez, Georgia 30907
Sr. Mary Anne Weldon, R.S.M.	Director	Sullivan House 688 Ridge Road Lackawanna, New York 14218
Monsignor Robert E. Zapfel	Director and Chair	St. Leo the Great 885 Sweet Home Road Amherst, New York 14226

3. The purposes for which the Corporation was organized are as follows: "To establish and maintain a home to provide lodging, board and nursing care for sick, invalid, infirm, aged, disabled and convalescent persons under medical supervision."

4. The Corporation is a Type B corporation.

5. The assets of the Corporation and their fair market values are as follows: Cash in the approximate amount of \$252,000 as of February 29, 2012.

6. The Corporation's liabilities are as follows: The Corporation has no liabilities. Any liabilities related to the dissolution procedure shall be incurred and payable by the Corporation's sole member.

7. The Corporation assets are not legally required to be used for any particular purpose.

8. Dissolution of the Corporation is contemplated and assets are to be distributed in accordance with the Amended and Restated Plan of Dissolution and Distribution of Assets.

9. The assets of the Corporation subject to any unpaid liability of the Corporation shall be distributed to the following organization with substantially similar purposes, which qualifies as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended: Catholic Health System, Inc.

The following documents of Catholic Health System, Inc. are attached to the Amended and Restated Plan of Dissolution and Distribution of Assets, which is an exhibit to the Petition:

- the governing instrument, with all amendments;
- financial reports for the last three years;
- the Internal Revenue Service group ruling that the organization is exempt from taxation as listed in "The Official Catholic Directory"; and
- an affidavit from a director and officer thereof stating the purposes of the organization and that it is currently exempt from taxation.

10. A meeting of the Board of Directors of the Corporation was held pursuant to duly given notice on March 15, 2012 at which a resolution was duly passed by required vote of the directors of the Corporation adopting an Amended and Restated Plan of Dissolution and Distribution of Assets and authorizing the filing of a Certificate of Dissolution in accordance with Section 1003 of the Not-for-Profit Corporation Law. A copy of the Amended and Restated Plan of Dissolution and Distribution of Assets, certified by the Secretary is attached as an Exhibit B.

11. The Amended and Restated Plan of Dissolution and Distribution of Assets adopted by the Board of Directors was submitted to a vote of the sole member of the Corporation as required by N-PCL § 1002(a). The Amended and Restated Plan of Dissolution and Distribution of Assets was approved by the sole member by required vote at a meeting of the member held on March 29, 2012. A copy of the resolutions of the member approving the Plan of Dissolution and Distribution of Assets, certified by the Secretary is attached as an Exhibit C.

12. Approval of the New York State Public Health and Health Planning Council is required, and a copy of such approval is attached as Exhibit D.

13. No previous application for approval of the Amended and Restated Plan of Dissolution and Distribution of Assets of the Corporation has been made.

WHEREFORE, petitioner requests that the Court grant an Order Approving the Amended and Restated Plan of Dissolution and Distribution of Assets of St. Clare Manor of Lockport, N.Y., a not-for-profit corporation, pursuant to the Not-for-Profit Corporation Law Section 1002.

IN WITNESS WHEREFORE, the Corporation has caused this Petition to be executed this ____ day of _____, 2012 by

(Signature)
Name of Officer: _____
Title: _____

Verification

STATE OF NEW YORK)
 :SS.:
COUNTY OF ERIE)

_____, being duly sworn, deposes and says:

I am the _____ of St. Clare Manor of Lockport, N.Y., the corporation named in the above Petition and make this verification at the direction of its Board of Directors. I have read the foregoing Petition and know the contents thereof to be true of my own knowledge, except those matters that are stated on information and belief and as to those matters I believe them to be true.

(Signature)

Sworn to before me this
___ day of _____, 2012.

Notary Public


Doc # 01-2471795.3



STATE OF NEW YORK - DEPARTMENT OF HEALTH

M E M O R A N D U M

TO: Public Health and Health Planning Council

FROM: James E. Dering, General Counsel 

DATE: July 9, 2012

SUBJECT: Proposed Dissolution of St. Joseph's Manor of Olean, N.Y.

St. Joseph's Manor of Olean, N.Y. ("St. Joseph's") requests Public Health and Health Planning Council approval of its proposed dissolution in accordance with the requirements of Not-For-Profit Corporation Law §1002(c) and §1003, as well as 10 NYCRR Part 650.

St. Joseph's was formed in 1961 under the Membership Corporations Law and operated a residential health care center in Cattaraugus County until 2006, when St. Joseph's ceased operations and surrendered its operating certificate to the Department. Therefore, there is no longer a reason for St. Joseph's to exist. Pursuant to St. Joseph's Plan of Dissolution, if approved by the Supreme Court, St. Joseph's liabilities, if any, will be paid by Catholic Health System, Inc., the sole member of the corporation.

Attached are a copy of the duly executed proposed Certificate of Dissolution, a letter from St. Joseph's attorney explaining the need for the proposed dissolution, a proposed Plan of Dissolution, and a proposed Verified Petition seeking the Supreme Court's approval of St. Joseph's Certificate of Dissolution.

The Certificate of Dissolution is in legally acceptable form.

Attachments



Phillips Lytle LLP

Via FedEx

May 10, 2012

New York State Department of Health
Division of Legal Affairs
Bureau of House Counsel
24th Floor, Corning Tower
Empire State Plaza
Albany, New York 12237

RECEIVED

MAY 11 2012

NYS DEPARTMENT OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF HOUSE COUNSEL

Attn: Michael Stone, Associate Attorney

Re: Request for Approval of Voluntary Dissolution of St. Joseph's Manor of Olean,
N.Y. (the "Corporation")

Dear Mr. Stone:

We represent the above-referenced Corporation in connection with its proposed voluntary dissolution under the New York State Not-for-Profit Corporation Law. The Corporation requests the approval of the New York State Public Health and Health Planning Council (the "Council") to voluntarily dissolve. Please note that the enclosed documents have been updated to incorporate David Quist's comments contained in his letter to me dated March 5, 2012 regarding a related entity, and as we discussed, have been revised to change the entity to which assets are proposed to be distributed upon dissolution.

We offer the following information regarding the Corporation, its public need for dissolution and the proposed disposition of its assets: the Corporation was incorporated on June 14, 1961 but no longer undertakes any substantive activity, voluntarily returned its operating certificate (Certificate #0401301N) to operate as a nursing home to the NYS Department of Health on August 18, 2006 and has no outstanding claims against it nor any liabilities. As such, the Corporation's board of directors and its member (with ratification by its member's corporate members and religious sponsors) have determined that there is no reason to continue the Corporation's existence and that any remaining assets could be better utilized by and should be transferred to the Corporation's sole member, Catholic Health System, Inc. upon dissolution. As discussed, the Corporation had initially determined that its affiliate, St. Francis Home of Williamsville should be the recipient of any remaining assets, but because of further internal considerations since the date of its initial

ATTORNEYS AT LAW

SHARON PRISE AZURIN, PARTNER DIRECT 716 847 7088 SAZURIN@PHILLIPSLYTTLE.COM

3400 HSBC CENTER BUFFALO, NY 14203-2887 PHONE 716 847 8400 FAX 716 852 6100
BUFFALO ALBANY CHAUTAUQUA GARDEN CITY NEW YORK ROCHESTER WWW.PHILLIPSLYTTLE.COM



New York State Department of Health
Page 2

May 10, 2012

application to the Council for approval to dissolve, the Corporation has determined that the assets are more appropriately transferred to Catholic Health System, Inc.

Enclosed are the following documents we understand are required by the Council to consider the requested approval of the Corporation's dissolution and distribution of assets:

1. The proposed executed Certificate of Dissolution;
2. The proposed Amended and Restated Plan of Dissolution and Distribution of Assets; and
3. The proposed Verified Petition for Order Approving Plan of Dissolution and Distribution of Assets.

Please do not hesitate to contact me should the Council's office require any additional information or documentation in connection with the Corporation's request for approval of voluntary dissolution.

We appreciate your assistance and the Council's consideration of this matter.

Very truly yours,

Phillips Lytle LLP

By *Sharon Prise Azurin*

Sharon Prise Azurin

SPAls

Enclosures

Doc # 01-2570824.2

cc: Nancy J. Sheehan RN, Esq. (w/o encls.)
Robert M. Greene, Esq. (w/o encls.)

CERTIFICATE OF DISSOLUTION

Certificate of Dissolution
of St. Joseph's Manor of Olean, N.Y.
Under Section 1003 of the Not-for-Profit Corporation Law

I, Christine Kluckhohn, the President & CEO of St. Joseph's Manor of Olean, N.Y. (the "Corporation") hereby certify:

1. The name of this Corporation is St. Joseph's Manor of Olean, N.Y.
2. The Certificate of Incorporation of the Corporation was filed with the New York State Department of State on the 14th day of June, 1961 and the Restated Certificate of Incorporation of the Corporation was filed with the New York State Department of State on the 7th day of April, 2006.
3. The names and addresses of each of the officers and directors of the Corporation and the title of each are as follows:

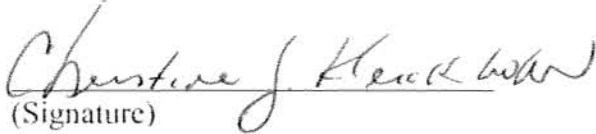
<u>Name</u>	<u>Title(s)</u>	<u>Address</u>
Edward Flynn	Director	MassMutual Financial Group 300 Corporate Parkway, Suite 216 N Amherst, New York 14226
Christine Kluckhohn	Director and President	CHS Continuing Care 291 North Street Buffalo, New York 14201
Joyce Markiewicz	Director	CHS Home Health Care 2875 Union Road, Suite 14 Cheektowaga, New York 14227
Joseph D. McDonald	Director	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Mark Meyerhofer	Director	Patricia Lynch Associates Inc. 726 Exchange Street, Suite 815 Buffalo, New York 14210
James Millard	Director	Kenmore Mercy Hospital 2950 Elmwood Avenue Kenmore, New York 14217
Robert Nasso	Director and Vice Chair	Rotenberg & Company LLP 1870 Winton Road South Rochester, New York 14618

Sherry Pomeroy	Director	University at Buffalo, SUNY School of Nursing 323 Wende Hall 304E 3435 Main Street Buffalo, New York 14214
Mark A. Sullivan	Director and Secretary	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Nancy Truver	Director	3525 Cornoustie Drive Martinez, Georgia 30907
Sr. Mary Anne Weldon, R.S.M.	Director	Sullivan House 688 Ridge Road Lackawanna, New York 14218
Monsignor Robert E. Zapfel	Director and Chair	St. Leo the Great 885 Sweet Home Road Amherst, New York 14226

4. At the time of dissolution the Corporation is a Type B New York not-for-profit corporation.
5. At the time of authorization of the Corporation's Amended and Restated Plan of Dissolution and Distribution of Assets pursuant to N-PCL §1002, the Corporation held no assets legally required to be used for a particular purpose.
6. The Corporation elects to dissolve.
7. An Amended and Restated Plan of Dissolution and Distribution of Assets was authorized by required vote of the Board of Directors of the Corporation on March 15, 2012 and approved by the sole member of the Corporation by required vote on March 29, 2012.
8. On _____, 20__, the New York State Supreme Court, Erie County, issued an Order Approving the Plan of Dissolution and Distribution of Assets. Prior to the filing of this Certificate of Dissolution with the Department of State, a copy of the Order will be annexed hereto, pursuant to N-PCL § 1003(a)(8).
9. Approval of the dissolution of the Corporation is required by the New York State Public Health and Health Planning Council and a copy of such approval will be attached prior to the filing of this Certificate of Dissolution with the Department of State.
10. The Corporation has carried out the Amended and Restated Plan of Dissolution and Distribution of Assets.

11. Prior to the filing of this Certificate of Dissolution with the Department of State, the endorsement of the Attorney General will be attached.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Dissolution of St. Joseph's Manor of Olean, N.Y. this 26th day of April, 2012.

A handwritten signature in cursive script, reading "Christine J. Kluckholm".

(Signature)

Name of Officer: Christine Kluckholm

Title: President & CEO

Certificate of Dissolution

of

St. Joseph's Manor of Olean, N.Y.

Under Section 1003 of the Not-for-Profit Corporation Law

Filed by:

Phillips Lytle LLP
3400 HSBC Center
Buffalo, New York 14203

**AMENDED AND RESTATED PLAN OF DISSOLUTION
AND DISTRIBUTION OF ASSETS**

Amended and Restated Plan of Dissolution and Distribution of Assets
of St. Joseph's Manor of Olean, N.Y., a New York
Not-for-Profit Corporation

The Board of Directors of St. Joseph's Manor of Olean, N.Y. (the "Corporation"), at a meeting duly convened on the 15th day of March, 2012, pursuant to notice given in accordance with the applicable law, a quorum being present at all times, having considered the advisability of voluntarily dissolving the Corporation, and it being the opinion of the Board of Directors that dissolution is advisable and in the best interests of the Corporation, and the Board of Directors having adopted, by required vote, a plan for a voluntary dissolution of the Corporation, does hereby recommend to the sole member of the Corporation for authorization that the Corporation be dissolved in accordance with the following plan:

1. Upon resolution of the Board of Directors adopting this plan of dissolution, the Board of Directors shall submit the plan of dissolution to a vote of the sole member of the Corporation for approval.
2. Approval of the dissolution of the Corporation is required to be obtained by the New York State Public Health and Health Planning Council, and a copy of such approval is attached.
3. The Corporation has assets. Such assets are not legally required to be used for any particular purpose. The Corporation's assets consist of cash in the approximate amount of \$677,000 as of February 29, 2012 and other assets consisting of current and long term loan payments due from Our Lady of Victory Renaissance Corporation (an affiliate of the Corporation) in the approximate aggregate amount of \$164,000 as of February 29, 2012.
4. The assets owned by the Corporation subject to any unpaid liabilities of the Corporation shall be distributed to the following organization with substantially similar purposes, which qualifies as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended: Catholic Health System, Inc. The assets shall be used for purposes related to the provision and enhancement of long term health care programs and services consistent with the mission of providing care to elderly and disabled persons.

The following documents of Catholic Health System, Inc. are each attached to this Plan: the governing instrument and any amendments thereto, the financial reports for the last three years, the Internal Revenue Service group ruling that the organization is exempt from taxation as listed in "The Official Catholic Directory", and a sworn affidavit from a director and officer of Catholic Health System, Inc. stating the purposes of the organization and that it is currently exempt from federal income taxation.

5. The Corporation has no liabilities. Any liabilities related to the dissolution procedure, including accounting and legal fees estimated at \$8,500, shall be incurred and payable by Catholic Health System, Inc., the Corporation's sole member.

6. Within two hundred seventy days after the date that an Order Approving Plan of Dissolution and Distribution of Assets is signed by the Court, the Corporation shall carry out this Plan.

7. This Amended and Restated Plan of Dissolution and Distribution of Assets amends and restates in its entirety the Plan of Dissolution and Distribution of Assets approved by the Board of Directors of the Corporation at a meeting held on July 21, 2011.

Certification

I, _____, Secretary of the St. Joseph's Manor of Olean, N.Y. hereby certify under penalties of perjury that a meeting of the Board of Directors of the Corporation was duly held at _____ on March 15, 2012 at _____ and the within Plan of Dissolution was duly submitted and passed by the required vote of the Directors, and that the sole member of the Corporation approved the Plan of Dissolution and Distribution of Assets.

(Signature)
(Name of Officer & Title)
Dated the ____ day of
_____, 2012

**VERIFIED PETITION FOR ORDER APPROVING AMENDED AND RESTATED
PLAN OF DISSOLUTION AND DISTRIBUTION OF ASSETS**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----- X
 In the Matter of the Application of :
 St. Joseph's Manor of Olean, N.Y. : VERIFIED PETITION
 For Approval of Amended and Restated Plan of :
 Dissolution and Distribution of Assets pursuant to : Index No.
 Section 1002 of the Not-for-Profit :
 Corporation Law. :
 ----- X

TO: THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

Petitioner, St. Joseph's Manor of Olean, N.Y. by _____ of St. Joseph's
Manor of Olean, N.Y., for its Verified Petition herein respectfully alleges:

1. St. Joseph's Manor of Olean, N.Y. (the "Corporation"), whose principal address is
c/o Catholic Health System, Inc., 2121 Main Street, Suite 300, Buffalo, New York 14214, was
incorporated pursuant to New York's Membership Corporations Law on June 14, 1961. A copy
of the Restated Certificate of Incorporation filed with the New York State Department of State
on April 7, 2006, and any amendments are attached as Exhibit A.

2. The names, addresses and titles of the Corporation's officers and directors are as
follows:

<u>Name</u>	<u>Title(s)</u>	<u>Address</u>
Edward Flynn	Director	MassMutual Financial Group 300 Corporate Parkway, Suite 216 N Amherst, New York 14226
Christine Kluckhohn	Director and President	CHS Continuing Care 291 North Street Buffalo, New York 14201
Joyce Markiewicz	Director	CHS Home Health Care 2875 Union Road, Suite 14 Cheektowaga, New York 14227
Joseph D. McDonald	Director	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214

Mark Meyerhofer	Director	Patricia Lynch Associates Inc. 726 Exchange Street, Suite 815 Buffalo, New York 14210
James Millard	Director	Kenmore Mercy Hospital 2950 Elmwood Avenue Kenmore, New York 14217
Robert Nasso	Director and Vice Chair	Rotenberg & Company LLP 1870 Winton Road South Rochester, New York 14618
Sherry Pomeroy	Director	University at Buffalo, SUNY School of Nursing 323 Wende Hall 304E 3435 Main Street Buffalo, New York 14214
Mark A. Sullivan	Director and Secretary	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Nancy Truver	Director	3525 Carnoustie Drive Martinez, Georgia 30907
Sr. Mary Anne Weldon, R.S.M.	Director	Sullivan House 688 Ridge Road Lackawanna, New York 14218
Monsignor Robert E. Zapfel	Director and Chair	St. Leo the Great 885 Sweet Home Road Amherst, New York 14226

3. The purposes for which the Corporation was organized are as follows: “The corporation is organized and at all times shall be operated exclusively for charitable, religious, scientific or educational purposes. Consistent with the foregoing, the specific purposes of the corporation are as follows:

(a) Establish, organize, construct, acquire, equip, maintain, manage and operate a nursing, convalescent and rehabilitative facility for the care and treatment of the sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service and providing nursing care and health-related service to persons who are not occupants of the health care facility, and generally to serve such other purposes and provide all services and programs incidental to the operation of such a facility as defined in Article 28 of the New York Public Health Law.

(b) Establish, maintain, manage and operate various programs, functions and activities relating to health care, community awareness and staff enhancement, all in furtherance of the promotion of the physical and spiritual welfare of those individuals who utilize the resources of the corporation and of the community for which it is a part.

(c) Acquire any property, real or personal, in fee or under lease, or any rights therein or appurtenant thereto, necessary for the construction, financing, refinancing or operation of the health care facility; and to secure the same by mortgage, pledge, or other lien, in furtherance of any and all of the objects of its business in connection with the health care facility.

The corporation shall support and enhance the efficiency of the health-related ministries of the corporation's member and corporations controlled by or connected with the corporation's member, by owning, leasing, managing and maintaining real estate, equipment and other property, and providing services to them.

The accomplishment of the purposes of the corporation must be promoted and conducted in a manner consistent with the Ethical and Religious Directives for Catholic Health Care Services adopted by the National Conference of Catholic Bishops, as amended from time to time and as implemented by the Bishop of Buffalo.”

4. The Corporation is a Type B corporation.

5. The assets of the Corporation and their fair market values are as follows: Cash in the approximate amount of \$677,000 as of February 29, 2012 and current and long term loan payments due from Our Lady of Victory Renaissance Corporation in the aggregate amount of \$164,000 as of February 29, 2012.

6. The Corporation's liabilities are as follows: The Corporation has no liabilities. Any liabilities related to the dissolution procedure shall be incurred and payable by the Corporation's sole member.

7. The Corporation's assets are not legally required to be used for any particular purpose.

8. Dissolution of the Corporation is contemplated and assets are to be distributed in accordance with the Amended and Restated Plan of Dissolution and Distribution of Assets.

9. The assets owned by the Corporation subject to any unpaid liabilities of the Corporation shall be distributed to the following organization with substantially similar purposes, which qualifies as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended: Catholic Health System, Inc.

The following documents of Catholic Health System, Inc. are attached to the Amended and Restated Plan of Dissolution and Distribution of Assets, which is an exhibit to the Petition:

- the governing instrument, with all amendments;
- financial reports for the last three years;
- the Internal Revenue Service group ruling that the organization is exempt from taxation as listed in “The Official Catholic Directory”, and

- an affidavit from a director and officer thereof stating the purposes of the organization and that it is currently exempt from taxation.

10. A meeting of the Board of Directors of the Corporation was held pursuant to duly given notice on March 15, 2012 at which a resolution was duly passed by required vote of the directors of the Corporation adopting an Amended and Restated Plan of Dissolution and Distribution of Assets and authorizing the filing of a Certificate of Dissolution in accordance with Section 1003 of the Not-for-Profit Corporation Law. A copy of the Amended and Restated Plan of Dissolution and Distribution of Assets, certified by the Secretary is attached as an Exhibit B.

11. The Amended and Restated Plan of Dissolution and Distribution of Assets adopted by the Board of Directors was submitted to a vote of the sole member of the Corporation as required by N-PCL § 1002(a). The Amended and Restated Plan of Dissolution and Distribution of Assets was approved by the sole member by required vote at a meeting of the member held on March 29, 2012. A copy of the resolutions of the member approving the Plan of Dissolution and Distribution of Assets, certified by the Secretary is attached as an Exhibit C.

12. Approval of the New York State Public Health and Health Planning Council is required, and a copy of such approval is attached as Exhibit D.

13. No previous application for approval of the Amended and Restated Plan of Dissolution and Distribution of Assets of the Corporation has been made.

WHEREFORE, petitioner requests that the Court grant an Order Approving the Amended and Restated Plan of Dissolution and Distribution of Assets of St. Joseph's Manor of Olean, N.Y., a not-for-profit corporation, pursuant to the Not-for-Profit Corporation Law Section 1002.

IN WITNESS WHEREFORE, the Corporation has caused this Petition to be executed this ____ day of _____, 2012 by

(Signature)
Name of Officer: _____
Title: _____



STATE OF NEW YORK - DEPARTMENT OF HEALTH

M E M O R A N D U M

TO: Public Health and Health Planning Council

FROM: James E. Dering, General Counsel *JED*

DATE: July 9, 2012

SUBJECT: Proposed Dissolution of St. Luke Manor of Batavia, N.Y.

St. Luke Manor of Batavia, N.Y. ("St. Luke") requests Public Health and Health Planning Council approval of its proposed dissolution in accordance with the requirements of Not-For-Profit Corporation Law §1002(c) and §1003, as well as 10 NYCRR Part 650.

St. Luke was formed in 1961 under the Membership Corporations Law and operated a residential health care center in Genesee County until 2004, when St. Luke ceased operations and surrendered its operating certificate to the Department. Therefore, there is no longer a reason for St. Luke to exist. Pursuant to St. Luke's Plan of Dissolution, if approved by the Supreme Court, St. Luke's remaining assets will be transferred to its sole member, Catholic Health System, Inc.

Attached are a copy of the duly executed proposed Certificate of Dissolution, a letter from St. Luke's attorney explaining the need for the proposed dissolution, a proposed Plan of Dissolution, and a proposed Verified Petition seeking the Supreme Court's approval of St. Luke's Certificate of Dissolution.

The Certificate of Dissolution is in legally acceptable form.

Attachments

REC'D

MAY 11 2012

NYS DEPARTMENT OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF HOUSE COUNSEL



Phillips Lytle LLP

RECEIVED

MAY 10 2012
NYS DEPARTMENT OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF HOUSE COUNSEL

Via FedEx

New York State Department of Health
Division of Legal Affairs
Bureau of House Counsel
24th Floor, Corning Tower
Empire State Plaza
Albany, New York 12237

RECEIVED

MAY 11 2012

NYS DEPARTMENT OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF HOUSE COUNSEL

Attn: Michael Stone, Associate Attorney

Re: Request for Approval of Voluntary Dissolution of St. Luke Manor of Batavia, N.Y.
(the "Corporation")

Dear Mr. Stone:

We represent the above-referenced Corporation in connection with its proposed voluntary dissolution under the New York State Not-for-Profit Corporation Law. The Corporation requests the approval of the New York State Public Health and Health Planning Council (the "Council") to voluntarily dissolve. Please note that the enclosed documents have been updated to incorporate David Quist's comments contained in his letter to me dated March 5, 2012 regarding a related entity, and as we discussed, have been revised to change the entity to which assets are proposed to be distributed upon dissolution.

We offer the following information regarding the Corporation, its public need for dissolution and the proposed disposition of its assets: the Corporation was incorporated on June 14, 1961 but no longer undertakes any substantive activity, voluntarily returned its operating certificate (Certificate #1801302N) to operate as a nursing home to the NYS Department of Health on June 17, 2004 and has no outstanding claims against it nor any liabilities. As such, the Corporation's board of directors and its member (with ratification by its member's corporate members and religious sponsors) have determined that there is no reason to continue the Corporation's existence and that any remaining assets could be better utilized by and should be transferred to the Corporation's sole member, Catholic Health System, Inc. upon dissolution. As discussed, the Corporation had initially determined that its affiliate, St. Francis Home of Williamsville should be the recipient of any remaining assets, but because of further internal considerations since the date of its initial

ATTORNEYS AT LAW

SHARON PRISE AZURIN, PARTNER DIRECT 716 847 7088 SAZURIN@PHILLIPSLYTL.COM

3400 HSBC CENTER BUFFALO, NY 14203-2887 PHONE 716 847 8400 FAX 716 852 6100
BUFFALO ALBANY CHAUTAUQUA GARDEN CITY NEW YORK ROCHESTER WWW.PHILLIPSLYTL.COM



New York State Department of Health
Page 2

May 10, 2012

application to the Council for approval to dissolve, the Corporation has determined that the assets are more appropriately transferred to Catholic Health System, Inc.

Enclosed are the following documents we understand are required by the Council to consider the requested approval of the Corporation's dissolution and distribution of assets:

1. The proposed executed Certificate of Dissolution;
2. The proposed Amended and Restated Plan of Dissolution and Distribution of Assets; and
3. The proposed Verified Petition for Order Approving Plan of Dissolution and Distribution of Assets.

Please do not hesitate to contact me should the Council's office require any additional information or documentation in connection with the Corporation's request for approval of voluntary dissolution.

We appreciate your assistance and the Council's consideration of this matter.

Very truly yours,

Phillips Lytle LLP

By 

Sharon Prise Azurin

SPAls

Enclosures

Doc # 01-2571036.2

cc: Nancy J. Sheehan RN, Esq. (w/o encls.)
Robert M. Greene, Esq. (w/o encls.)

CERTIFICATE OF DISSOLUTION

Certificate of Dissolution
of St. Luke Manor of Batavia, N.Y.
Under Section 1003 of the Not-for-Profit Corporation Law

I, Christine Kluckhohn, the President & CEO of St. Luke Manor of Batavia, N.Y. (the "Corporation") hereby certify:

1. The name of this Corporation is St. Luke Manor of Batavia, N.Y.
2. The Certificate of Incorporation of St. Luke Manor of Batavia, N.Y. was filed with the New York State Department of State on the 14th day of June, 1961.
3. The names and addresses of each of the officers and directors of the Corporation and the title of each are as follows:


<u>Name</u>	<u>Title(s)</u>	<u>Address</u>
Edward Flynn	Director	MassMutual Financial Group 300 Corporate Parkway, Suite 216 N Amherst, New York 14226
Christine Kluckhohn	Director and President	CHS Continuing Care 291 North Street Buffalo, New York 14201
Joyce Markiewicz	Director	CHS Home Health Care 2875 Union Road, Suite 14 Cheektowaga, New York 14227
Joseph D. McDonald	Director	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Mark Meyerhofer	Director	Patricia Lynch Associates Inc. 726 Exchange Street, Suite 815 Buffalo, New York 14210
James Millard	Director	Kenmore Mercy Hospital 2950 Elmwood Avenue Kenmore, New York 14217
Robert Nasso	Director and Vice Chair	Rotenberg & Company LLP 1870 Winton Road South Rochester, New York 14618

Sherry Pomeroy	Director	University at Buffalo, SUNY School of Nursing 323 Wende Hall 304E 3435 Main Street Buffalo, New York 14214
Mark A. Sullivan	Director and Secretary	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Nancy Truver	Director	3525 Carnoustie Drive Martinez, Georgia 30907
Sr. Mary Anne Weldon, R.S.M.	Director	Sullivan House 688 Ridge Road Lackawanna, New York 14218
Monsignor Robert E. Zapfel	Director and Chair	St. Leo the Great 885 Sweet Home Road Amherst, New York 14226

4. At the time of dissolution the Corporation is a Type B New York not-for-profit corporation.
5. At the time of the authorization of the Corporation's Amended and Restated Plan of Dissolution and Distribution of Assets pursuant to N-PCL §1002, the Corporation held no assets legally required to be used for a particular purpose.
6. The Corporation elects to dissolve.
7. An Amended and Restated Plan of Dissolution and Distribution of Assets was authorized by required vote of the Board of Directors of the Corporation on March 15, 2012 and approved by the sole member of the Corporation by required vote on March 29, 2012.
8. On _____, 20__, the New York State Supreme Court, Erie County, issued an Order Approving the Plan of Dissolution and Distribution of Assets. Prior to the filing of this Certificate of Dissolution with the Department of State, a copy of the Order will be annexed hereto, pursuant to N-PCL §1003(a)(8).
9. Approval of the dissolution of the Corporation is required by the New York State Public Health and Health Planning Council and a copy of such approval will be attached prior to the filing of this Certificate of Dissolution with the Department of State.
10. The Corporation has carried out the Amended and Restated Plan of Dissolution and Distribution of Assets.

11. Prior to the filing of this Certificate of Dissolution with the Department of State, the endorsement of the Attorney General will be attached.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Dissolution of St. Luke Manor of Batavia, N.Y. this 26th day of April, 2012.

A handwritten signature in cursive script, appearing to read "Christine Kluekhohn", written over a horizontal line.

(Signature)

Name of Officer: Christine Kluekhohn

Title: President & CEO

Certificate of Dissolution

of

St. Luke Manor of Batavia, N.Y.

Under Section 1003 of the Not-for-Profit Corporation Law

Filed by:

Phillips Lytle LLP
3400 HSBC Center
Buffalo, New York 14203

**AMENDED AND RESTATED PLAN OF DISSOLUTION
AND DISTRIBUTION OF ASSETS**

Amended and Restated Plan of Dissolution and Distribution of Assets of
St. Luke Manor of Batavia, N.Y.,
a New York Not-For-Profit Corporation

The Board of Directors of St. Luke Manor of Batavia, N.Y., a New York not-for-profit corporation (the "Corporation"), at a meeting duly convened on the 15th day of March, 2012, pursuant to notice given in accordance with applicable law, a quorum being present at all times, having considered the advisability of voluntarily dissolving the Corporation, and it being the opinion of the Board of Directors that dissolution is advisable and in the best interests of the Corporation to effect such a dissolution, and the Board of Directors having adopted, by the required vote, a plan for a voluntary dissolution of the Corporation, does hereby recommend to the sole member of the Corporation for authorization that the Corporation be dissolved in accordance with the following plan:

1. Upon resolution of the Board of Directors adopting this plan of dissolution (the "Plan"), the Board of Directors shall submit the Plan to a vote of the sole member of the Corporation for approval.
2. Approval of the dissolution of the Corporation is required to be obtained from the New York State Public Health and Health Planning Council, and a copy of such approval is attached.
3. The Corporation has assets. Such assets are not legally required to be used for any particular purpose. The Corporation's assets consist of cash in the approximate amount of \$7,000 as of February 29, 2012, and the Corporation has no other assets to distribute.
4. The assets owned by the Corporation subject to any unpaid liabilities of the Corporation shall be distributed to the following organization with substantially similar purposes, which qualifies as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended: Catholic Health System, Inc. The assets shall be used for purposes related to the provision and enhancement of long term health care programs and services consistent with the mission of providing care to elderly and disabled persons.

The following documents of Catholic Health System, Inc. are each attached to this Plan: the governing instrument and any amendments thereto, the financial reports for the last three years, the Internal Revenue Service group ruling that the organization is exempt from taxation as listed in "The Official Catholic Directory", and a sworn affidavit from a director and officer of Catholic Health System, Inc. stating the purposes of the organization and that it is currently exempt from federal income taxation.

5. The Corporation has no liabilities. Any liabilities related to the dissolution procedure, including accounting and legal fees estimated at \$8,500, shall be incurred and payable by Catholic Health System, Inc. the Corporation's sole member.
6. Within two hundred seventy days after the date that an Order Approving Plan of Dissolution and Distribution of Assets is signed by the Court, the Corporation shall carry out this Plan.

7. This Amended and Restated Plan of Dissolution and Distribution of Assets amends and restates in its entirety the Plan of Dissolution and Distribution of Assets approved by the Board of Directors of the Corporation at a meeting held on July 21, 2011.

Certification

I, _____, Secretary of the St. Luke Manor of Batavia, N.Y. hereby certify under penalties for perjury that a meeting of the Board of Directors of the Corporation was duly held at _____ on March 15, 2012 at _____ and the within Plan of Dissolution was duly submitted and passed by the required vote of the Board of Directors and, that, the sole member of the Corporation approved the Plan of Dissolution.

(Signature)
(Name of Officer & Title)
Dated the ____ day of _____, 2012.

**VERIFIED PETITION FOR ORDER APPROVING AMENDED AND RESTATED
PLAN OF DISSOLUTION AND DISTRIBUTION OF ASSETS**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----- X
In the Matter of the Application of :
St. Luke Manor of Batavia, N.Y. : VERIFIED PETITION
For Approval of Amended and Restated Plan of :
Dissolution and Distribution of Assets pursuant to : Index No.
Section 1002 of the Not-for-Profit :
Corporation Law. :
----- X

TO: THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

Petitioner, St. Luke Manor of Batavia, N.Y. by _____ of St. Luke Manor
of Batavia, N.Y., for its Verified Petition herein respectfully alleges:

1. St. Luke Manor of Batavia, N.Y. (the "Corporation"), whose principal address is
c/o Catholic Health System, Inc., 2121 Main Street, Suite 300, Buffalo, New York 14214, was
incorporated pursuant to New York's Membership Corporations Law on June 14, 1961. A copy
of the Certificate of Incorporation and any amendments are attached as Exhibit A.

2. The names, addresses and titles of the Corporation's officers and directors are as follows:

<u>Name</u>	<u>Title(s)</u>	<u>Address</u>
Edward Flynn	Director	MassMutual Financial Group 300 Corporate Parkway, Suite 216 N Amherst, New York 14226
Christine Kluckhohn	Director and President	CHS Continuing Care 291 North Street Buffalo, New York 14201
Joyce Markiewicz	Director	CHS Home Health Care 2875 Union Road, Suite 14 Cheektowaga, New York 14227
Joseph D. McDonald	Director	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Mark Meyerhofer	Director	Patricia Lynch Associates Inc. 726 Exchange Street, Suite 815 Buffalo, New York 14210

James Millard	Director	Kenmore Mercy Hospital 2950 Elmwood Avenue Kenmore, New York 14217
Robert Nasso	Director and Vice Chair	Rotenberg & Company LLP 1870 Winton Road South Rochester, New York 14618
Sherry Pomeroy	Director	University at Buffalo, SUNY School of Nursing 323 Wende Hall 304E 3435 Main Street Buffalo, New York 14214
Mark A. Sullivan	Director and Secretary	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Nancy Truver	Director	3525 Carnoustie Drive Martinez, Georgia 30907
Sr. Mary Anne Weldon, R.S.M.	Director	Sullivan House 688 Ridge Road Lackawanna, New York 14218
Monsignor Robert E. Zapfel	Director and Chair	St. Leo the Great 885 Sweet Home Road Amherst, New York 14226

3. The purposes for which the Corporation was organized are as follows: "To establish and maintain a home to provide lodging, board and nursing care for sick, invalid, infirm, aged, disabled and convalescent persons under medical supervision."

4. The Corporation is a Type B corporation.

5. The assets of the Corporation and their fair market values are as follows: Cash in the approximate amount of \$7,000 as of February 29, 2012.

6. The Corporation's liabilities are as follows: The Corporation has no liabilities. Any liabilities related to the dissolution procedure shall be incurred and payable by the Corporation's sole member.

7. The Corporation's assets are not legally required to be used for any particular purpose.

8. Dissolution of the Corporation is contemplated and assets are to be distributed in accordance with the Amended and Restated Plan of Dissolution and Distribution of Assets.

9. The assets owned by the Corporation subject to any unpaid liabilities of the Corporation shall be distributed to the following organization with substantially similar purposes, which qualifies as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended: Catholic Health System, Inc.

The following documents of Catholic Health System, Inc. are attached to the Amended and Restated Plan of Dissolution and Distribution of Assets, which is an exhibit to the Petition:

- the governing instrument, with all amendments;
- financial reports for the last three years;
- the Internal Revenue Service group ruling that the organization is exempt from taxation as listed in “The Official Catholic Directory”; and
- an affidavit from a director and officer thereof stating the purposes of the organization and that it is currently exempt from taxation.

10. A meeting of the Board of Directors of the Corporation was held pursuant to duly given notice on March 15, 2012 at which a resolution was duly passed by required vote of the directors of the Corporation adopting an Amended and Restated Plan of Dissolution and Distribution of Assets and authorizing the filing of a Certificate of Dissolution in accordance with Section 1003 of the Not-for-Profit Corporation Law. A copy of the Amended and Restated Plan of Dissolution and Distribution of Assets, certified by the Secretary is attached as Exhibit B.

11. The Amended and Restated Plan of Dissolution and Distribution of Assets adopted by the Board of Directors was submitted to a vote of the sole member of the Corporation as required by N-PCL §1002(a). The Amended and Restated Plan of Dissolution and Distribution of Assets was approved by the sole member by required vote at a meeting of the member held on March 29, 2012. A copy of the resolutions of the member approving the Plan of Dissolution and Distribution of Assets, certified by the Secretary is attached as Exhibit C.

12. Approval of the New York State Public Health and Health Planning Council is required, and a copy of such approval is attached as Exhibit D.

13. No previous application for approval of the Amended and Restated Plan of Dissolution and Distribution of Assets of the Corporation has been made.

WHEREFORE, petitioner requests that the Court grant an Order Approving the Amended and Restated Plan of Dissolution and Distribution of Assets of St. Luke Manor of Batavia, N.Y., a not-for-profit corporation, pursuant to the Not-for-Profit Corporation Law Section 1002.

IN WITNESS WHEREFORE, the Corporation has caused this Petition to be executed this ____ day of _____, 2012 by

(Signature)
Name of Officer: _____
Title: _____

Verification

STATE OF NEW YORK)
 :SS.:
COUNTY OF ERIE)

_____, being duly sworn, deposes and says:

I am the _____ of St. Luke Manor of Batavia, N.Y., the corporation named in the above Petition and make this verification at the direction of its Board of Directors. I have read the foregoing Petition and know the contents thereof to be true of my own knowledge, except those matters that are stated on information and belief and as to those matters I believe them to be true.

(Signature)


Sworn to before me this
____ day of _____, 2012.

Notary Public



STATE OF NEW YORK - DEPARTMENT OF HEALTH

M E M O R A N D U M

TO: Public Health and Health Planning Council
FROM: James E. Dering, General Counsel 
DATE: July 9, 2012
SUBJECT: Proposed Dissolution of St. Mary's Manor

St. Mary's Manor requests Public Health and Health Planning Council approval of its proposed dissolution in accordance with the requirements of Not-For-Profit Corporation Law §1002(c) and §1003, as well as 10 NYCRR Part 650.

St. Mary's Manor was formed in 1966 under the Membership Corporations Law and operated a residential health care facility in Niagara County until 2003, when St. Mary's Manor ceased operations and surrendered its operating certificates to the Department. Therefore, there is no longer a reason for St. Mary's Manor to exist. Pursuant to St. Mary's Manor's Plan of Dissolution, if approved by the Supreme Court, St. Mary's Manor's liabilities, if any, will be paid by Catholic Health System, Inc., the sole member of the corporation.

Attached are a copy of the duly executed proposed Certificate of Dissolution, a letter from St. Mary's Manor's attorney explaining the need for the proposed dissolution, a proposed Plan of Dissolution, and a proposed Verified Petition seeking the Supreme Court's approval of St. Mary's Manor's Certificate of Dissolution.

The Certificate of Dissolution is in legally acceptable form.

Attachments



Phillips Lytle LLP

Via FedEx

May 10, 2012

New York State Department of Health
Division of Legal Affairs
Bureau of House Counsel
24th Floor, Corning Tower
Empire State Plaza
Albany, New York 12237

RECEIVED

MAY 11 2012

NYS DEPARTMENT OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF HOUSE COUNSEL

Attn: David W. Quist, Associate Attorney

Re: Request for Approval of Voluntary Dissolution of St. Mary's Manor (the
"Corporation")

Dear Mr. Quist:

We represent the above-referenced Corporation in connection with its proposed voluntary dissolution under the New York State Not-for-Profit Corporation Law. The Corporation requests the approval of the New York State Public Health and Health Planning Council (the "Council") to voluntarily dissolve. Please note that the enclosed documents have been updated to incorporate the comments contained in your letter dated March 5, 2012, and, per our telephone discussion, have been revised to change the entity to which assets are proposed to be distributed upon dissolution.

We offer the following information regarding the Corporation, its public need for dissolution and the proposed disposition of its assets: the Corporation was incorporated on January 27, 1966 but no longer undertakes any substantive activity, voluntarily returned its operating certificate (Certificate #3102306N to operate as a nursing home to the NYS Department of Health on June 28, 2003 and has no outstanding claims against it nor any liabilities. As such, the Corporation's board of directors and its member (with ratification by its member's corporate members and religious sponsors) have determined that there is no reason to continue the Corporation's existence and that any remaining assets could be better utilized by and should be transferred to the Corporation's sole member, Catholic Health System, Inc. upon dissolution. As discussed, the Corporation had initially determined that its affiliate, St. Francis Home of Williamsville should be the recipient of any remaining assets, but because of further internal considerations since the date of its initial

ATTORNEYS AT LAW

SHARON PRISE AZURIN, PARTNER DIRECT 716 847 7088 SAZURIN@PHILLIPSLYTTLE.COM

3400 HSBC CENTER BUFFALO, NY 14203-2887 PHONE 716 847 8400 FAX 716 852 6100
BUFFALO ALBANY CHAUTAUQUA GARDEN CITY NEW YORK ROCHESTER WWW.PHILLIPSLYTTLE.COM



New York State Department of Health
Page 2

May 10, 2012

application to the Council for approval to dissolve, the Corporation has determined that the assets are more appropriately transferred to Catholic Health System, Inc.

Enclosed are the following documents we understand are required by the Council to consider the requested approval of the Corporation's dissolution and distribution of assets:

1. The proposed executed Certificate of Dissolution;
2. The proposed Amended and Restated Plan of Dissolution and Distribution of Assets; and
3. The proposed Verified Petition for Order Approving Plan of Dissolution and Distribution of Assets.

Please do not hesitate to contact me should the Council's office require any additional information or documentation in connection with the Corporation's request for approval of voluntary dissolution.

We appreciate your assistance and the Council's consideration of this matter.

Very truly yours,

Phillips Lytle LLP

By 

Sharon Prise Azurin

SPAls

Enclosures

Doc # 01-2570970.2

cc: Nancy J. Sheehan RN, Esq. (w/o encls.)
Robert M. Greene, Esq. (w/o encls.)

CERTIFICATE OF DISSOLUTION

Certificate of Dissolution
of St. Mary's Manor
Under Section 1003 of the Not-for-Profit Corporation Law

I, Christine Kluckhohn, the President & CEO of St. Mary's Manor (the "Corporation") hereby certify:

1. The name of this Corporation is St. Mary's Manor.
2. The Certificate of Incorporation of the Corporation was filed with the New York State Department of State on the 27th day of January, 1966.
3. The names and addresses of each of the officers and directors of the Corporation and the title of each are as follows:

<u>Name</u>	<u>Title(s)</u>	<u>Address</u>
Edward Flynn	Director	MassMutual Financial Group 300 Corporate Parkway, Suite 216 N Amherst, New York 14226
Christine Kluckhohn	Director and President	CHS Continuing Care 291 North Street Buffalo, New York 14201
Joyce Markiewicz	Director	CHS Home Health Care 2875 Union Road, Suite 14 Cheektowaga, New York 14227
Joseph D. McDonald	Director	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Mark Meyerhofer	Director	Patricia Lynch Associates Inc. 726 Exchange Street, Suite 815 Buffalo, New York 14210
James Millard	Director	Kenmore Mercy Hospital 2950 Elmwood Avenue Kenmore, New York 14217
Robert Nasso	Director and Vice Chair	Rotenberg & Company LLP 1870 Winton Road South Rochester, New York 14618

Sherry Pomeroy	Director	University at Buffalo, SUNY School of Nursing 323 Wende Hall 304E 3435 Main Street Buffalo, New York 14214
Mark A. Sullivan	Director and Secretary	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Nancy Truver	Director	3525 Carnoustie Drive Martinez, Georgia 30907
Sr. Mary Anne Weldon, R.S.M.	Director	Sullivan House 688 Ridge Road Lackawanna, New York 14218
Monsignor Robert E. Zapfel	Director and Chair	St. Leo the Great 885 Sweet Home Road Amherst, New York 14226

4. At the time of dissolution the Corporation is a Type B New York not-for-profit corporation.
5. At the time of authorization of the Corporation's Amended and Restated Plan of Dissolution and Distribution of Assets pursuant to N-PCL §1002, the Corporation held no assets legally required to be used for a particular purpose.
6. The Corporation elects to dissolve.
7. An Amended and Restated Plan of Dissolution and Distribution of Assets was authorized by required vote of the Board of Directors of the Corporation on March 15, 2012 and approved by the sole member of the Corporation by required vote on March 29, 2012.
8. On _____, 20__, the New York State Supreme Court, Erie County, issued an Order Approving the Plan of Dissolution and Distribution of Assets. Prior to the filing of this Certificate of Dissolution with the Department of State, a copy of the Order will be annexed hereto, pursuant to N-PCL §1003(a)(8).
9. Approval of the dissolution of the Corporation is required by the New York State Public Health and Health Planning Council and a copy of such approval will be attached prior to the filing of this Certificate of Dissolution with the Department of State.
10. The Corporation has carried out the Amended and Restated Plan of Dissolution and Distribution of Assets.

11. Prior to the filing of this Certificate of Dissolution with the Department of State, the endorsement of the Attorney General will be attached.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Dissolution of St. Mary's Manor this 26th day of April, 2012.



(Signature)

Name of Officer: Christine Kluckhohn

Title: President & CEO

Certificate of Dissolution

of

St. Mary's Manor

Under Section 1003 of the Not-for-Profit Corporation Law

Filed by:

**Phillips Lytle LLP
3400 HSBC Center
Buffalo, New York 14203**

**AMENDED AND RESTATED PLAN OF DISSOLUTION
AND DISTRIBUTION OF ASSETS**

**Amended and Restated Plan of Dissolution and Distribution of Assets
of St. Mary's Manor, a New York
Not-for-Profit Corporation**

The Board of Directors of St. Mary's Manor (the "Corporation"), at a meeting duly convened on the 15th day of March, 2012, pursuant to notice given in accordance with the applicable law, a quorum being present at all times, having considered the advisability of voluntarily dissolving the Corporation, and it being the opinion of the Board of Directors that dissolution is advisable and in the best interests of the Corporation, and the Board of Directors having adopted, by the required vote, a plan for a voluntary dissolution of the Corporation, does hereby recommend to the sole member of the Corporation for authorization that the Corporation be dissolved in accordance with the following plan:

1. Upon resolution of the Board of Directors adopting this plan of dissolution, the Board of Directors shall submit the plan of dissolution to a vote of the sole member of the Corporation for approval.
2. Approval of the dissolution of the Corporation is required to be obtained by the New York State Public Health and Health Planning Council, and a copy of such approval is attached.
3. The Corporation has assets. Such assets are not legally required to be used for any particular purpose. The Corporation's assets consist of cash in the approximate amount of \$1,027,000 as of February 29, 2012 and other assets consisting of an account receivable payable from Catholic Health System, Inc. (the sole member of the Corporation) in the approximate amount of \$458,000 as of February 29, 2012.
4. The assets owned by the Corporation subject to any unpaid liabilities of the Corporation shall be distributed to the following organization with substantially similar purposes, which qualifies as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended: Catholic Health System, Inc. The assets shall be used for purposes related to the provision and enhancement of long term health care programs and services consistent with the mission of providing care to elderly and disabled persons.

The following documents of Catholic Health System, Inc. are each attached to this Plan: the governing instrument and any amendments thereto, the financial reports for the last three years, the Internal Revenue Service group ruling that the organization is exempt from taxation as listed in "The Official Catholic Director", and a sworn affidavit from a director and officer of Catholic Health System, Inc. stating the purposes of the organization and that it is currently exempt from federal income taxation.

5. The Corporation has no liabilities. Any liabilities related to the dissolution procedure, including accounting and legal fees estimated at \$8,500, shall be incurred and payable by Catholic Health System, Inc. the Corporation's sole member.

6. Within two hundred seventy days after the date that an Order Approving Plan of Dissolution and Distribution of Assets is signed by the Court, the Corporation shall carry out this Plan.

7. This Amended and Restated Plan of Dissolution and Distribution of Assets amends and restates in its entirety the Plan of Dissolution and Distribution of Assets approved by the Board of Directors of the Corporation at a meeting held on July 21, 2011.

Certification

I, _____, Secretary of the St. Mary's Manor hereby certify under penalties of perjury that a meeting of the Board of Directors of the Corporation was duly held at _____ on March 15, 2012 at _____ and the within Plan of Dissolution was duly submitted and passed by the required vote of the Directors, and that the sole member of the Corporation approved the Plan of Dissolution and Distribution of Assets.

(Signature)
(Name of Officer & Title)
Dated the ___ day of _____, 2012

**VERIFIED PETITION FOR ORDER APPROVING AMENDED AND RESTATED
PLAN OF DISSOLUTION AND DISTRIBUTION OF ASSETS**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----- X
In the Matter of the Application of :
St. Mary's Manor : VERIFIED PETITION
For Approval of Amended and Restated Plan of :
Dissolution and Distribution of Assets pursuant to : Index No.
Section 1002 of the Not-for-Profit :
Corporation Law. :
----- X

TO: THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

Petitioner, St. Mary's Manor by _____ of St. Mary's Manor, for its
Verified Petition herein respectfully alleges:

1. St. Mary's Manor (the "Corporation"), whose principal address is c/o Catholic Health System, Inc., 2121 Main Street, Suite 300, Buffalo, New York 14214, was incorporated pursuant to New York's Membership Corporations Law on January 27, 1966. A copy of the Certificate of Incorporation and any amendments are attached as Exhibit A.

2. The names, addresses and titles of the Corporation's officers and directors are as follows:

<u>Name</u>	<u>Title(s)</u>	<u>Address</u>
Edward Flynn	Director	MassMutual Financial Group 300 Corporate Parkway, Suite 216 N Amherst, New York 14226
Christine Kluckhohn	Director and President	CHS Continuing Care 291 North Street Buffalo, New York 14201
Joyce Markiewicz	Director	CHS Home Health Care 2875 Union Road, Suite 14 Cheektowaga, New York 14227
Joseph D. McDonald	Director	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Mark Meyerhofer	Director	Patricia Lynch Associates Inc. 726 Exchange Street, Suite 815 Buffalo, New York 14210

James Millard	Director	Kenmore Mercy Hospital 2950 Elmwood Avenue Kenmore, New York 14217
Robert Nasso	Director and Vice Chair	Rotenberg & Company LLP 1870 Winton Road South Rochester, New York 14618
Sherry Pomeroy	Director	University at Buffalo, SUNY School of Nursing 323 Wende Hall 304E 3435 Main Street Buffalo, New York 14214
Mark A. Sullivan	Director and Secretary	Catholic Health System, Inc. 2121 Main Street, Suite 300 Buffalo, New York 14214
Nancy Truver	Director	3525 Carnoustie Drive Martinez, Georgia 30907
Sr. Mary Anne Weldon, R.S.M.	Director	Sullivan House 688 Ridge Road Lackawanna, New York 14218
Monsignor Robert E. Zapfel	Director and Chair	St. Leo the Great 885 Sweet Home Road Amherst, New York 14226

3. The purposes for which the Corporation was organized are as follows: "To establish and maintain a home to provide lodging, board and nursing care for sick, invalid, infirm, aged, disabled and convalescent persons under medical supervision."

4. The Corporation is a Type B corporation.

5. The assets of the Corporation and their fair market values are as follows: Cash in the approximate amount of \$1,027,000 as of February 29, 2012 and other assets consisting of an accounts receivable payable from Catholic Health System, Inc. (the sole member of the Corporation) in the approximately amount of \$458,000 as of February 29, 2012.

6. The Corporation's liabilities are as follows: The Corporation has no liabilities. Any liabilities related to the dissolution procedure shall be incurred and payable by the Corporation's sole member.

7. The Corporation's assets are not legally required to be used for any particular purpose.

8. Dissolution of the Corporation is contemplated and assets are to be distributed in accordance with the Amended and Restated Plan of Dissolution and Distribution of Assets.

9. The assets owned by the Corporation subject to any unpaid liabilities of the Corporation shall be distributed to the following organization with substantially similar purposes, which qualifies as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended: Catholic Health System, Inc.

The following documents of Catholic Health System, Inc. are attached to the Amended and Restated Plan of Dissolution and Distribution of Assets, which is an exhibit to the Petition:

- the governing instrument, with all amendments;
- financial reports for the last three years;
- the Internal Revenue Service group ruling that the organization is exempt from taxation as listed in "The Official Catholic Directory"; and
- an affidavit from a director and officer thereof stating the purposes of the organization and that it is currently exempt from taxation.

10. A meeting of the Board of Directors of the Corporation was held pursuant to duly given notice on March 15, 2012 at which a resolution was duly passed by required vote of the directors of the Corporation adopting an Amended and Restated Plan of Dissolution and Distribution of Assets and authorizing the filing of a Certificate of Dissolution in accordance with Section 1003 of the Not-for-Profit Corporation Law. A copy of the Amended and Restated Plan of Dissolution and Distribution of Assets, certified by the Secretary is attached as Exhibit B.

11. The Amended and Restated Plan of Dissolution and Distribution of Assets adopted by the Board of Directors was submitted to a vote of the sole member of the Corporation as required by N-PCL §1002(a). The Amended and Restated Plan of Dissolution and Distribution of Assets was approved by the sole member by required vote at a meeting of the member held on March 29, 2012. A copy of the resolutions of the member approving the Plan of Dissolution and Distribution of Assets, certified by the Secretary is attached as Exhibit C.

12. Approval of the New York State Public Health and Health Planning Council is required, and a copy of such approval is attached as Exhibit D.

13. No previous application for approval of the Amended and Restated Plan of Dissolution and Distribution of Assets of the Corporation has been made.

WHEREFORE, petitioner requests that the Court grant an Order Approving the Amended and Restated Plan of Dissolution and Distribution of Assets of St. Mary's Manor, a not-for-profit corporation, pursuant to the Not-for-Profit Corporation Law Section 1002.

IN WITNESS WHEREFORE, the Corporation has caused this Petition to be executed this ____ day of _____, 2012 by

(Signature)
Name of Officer: _____
Title: _____

Verification

STATE OF NEW YORK)
 :SS.:
COUNTY OF ERIE)

_____, being duly sworn, deposes and says:

I am the _____ of St. Mary's Manor, the corporation named in the above Petition and make this verification at the direction of its Board of Directors. I have read the foregoing Petition and know the contents thereof to be true of my own knowledge, except those matters that are stated on information and belief and as to those matters I believe them to be true.

(Signature)

Sworn to before me this
___ day of _____, 2012.

Notary Public

Doc # 01-2471790.3

**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

APPLICATION for HOME HEALTH AGENCY LICENSURES

Home Health Agency Licensures

Exhibit #12

Number

Applicant/Facility

2141 L

Clinton County Department of Health
(Clinton County)

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Clinton County Health Department
Address: Plattsburgh
County: Clinton
Structure: Public
Application Number: 2141L

Description of Project:

Clinton County Health Department requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The county currently operates a certified home health agency and long term home health care program which they are planning on selling. Clinton County is requesting approval to open a licensed home care services agency to enable the county to continue to provide essential public health nursing services in the event the CHHA and LTHHCP are sold.

The applicant proposes to serve the residents of Clinton County from an office located at 133 Margaret Street, Plattsburgh, New York 12901.

The applicant proposes to provide the following health care services:

Nursing Medical Social Services.

Clinton County Health Department Division of Nursing currently operates a Diagnostic and Treatment Center, Certified Home Health Agency and Long Term Home Health Care Program.

The information provided by the Division of Certification and Surveillance indicated that the Diagnostic and Treatment Center has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Division of Home and Community Based Services indicated that the Certified Home Health Agency and Long Term Home Health Care Program have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

Contingency

Submission of any and all information requested by the Division of Legal Affairs, in a form and manner acceptable to the Department.

Recommendation: Contingent Approval
Date: July 19, 2012