STATE OF NEW YORK
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

COMMITTEE DAY

AGENDA

January 26, 2017
10:00 a.m.

- New York State Department of Health Offices at 90 Church Street, 4th Floor, Rooms 4A and 4B, NYC

I. COMMITTEE ON ESTABLISHMENT AND PROJECT REVIEW

Peter Robinson, Chair

A. Applications for Construction of Health Care Facilities/Agencies

Acute Care Services – Construction **Exhibit # 1**

	Number	Applicant/Facility
1.	162380 C	Rochester General Hospital (Monroe County)

Residential Health Care Facility - Construction **Exhibit # 2**

	Number	Applicant/Facility
1.	162251 C	Fox Run at Orchard Park (Erie County)

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

Acute Care Services – Establish/Construct **Exhibit # 3**

	Number	Applicant/Facility
1.	162324 E	Northwell Healthcare, Inc. (Westchester County)
2.	162330 E	Northwell Healthcare, Inc. (Westchester County)
3.	162353 E	Northwell Quality and Medical Affairs, Inc. (Nassau County)
4.	162391 E	Winthrop-University Hospital (Nassau County)
5.	162396 E	WMC Health Network – Ulster, Inc. (Ulster County)
6.	162407 E	Upper Alleghany Health System (Cattaraugus County)

Ambulatory Surgery Centers - Establish/Construct **Exhibit # 4**

	Number	Applicant/Facility
1.	162026 B	Manhattan RSC, LLC dba Manhattan Reproductive Surgery Center (New York County)
2.	162212 E	Griffis Surgery Center (Oneida County)
3.	162290 E	Melville SC, LLC d/b/a Melville Surgery Center (Suffolk County)
4.	162300 E	Plattsburgh ASC, LLC d/b/a Cataract Center for the Adirondacks (Clinton County)
5.	162358 B	North Fork SC, LLC (Suffolk County)

Diagnostic and Treatment Centers - Establish/Construct **Exhibit # 5**

	Number	Applicant/Facility
1.	161303 E	Smile New York Outreach, LLC (Queens County)

Residential Health Care Facilities - Establish/Construct **Exhibit # 6**

	Number	Applicant/Facility
1.	152135 E	Delmar Acquisition I LLC d/b/a Bethlehem Commons Nursing and Rehabilitation Center (Albany County)
2.	161200 E	Kennedy Pavilion RH LLC d/b/a The Pavilion at Queens for Rehabilitation & Nursing (Queens County)
3.	161262 E	YGC at Woodycrest, LLC d/b/a Highbridge Woodycrest Center (Bronx County)
4.	162255 E	CLR Schenectady LLC d/b/a The Capital Living Nursing and Rehabilitation Center (Schenectady County)
5.	162256 E	CLR Carthage LLC d/b/a The Country Manor Nursing and Rehabilitation Center (Jefferson County)

6.	162257 E	CLR Minoa LLC d/b/a The Crossings Nursing and Rehabilitation Center (Onondaga County)
7.	162258 E	CLR New Paltz LLC d/b/a The Mountain View Nursing and Rehabilitation Center (Ulster County)
8.	162259 E	CLR Granville LLC d/b/a The Orchard Nursing and Rehabilitation Center (Washington County)
9.	162260 E	CLR Troy LLC d/b/a The Springs Nursing and Rehabilitation Center (Rensselaer County)
10.	162261 E	CLR Glens Falls LLC d/b/a The Stanton Nursing and Rehabilitation Center (Warren County)
11.	162274 E	Rockaway Operations Associates LLC d/b/a Far Rockaway Center for Rehabilitation and Nursing (Queens County)

C. <u>Home Health Agency Licensures</u>

Home Health Agency Licensures **Exhibit # 7**

New LHCSAs – Affiliated with Assisted Living Programs (ALPs)

2296 L	Deer Run at River Ridge LLC d/b/a The Sentinel at Amsterdam (Montgomery, Saratoga, Fulton, Schenectady, Otesgo, and Schoharie Counties)
2604 L	Greater Adult Neighbors, Inc. d/b/a Arcadia Home Care Agency (Sullivan County)
162276	The Bristol Home, Inc. d/b/a Bristol Home Care (Allegany, Genesee, Cattaraugus, Niagara, Chautauqua, Orleans, Erie and Wyoming Counties)

Changes of Ownership

Number	Applicant/Facility
2643 L	Ideal Home Health Inc. (Bronx, Kings, New York, Queens, and Richmond Counties)

151296	Crickett Care, Inc. (Bronx, Westchester, Putnam, and Rockland Counties)
152390	A-Plus Care HHC Inc. (Kings, Bronx, Queens, Richmond, New York and Westchester Counties)
161335	SeniorBridge Family Companies (NY), Inc. (New York County)
162087	CareGuardian, Inc. d/b/a Hometeam (New York, Kings, Queens, Bronx, and Richmond Counties)
162411	Blue Parasol, LLC (Bronx, Queens, Kings, Richmond, New York, and Westchester Counties)

D. Certificates **Exhibit # 8**

Certificate of Amendment of the Certificate of Incorporation

Applicant

Loretto Management Corporation

Public Health and Health Planning Council

Project # 162380-C
Rochester General Hospital

Program:	**Hospital**	***County:***	**Monroe**
Purpose:	**Construction**	***Acknowledged:***	**November 16, 2016**

Executive Summary

Description

Rochester General Hospital (RGH), a 528-bed, voluntary not-for-profit, Article 28 tertiary care hospital located at 1425 Portland Avenue in Rochester (Monroe County), requests approval to construct a new seven-story building connected to the northeast side of the existing hospital. The new building, called the Critical Care Building for planning purposes, will encompass 312,457 square feet of space and will contain 108 acuity adaptable private Medical/Surgical and Intensive Care Unit rooms, a 14-bed neonatal unit consisting of five Continuing Care, seven Intermediate Care and two Intensive Care beds, and 20 private post-partum rooms. The new building will also contain 20 replacement operating rooms, a 26-bed PACU, 54 pre-op and post-op patient areas and a new sterile processing area.

The project will allow RGH to create 100% private rooms, accomplished via the new construction and conversion of the current semi-private rooms in the existing hospital to single-occupancy rooms. There will be no change to the number or type of inpatient beds or the number of operating rooms at completion of construction. The total number certified beds will remain at 528 and the number of operating rooms will continue to be 23, with three operating rooms remaining in the existing hospital building.

RGH proposes the expansion and renovation project to provide significant and necessary improvements to address aged and obsolete facilities in both its inpatient and surgical program. The project includes renovation of existing hospital space as follows:

- With no modification required, the current 108 semi-private rooms will be designated as private rooms when the new building opens up.
- The space currently occupied by the Intensive Care/Coronary Care Unit will be utilized by the Medical Observation Unit (MOU) after minor renovations are completed.
- The existing MOU will be assigned to Emergency Services.
- A small area within the existing Operating Room area will be renovated for Gastro Intestinal services. The remainder of the space will be decommissioned as operating rooms and repurposed.

RU System, Inc. (System) is the active parent and co-operator of RGH and the entities within both the Rochester General Health System and Unity Health System, otherwise known as Rochester Regional Health (the System). RGH is the flagship hospital of the System and serves as its hub. The goal of the System is to provide high quality healthcare services in a strategic and cost effective manner to the communities served by the System, by continuing the existing RGH strategies in clinical integration, regional network development and population health.

OPCHSM Recommendation

Contingent Approval

Need Summary

Rochester General Hospital will become a 100% private bed hospital allowing the facility to address assorted patient acuities and improve efficiencies.

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 are $253,663,869, but due to the inclusion of shell space, total reimbursable cost is limited to $243,997,457. Project costs of $253,663,869 will be met with equity of $102,290,812 and tax-exempt bonds for $151,373,057 with a maturity of 30 years bearing interest at 4.27% for tax-exempt debt.

Raymond James & Associates, Inc. has provided a letter of interest for underwriting the bond financing. The bonds will be issued by Monroe County Industrial Development Corporation.

Budget:		Year One
	Revenues	$397,880,019
	Expenses	435,010,435
	Gain/(Loss)	($37,260,416)

Enterprise Budget:		Year One
	Revenues	$938,011,006
	Expenses	924,692,236
	Gain/(Loss)	$13,318,770

Recommendations

Health Systems Agency

The HSA recommends approval for this project.

Office of Primary Care and 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 bond resolution, acceptable to the Department of Health. Included with the submitted bond resolution must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. [BFA]
3. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-02. [AER]

Approval conditional upon:

1. The project must be completed within five years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Construction must start on or before March 31, 2017 and construction must be completed by August 30, 2022, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the start date this shall constitute abandonment of the approval. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. [PMU]
3. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
4. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
5. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
6. The clinical space must be used exclusively for the approved purpose. [HSP]

Council Action Date

February 9, 2017

Need Analysis

Background

Certified Beds	
Coronary Care	6
Intensive Care	34
Maternity	26
Medical / Surgical	378
Neonatal Continuing Care	5
Neonatal Intensive Care	2
Neonatal Intermediate Care	7
Pediatric	24
Physical Medicine and Rehabilitation	16
Psychiatric	30
Total	**528**

Rochester General Hospital will become a 100% private bed hospital allowing the facility to address different patient acuities. Currently, approximately 43.9 percent of beds are in double rooms. The creation of private rooms will improve the throughput of patients by reducing isolation, gender, and patient preference requirements.

Conclusion

Improving patient throughput and efficiency by becoming an all-private, one bed per room hospital will enable Rochester General Hospital to retain its status as a flagship facility.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Project Proposal

Staffing is expected to increase by 58.6 FTEs in Year One of the completed project and remain at that level through Year Three. There will be no change to the number of certified beds or operating rooms.

With this expansion project, semi-private rooms will be converted to private rooms. By creating all private rooms, RGH aims to reduce noise and infection, thus enhancing healing. Further, having all private rooms will assist with movement of patients through the system by decreasing the restrictive qualities of a semi-private rooms (such as requirements for isolation, gender, and patient preference).

Compliance with Applicable Codes, Rules and Regulations

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

Total project cost for new construction, renovations and movable equipment is estimated at $253,663,869, but total reimbursable cost is limited to $243,997,457, broken down as follows:

	Article 28	Non-Article 28	Total
New Construction	$129,893,214	$7,377,132	$137,270,346
Renovation and Demolition	28,510,232	0	28,510,232
Temporary Utilities	566,819	0	566,819
Design Contingency	9,394,092	377,130	9,771,222
Construction Contingency	9,394,092	377,130	9,771,222
Planning Consultant Fees	424,041	0	424,041
Architect/Engineering Fees	8,166,994	1,124,157	9,291,151
Construction Manager Fees	3,213,989	410,863	3,624,852
Other Fees (Consultant)	5,031,156	0	5,031,156
Movable Equipment	39,222,552	0	39,222,552
Telecommunications	5,843,641	0	5,843,641
Financing Costs	3,000,000	0	3,000,000
CON Fee	2,000	0	2,000
Additional Processing Fee	1,334,635	0	1,334,635
Total Project Cost	$243,997,457	$9,666,412	$253,663,869

Project costs are based on a construction start date of March 31, 2017, with a completion date of August 30, 2022.

The Bureau of Architectural and Engineering Review has determined that this project includes shell space costs of $9,666,412 for non-Article 28 space. As a result, the total approved project cost for reimbursement purposes shall be limited to $243,997,457.

The applicant's financing plan appears as follows:

Equity	$102,290,812
Tax-Exempt fixed rate bonds (4.27% interest, 30-year term)	$151,373,057
Total	$253,663,869

BFA Attachment B, the September 30, 2016 financial summary, shows RGH will obtain their equity through Board Designated Funds. A letter from the Secretary of the Board of Directors has been submitted stating that the Board confirms approval of the use of Board Designated Funds for this project. RGH will borrow $151,373,057 at a true interest cost of 4.27% over the life of the 30-year tax-exempt bond issuance. The par amount of the bonds will be $135,105,000 and have a coupon rate of 5%, which will yield $151,373,057 bond proceeds. It is not anticipated that a debt service reserve fund (DSRF) will be required to market the bonds, based on the bond rating of RGH of A- from Moody's and the S&P Global. If capital markets determine a DSRF is necessary, RGH will inform the Department during the contingency resolution phase of the CON process.

Raymond James & Associates, Inc. has provided a letter of interest for underwriting the bond financing. The bonds will be issued by Monroe County Industrial Development Corporation. Raymond James Financial is an American diversified holding company providing financial services to individuals, corporations and municipalities through its subsidiary companies that engage primarily in investment and financial planning, in addition to investment banking and asset management.

Operating Budget

The applicant has submitted inpatient operating budgets, in 2017 dollars, for the Current Year and for Year One of operations, as shown below:

	Current Year		Year One	
Inpatient Revenues	Per Disch.	Total	Per Disch.	Total
Commercial MC	$15,804	$102,993,398	$16,121	$105,060,979
Medicare FFS	$15,257	82,781,303	$15,649	84,914,088
Medicare MC	$15,050	129,971,353	$15,436	133,309,774
Medicaid FFS	$8,738	12,617,471	$8,932	12,898,205
Medicaid MC	$8,271	49,993,328	$8,431	50,964,432
Private Pay	$3,753	1,313,721	$3,756	1,314,439
Other*	$12,655	9,099,245	$13,099	9,418,102
Total Inpatient Revenue		$388,769,819		$397,880,019
Inpatient Expenses				
Operating	$12,453	$383,225,587	$12,686	$390,398,396
Capital	$931	28,641,347	$1,454	44,742,039
Total Inpatient Expenses	$13,384	$411,866,934	$14,140	$435,140,435
Inpatient Gain/(Loss)		$(23,097,115)		$(37,260,416)
Discharges (Inpatient)		30,773		30,773

**Other Revenues are made up of Workers Compensation, No Fault and Elderly Care Facilities.*

Utilization by payor source for the current year and first year of operation is anticipated as follows:

	Current Year and Year One	
Inpatient	Discharges	%
Commercial MC	6,517	21.2%
Medicare FFS	5,426	17.6%
Medicare MC	8,636	28.1%
Medicaid FFS	1,444	4.7%
Medicaid MC	6,045	19.6%
Private Pay	350	1.1%
Other	719	2.3%
Charity Care	1,636	5.3%
Total	30,773	100.0%

The following is noted with respect to the submitted budget:

- Inpatient revenues and expenses are based upon RGH's current experience in operating the hospital. An increase in revenues is budget for Year One due to the expected increase in patient acuity.
- Utilization assumptions remain consistent with current performance since the number of beds remain the same.

RGH's enterprise budget, inclusive of outpatient services, is as follows:

Enterprise Budget:		Year One
	Revenues	$938,011,006
	Expenses	924,692,236
	Gain/(Loss)	$13,318,770

Overall, RGH expects to be profitable in the first year.

Capability and Feasibility

Project costs of $253,663,869 will be met with equity of $102,290,812 and tax-exempt bonds for $151,373,057 with a maturity of 30 years bearing interest at 4.27% for tax-exempt debt. As shown on BFA Attachment B, RGH has enough liquid assets to cover the project's equity requirement.

Working capital requirements are estimated at $72,523,406, which is equivalent to two months of year one expenses. The applicant will provide the entire amount of the working capital from operations. As shown on BFA Attachment B, the applicant has enough liquid assets to cover the working capital requirement.

BFA Attachment A is RGH's 2014-2015 certified financial statements, which shows the facility generated an average net income of $20,518,973 and had average positive net asset and working capital positions for the period shown.

According to the Enterprise Budget, the organization expects to generate a surplus of $13,318,770 in the first year. The submitted inpatient budget indicates a net loss of $37,260,416 for Year One. The net loss for Inpatient is partially due to the increase in capital expense and is offset by Outpatient revenues. Revenues are based on the current reimbursement methodologies for hospitals. The submitted budget is reasonable.

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

Recommendation

From a financial perspective, contingent approval02/09/2017 is recommended.

Attachments

BFA Attachment A	2014-2015 Certified Financial Statements for Rochester General Hospital
BFA Attachment B	September 30, 2016 Internal Financial Statements for Rochester General Hospital
BFA Attachment C	Rochester Regional Health System, Inc. Organization Chart

Public Health and Health Planning Council

Project # 162251-C
Fox Run at Orchard Park

Program:	**Residential Health Care Facility**	***County:***	**Erie**
Purpose:	**Construction**	***Acknowledged:***	**October 19, 2016**

Executive Summary

Description

Orchard Park CCRC, Inc. d/b/a Fox Run at Orchard Park (Fox Run), a not-for-profit organization that operates a Continuing Care Retirement Community (CCRC) located at One Fox Run Lane, Orchard Park (Erie County), requests approval to construct a 14,000 square foot, two-story addition to their Health Center and add ten Residential Health Care Facility (RHCF) beds. The project also includes renovation of existing Health Center space. The certification of ten additional RHCF beds is deemed necessary to respond to current demand. Upon project completion, the expanded facility will offer 60 certified RHCF beds.

Fox Run is set on a 54-acre campus and currently consists of 180 independent living units (150 apartments and 30 patio homes), 50 skilled nursing beds, and 52 assisted living beds, 18 of which are designated for memory care. The new two-story wing, along with renovation of existing wings, will allow for an updated design and improved operational flow by creating a neighborhood concept with four new neighborhoods, each with their own kitchen services and dining areas. One of the neighborhoods will also be designated as a sub-acute rehabilitation area. New nursing substations will be created in each neighborhood to replace the existing centrally located nursing station. The new design includes a new main kitchen designated for the Health Center and a larger more appropriately sized therapy clinic to accommodate needed upgrades to the therapy equipment.

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no Need recommendation of this application as per Public Health Law Section 4604(5).

Program Summary

The expansion of Fox Run will help meet the in-house demand for nursing home placement. The accompanying renovation of the second floor nursing unit will provide a much needed updating, and provide amenities consistent with contemporary standards of nursing home design.

Financial Summary

The total project cost of $7,163,485 will be met with $5,288,485 in accumulated funds and the remaining $1,785,000 will funded via a 21-year loan at 5.5% interest.

RHCF Budget

	Year One	Year Three
Revenue	$4,952,569	$5,254,181
Expenses	6,304,574	6,587,028
Gain (Loss)	($1,352,005)	($1,332,847)

CCRC Enterprise Budget

	Year One	Year Three
Revenue	$16,879,868	$17,907,164
Expenses	17,256,919	17,705,237
Gain (Loss)	($377,051)	$201,927

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and 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 loan commitment, acceptable to the Department of Health. [BFA]
3. Submission and programmatic review and approval of the final floor plans. [LTC]
4. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-04 for Nursing Homes. [AER]

Approval conditional upon:

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Construction must start on or before June 1, 2017 and construction must be completed by September 1, 2018, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the start date this shall constitute abandonment of the approval. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. [PMU]
3. The operator shall submit a plan to maintain resident services and safety during construction to the Western New York Buffalo Regional Office, and must receive approval for such plan prior to the commencement of construction. [LTC]

Council Action Date

February 9, 2017

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Fox Run at Orchard Park	Same
Address	One Fox Run Lane Orchard Park, NY 14127	Same
RHCF Capacity	50	60
ADHCP Capacity	N/A	N/A
Type Of Operator	Voluntary Not for Profit	Same
Class Of Operator	Corporation	Same
Operator	Orchard Park CCRC, Inc.	Same

Program Review

Fox Run at Orchard Park (Fox Run), a continuing care retirement community which operates a 50 SNF bed unit, proposes to add 10 beds. Fox Run intends to construct a two story addition with the new nursing home beds to be located on the second floor, and the first floor dedicated to assisted living space. The existing second floor nursing unit will also be renovated. Fox Run is situated on a 54 acre campus and includes 160 independent living units and 52 assisted living beds. The additional beds will respond to current high occupancy levels and better meet the needs of the CCRC residents.

Physical Environment

The existing Fox Run campus consists of a series of interconnected buildings flanking a Commons building. The independent living units are located to the west of the Commons area and the assisted living and skilled nursing units are to the east. The assisted living/skilled nursing building is a two story building with three wings jutting out from a central core. The nursing unit occupies the second floor with the 22 bed east wing at a right angle to the 12 bed southeast wing, and the 16 bed northwest wing at a 45 degree angle to the other two wings. Entrance is made through an elevator in the center, with a central nursing station and main dining room adjacent to the entrance lobby. A single tub room is located in the center area, and an additional shower is located on the northwest wing. Physical therapy and the barber/beauty salon are located at the end of northwest wing, with an elevator providing access to the first floor assisted living unit.

The new addition will be located on the southwest end of the SNF/ALP building, and include nine single bedrooms. The addition will include a bathroom with stretcher shower, and a hearth room for socialization and dining. A third elevator will be constructed between the new wing and the northwest wing.

The project also includes a reconfiguration and renovation of the existing nursing home unit to provide needed updates to create a more modern residential environment. The re-design will convert the entire floor into a hub and spoke arrangement, with the public space moved to the center core, and the finger units transformed into “households” with their own dining space, tub or shower room, and satellite nursing station. Each of the three existing households will include a hearth room at the end of the unit, mirroring the new southwest wing. The core area will be reconfigured with the main dining room and pantry converted into an activities area with a new balcony. A portion of the pantry space will be divided into a nourishment center. The central nursing station adjacent to the elevator lobby will be eliminated and a seating area will be created. The current activities room and the clean and soiled utility rooms will be converted into administrative offices. Two sets of clean and soiled work rooms will be created on the northwest and east sides of the core area.

In the east wing the hearth room will displace two doubles and a single bedroom. The five bed loss will be partially mitigated by the conversion of two oversized singles to doubles, with the overall bed complement for the unit reduced to 19 beds. The renovated doubles will include a toe to toe bed arrangement which improves access to light for the inboard bed. On the southeast unit the hearth room will occupy the existing activities room. Activity space in turn will be relocated to the vacated central dining room.

The northwest unit will undergo the greatest transformation with the addition of three doubles and two singles at the end of the wing in space currently occupied by offices. The hearth room will be located adjacent to the new bedrooms. A new therapy area will be constructed at the interior end of the unit, abutting the new southwest unit, which will displace a double and two single bedrooms. The overall bed complement for the household will increase to 20 beds. The new therapy unit will significantly expand and enhance rehabilitation space, and will include an ADL resident kitchen. The vacated physical therapy area at the opposite end of the unit will be repurposed into a family lounge and library. The adjacent shower room will undergo a cosmetic renovation. The barber and beauty salon will remain unchanged, although residents will have access to a new beauty salon to be located on the new first floor assisted living unit. A nursing lounge will be created in the current office suite at the end of the unit.

Compliance

Fox Run at Orchard Park is currently in substantial compliance with all applicable codes, rules and regulations.

Conclusion

The expansion of Fox Run will help meet the in-house demand for nursing home placement. The accompanying renovation of the second floor nursing unit will provide a much needed updating, and provide amenities consistent with contemporary standards of nursing home design.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Total Project Cost and Financing

The total project cost is $7,163,485, detailed as follows:

New Construction	$3,146,908
Renovation & Demolition	1,496,399
Site Development	72,100
Temporary Utilities	15,450
Design Contingency	493,685
Construction Contingency	224,460
Fixed Equipment	77,250
Architect/Engineering Fees	479,428
Construction Manager Fees	299,488
Movable Equipment	681,694
Telecommunications	15,450
Financing Costs	50,000
Interim Interest Expense	70,000
Application Fee	2,000
Processing Fee	39,173
Total Project Cost	$7,163,485

Project costs are based on a construction start date of June 1, 2017, and a 15-month construction period.

The applicant's financing plan appears as follows:

Equity	$5,288,485
Loan (21-year term, 5.5% interest)	$1,875,000
Total	$7,163,485

Ziegler has provided a letter of interest for the financing.

Operating Budget

The applicant has submitted their current year (2015) and projected operating budgets for the first and third years, in 2017 dollars, summarized below:

	Current Year		Year One (2019)		Year Three (2021)	
RHCF Revenues	Per Diem	Total	Per Diem	Total	Per Diem	Total
Commercial-FFS	$149.18	$169,170	$149.18	$169,170	$149.18	$169,170
Medicare-FFS	$374.49	73,774	$374.49	73,774	$374.49	73,774
Medicaid-FFS	$193.67	299,225	$193.67	299,225	$193.67	299,225
Private Pay	$231.52	3,336,946	$249.20	4,410,400	$266.25	4,712,012
Total RHCF Rev		$3,879,115		$4,952,569		$5,254,181
RHCF Expenses						
Operating	$267.38	$4,622,784	$264.17	$5,435,028	$280.26	$5,766,020
Capital	$48.57	839,650	$42.26	869,546	$39.91	821,008
Total RHCF Exp	$315.95	$5,462,434	$306.43	$6,304,574	$320.16	$6,587,028
RHCF Gain (Loss)		($1,583,319)		($1,352,005)		($1,332,847)
RHCF Pt. Days		17,289		20,574		20,574
CCRC Enterprise						
Total RHCF Rev		$3,879,115		$4,952,569		$5,254,181
Non-RHCF Rev		$9,526,583		$11,927,299		$12,652,983
Total CCRC Rev		$13,405,698		$16,879,868		$17,907,164
Total RHCF Exp		$5,462,434		$6,304,574		$6,587,028
Non-RHCF Exp		$10,034,532		$10,952,345		$11,118,209
Total CCRC Exp		$15,496,966		$17,256,919		$17,705,237
CCRC Gain (Loss)		($2,091,268)		($377,051)		$201,927

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

- Revenue, expense and utilization assumptions are based on the historical experience of the nursing home operation.
- The Private Pay increase is primarily due to the increase in patient volume through an increase in patient beds. Also, the construction will include an expansion of their therapy space, which they believe will allow them to take on additional admissions, specifically those who need high levels of therapy care.
- Operating expenses are increasing due to an increase in salaries and wages. The increase in FTE's is required to handle the increase in patient volume. The applicant is also assuming an approximate 3% increase in labor costs each year through to the projected budget for year three in 2021.
- Capital expenses are decreasing in Year Three, as marketing costs that were capitalized will be fully amortized. This removes approximately $62,000 in RHCF expenses.
- As shown above, the RHCF alone operates at a loss. Revenue from the Independent Living apartments and patio homes subsidize the CCRC's more costly higher levels of care operations, including the RHCF component of the CCRC.
- Utilization broken down by payor source during the first and third years are as follows:

	Current Year	Year One	Year Three
Commercial - FFS	6.56%	5.51%	5.51%
Medicare - FFS	1.14%	0.96%	0.96%
Medicaid - FFS	8.94%	7.51%	7.51%
Private Pay	83.37%	86.02%	86.02%

Capability and Feasibility

The total project cost of $7,163,485 will be met with $5,288,485 in accumulated funds and the remaining $1,875,000 will funded via a 21-year loan at 5.5% interest. Zeigler has provided a letter of interest for the financing. BFA Attachment A is Orchard Park CCRC, Inc.'s 2014 - 2015 certified financial statements and their internal financials as of July 31, 2016, which indicates the availability of sufficient funds for the equity contribution to meet the total project cost.

Working capital requirements are estimated at $2,950,873 based on two months of third year expenses. Working capital will be funded from operations. BFA Attachment A indicates the availability of sufficient funds for the equity to meet working capital needs.

By Year Three, RHCF revenues are estimated to increase by approximately $1,375,000 over the current year, due to the increase in Private Pay residents related to the additional ten RHCF beds. The CCRC enterprise budget projects an increase of $3,126,400 in non-RHCF revenue by Year Three and a gain from operations of $201,927 for the overall operation. Overall expenses are expected to increase by $2,200,000 primarily due to the increase in RHCF beds and additional depreciation for the project. The budget appears reasonable.

BFA Attachment A shows that the CCRC had an average positive working capital position, an average negative net asset position and an average net loss from 2014 through July 31, 2016. Net assets are negative due to the refundable entrance fees that the CCRC is required to account for as a liability. The refundable entrance fees are due upon departure or expiration of the resident. Based on the structure of Fox Run's resident agreement contract options, the CCRC had approximately $45 million of refundable entrance fees due the residents in the Independent Living Units as of December 31. 2015. Going forward, Fox Run will continue to have a large liability stated on their balance sheet related to the refundable entrance fees. The facility is currently showing a net income in 2016 and they believe the increase in RHCF beds will allow them to become profitable by year three.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary 2014-2015 certified financials and internals as of July 31, 2016, Orchard Park CCRC, Inc.

Public Health and Health Planning Council

Project # 162324-E
Northwell Healthcare, Inc.

Program:	**Hospital**	***County:***	**Westchester**
Purpose:	**Establishment**	***Acknowledged:***	**October 24, 2016**

Executive Summary

Description

Northwell Healthcare, Inc., a not-for-profit corporation located in Nassau County, seeks approval to be established as the active parent and co-operator of Northern Westchester Hospital (NWH), a 245-bed, voluntary not-for-profit corporation, Article 28 acute-care hospital located in Mount Kisco (Westchester County). There will be no change in authorized services, the number or type of beds, or staffing as a result of approval of this project. In addition, there are no projected changes in the utilization, revenue or expenses as a result of this project, although NWH is expected to ultimately experience cost benefits related to operational efficiencies resulting from the active parent co-operator designation. The hospital will remain a separate not-for-profit corporation licensed under Article 28 of the Public Health Law, maintaining its separate operating certificate following completion of the project.

As active parent and co-operator, Northwell Healthcare, Inc. will have the power and authority to make decisions for its affiliate as stated in its certificate of incorporation and bylaws, and the active parent powers with regard to NWH as described in 10 NYCRR 405.1(c) as follows:

- Appointment or dismissal of management level employees and medical staff, except the election or removal of corporate officers by the members of a not-for-profit corporation;
- Approval of operating and capital budgets;
- Adoption or approval of operating policies and procedures;
- Approval of certificate of need applications filed by or on behalf of NWH;
- Approval of debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
- Approval of contracts for management or for clinical services; and
- Approval of settlements of administrative proceedings or litigation to which NWH is party, except approval by the members of a not-for-profit corporation of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Northwell Healthcare, Inc.’s exercise of powers will allow for NWH providers to:

- Formulate consistent corporate policies and procedures across the system;
- Ensure a consistent approach to regulatory compliance, standards of care, and medical staff credentialing;
- Organize the network providers into an efficient and accessible continuum of care responsive to community needs;
- Collaborate in areas designed to conserve resources, such as joint purchasing;
- Facilitate clinical integration and the use of best practices;
- Share resources; and
- Reflect common mission, philosophy, values and purposes.

NWH is an all-private room facility serving the residents of Northern Westchester, Putnam and Southern Dutchess Counties in New York and portions of Fairfield County in Connecticut. Northwell Healthcare, Inc., whose sole corporate member is Northwell Health, Inc., is a comprehensive, integrated health care delivery system that is comprised of 21 hospitals across the New York metropolitan area, as well as physician practices and providers of subacute care including home care, long-term care, and hospice services. The purpose of this transaction is to enable Northwell and NWH to improve the wellness of the communities served; deliver value to patients and payors; increase operational efficiencies; support a long-term financial commitment to NWH; and advance clinical best practices, efficient and effective governance, and stewardship of community assets.

OPCHSM Recommendation

Contingent Approval

Need Summary

This change in ownership will not have an impact on utilization, and no changes to beds or services certified at Northern Westchester Hospital are being proposed.

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, working capital requirements or budgets associated with this application.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of evidence of approval by the Office of Mental Health, acceptable to the Department. [PMU]
2. Submission of a photocopy of a Certificate of Incorporation of Northwell Health, Inc. along with any and all amendments thereto, which is acceptable to the Department. [CSL]
3. Submission of a photocopy of the By-laws of Northwell Health, Inc. along with any and all amendments thereto, which is acceptable to the Department. [CSL]
4. Submission of a photocopy of the Certificate of Incorporation of Northwell Healthcare, Inc. along with any and all amendments thereto, which is acceptable to the Department. [CSL]
5. Submission of a photocopy of the By-laws of Northwell Healthcare, Inc., along with any and all amendments thereto, which is acceptable to the Department. [CSL]
6. Submission of a photocopy of a Certificate of Amendment to the Certificate of Incorporation of Northern Westchester Hospital, which is acceptable to the Department. [CSL]
7. Submission of a photocopy of an Amended By-laws of Northern Westchester Hospital, which is acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

February 9, 2017

Need Analysis

Analysis
This proposal to establish Northwell Healthcare, Inc. as the active parent of Northern Westchester Hospital would have no impact on the hospital's operating certificate, and no impact on services is expected. Integrating NWH into the Northwell Health system will provide opportunities for cost-saving efficiencies and improved planning which, in turn, would benefit both NWH and the communities it serves.

Recommendation
From a need perspective, approval is recommended.

Program Analysis

Character and Competence
The sole corporate member of Northwell Healthcare, Inc. is Northwell Health, Inc.

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.

Upon review of the Board of Trustees of Northwell Healthcare, Inc., the following disclosures were made:

Mr. Epstein disclosed that the Jewish Board of Family and Children's Services with which he is affiliated entered into a settlement with the NY Office of Medicaid Inspector General to reconcile excess payments received relative to Office of Mental Health's reimbursement methodology.

Mr. Richard Goldstein disclosed that he had been both a director and shareholder of corporation which filed for bankruptcy protection in 2009 then subsequently sold their assets.

Mr. Hiltz disclosed that, as a registered broker dealer, his firm is regulated by NASD and FINRA and is subject to regular examinations. On two occasions, the firm agreed to the imposition of regulatory fines (each under $5,000) for routine business claims rather than pursue a dispute resolution process.

Mr. Charles Merinoff disclosed that he had been named in an employment action involving a company that he was affiliated with in 2009. The matter was settled at arbitration in July 2012.

Mr. Ranieri disclosed that a company with which he was affiliated had entered into a settlement agreement in March 2013 with the SEC for failure to adequately oversee a third party's activities in 2008 related to marketing a particular fund.

Compliance with Applicable Codes, Rules and Regulations
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.

In an S&O dated February 6, 2007, Staten Island University Hospital was fined $8,000 based on the investigation of a patient admitted for a left sided mediastinotomy (insertion of a tube into the chest). The procedure was begun on the right side of the chest and an anesthesiologist noticed the error ten minutes into the procedure. In another S&O dated July 23, 2007, the hospital was fined $12,000 due to an overdose of a controlled substance which caused a patient's death. Nursing administered a drug at a higher rate than was ordered and continued administration even after the medication had been discontinued by a surgical resident.

In September 2008, Staten Island University Hospital (SIUH) entered into a settlement with the U.S. Attorney's Office, the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General's Office of the State of New York and agreed to pay a monetary settlement of $76.4M to the federal government and $12.4M to the state and enter into a 5-year Corporate Integrity Agreement. The settlement covered payments related to stereotactic radiosurgery treatments; provision of detoxification services above licensed capacity; SIUH's graduate medical education program; and the provision of inpatient psychiatric services above licensed capacity.

In an S&O dated December 11, 2008, North Shore University Hospital- Manhasset was fined $18,000 based on post-operative care rendered to an elderly patient. Following surgery for an aneurysm, the patient developed multiple decubiti, fell out of bed resulting in a dislocated femur and developed renal failure. It was determined that follow-up care was delayed or inadequate.

In an S&O dated July 8, 2010, Syosset Hospital was fined $42,000 based an investigation of the care a child received related to an adenotonsillectomy. The patient was improperly cleared for surgery and, despite multiple comorbidities, was not kept for observation post-operatively. The patient expired after discharge.

In September 2010, North Shore-Long Island Jewish Health System settled claims without a finding or admission of fraud, liability or other wrongdoing relative to a qui tam lawsuit filed under the civil False Claims Act by a private whistleblower and investigated by the U.S. Attorney's Office. The $2.95M settlement covered a 10-year period and primarily related to isolated errors in various cost reports rather than the allegations.

In November 2010, Civil Investigative Demands (CIDs) for documents, interviews and other information relating to North Shore University Hospital's clinical documentation improvement program were issued by the US Attorney's Office for the Southern District. The Health System complied, however, to date, there have been no specific demands for repayment or findings of liability in this matter.

In December 2010, the Civil Division of The United States Department of Justice (DOJ) requested the Health System execute a one-year tolling agreement to provide the government time to review claims for payment of implantable cardioverter defibrillators (ICDs) and related services for which Medicare does not cover. The Health System has executed eight extensions to the initial tolling agreement. In 2016, the investigation was resolved by agreement with the DOJ. and the matter is now closed. When the government's review is complete, it may seek repayment of any claims that were not proper as determined by its resolution model.

In October 2011, the US Attorney's Office for the Western District of New York initiated a review of Southside Hospital's inpatient admissions for atherectomy procedures. And, in June 2012, the US Attorney's Office for the Eastern District of New York subpoenaed documentation relating to services rendered at Staten Island University Hospital's inpatient specialized burn unit. To date, the government has not indicated whether there is any potential liability in either matter.

In a S&O dated November 5, 2014, Broadlawn Manor Nursing & Rehab Center was fined $6,000 based on an inspection completed on December 19, 2011 for issues involving Accidents and Supervision; Administration; and Quality Assurance.

In a subsequent S&O filed on January 5, 2016, Broadlawn received a fine of $8,000 based on an inspection finding of April 18, 2014 involving the lack of supervision and reassessment of a resident who exhibited wandering and elopement behavior. After several episodes of wandering the resident was found face down in the parking lot. The facility failed to investigate this incident and the circumstances leading up to it.

Again, on July 12, 2016, a S&O was issued to Broadlawn along with a $10,000 fine for inspection findings of October 12, 2015 involving the care provided to a resident identified as at moderate risk for skin breakdown. This resident developed a stage IV decubitus ulcer which required surgical debridement. It was determined that the physician's orders for this patient were not properly followed.

In June 2012, the OIG and U.S. Attorney's Office for the Eastern District of New York subpoenaed Staten Island University Hospital (SIUH) for documentation relating to services rendered at SIUH's inpatient specialized burn unit dating back to 2005. Requested documentation was provided in 2012 and, in 2013, SIUH responded to follow-up questions. To date, the government has not indicated whether SIUH has any potential liability in this matter.

In October 2012, a Program Integrity Contractor acting on behalf of the Centers for Medicare & Medicaid Services (CMS) reviewed 33 inpatient cardiac stent claims for 25 Medicare patients that had been submitted by Lenox Hill Hospital (LHH) between October 2007 and December 2010. The Contractor determined that the documentation did not support inpatient admission and/or the medical necessity of the of the cardiac stent procedure for the majority of the claims. The contractor requested that LHH undertake a self-audit and voluntary disclosure of its billing and claims history for elective cardiac stent admissions during this time. In 2016, LHH completed the self-audit and made a repayment to Medicare.

In a S&O dated November 21, 2016, Long Island Jewish Medical Center was fined $4,000 based on complaint investigation findings related to Infection Control Practices. During the investigation, 24 staff were observed not following acceptable of standards of practice for Infection Control practices in Surgical Areas. Specifically, staff demonstrated improper attire and exposure of hair during procedures.

Also on November 21, 2016, the Department issued a S&O and $10,000 fine to Northern Westchester Hospital. Immediate Jeopardy was identified on April 22, 2016 during an allegation survey. The issues involved the calling of a code team in a timely manner for a newborn baby (who subsequently expired). It was determined that hospital staff were not trained in the code policy and as such, did not initiate the code via the proper procedure.

In a S&O dated December December 8, 2006 Forest Hills Hospital was fined $12,000 following the investigation of wrong sided hernia surgery.

On January 19, 2017, the Department issued a S&O to Plainview Hospital regarding a pattern of infection control practices which were not consistent with accepted standards and levied a fine of $4,000.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Financial Analysis

There will be no change in authorized services, the number or type of acute care beds or utilization as a result of approval of this project.

There is no purchase price consummating the transfer of ownership interests to Northwell HealthCare, Inc. NWH and Northwell Healthcare, Inc. separately financed the acquisition and each entity agreed to be fully responsible for the respective costs and expenses for effectuating this transaction. No other consideration has been exchanged.

Capability and Feasibility

The applicant has stated that upon approval of this application by the Public Health and Health Planning Council, Northwell Healthcare, Inc. would obtain consent for the proposed changes from necessary lenders, insurers and trustees. There will be no change in the daily operations of each health care entity, although each is expected to experience cost benefits from the active parent designation.

BFA Attachment B is Northwell Health, Inc.'s consolidated 2015 financial statements and their internal financial statements as of September 30, 2016, which shows the entity maintained positive working capital, a positive net asset position and had positive net income of $ 81,564,000 and $84,084,000, respectively.

BFA Attachments C and D are, respectively, NWH's 2015 financial statements and their internal financial statements as of September 30, 2016. NWH maintained positive working capital, a positive net asset position and net income of $12,118,000 in 2015. As of September 30, 2016, NWH maintained positive working capital, a positive net asset position and net income of $12,536,000.

The designation of Northwell Healthcare, Inc. as the active parent and co-operator of NWH is expected to enhance NWH facilities and contribute to a greater marketing presence for the Corporation and its providers.

Based on the preceding, 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	Northwell Health, Inc. – 2015 and September 30, 2016 financials
BFA Attachment C	Northern Westchester Hospital - 2015 Certified Financials
BFA Attachment D	Northern Westchester Hospital - Internal Financials as of September 30, 2016

Project # 162330-E
Northwell Healthcare, Inc.

Program:	**Hospital**	***County:***	**Westchester**
Purpose:	**Establishment**	***Acknowledged:***	**October 26, 2016**

Executive Summary

Description

Northwell Healthcare, Inc., a not-for-profit corporation located in Nassau County, seeks approval to be established as the active parent and co-operator of Phelps Memorial Hospital Association d/b/a Phelps Hospital (Phelps), a 238-bed, voluntary not-for-profit, Article 28 acute-care hospital located in Sleepy Hollow (Westchester County). There will be no change in authorized services, the number or type of beds, or staffing as a result of approval of this project. In addition, there are no projected changes in the utilization, revenue or expenses as a result of this project, although Phelps is expected to ultimately experience cost benefits related to operational efficiencies resulting from the active parent co-operator designation. The hospital will remain a separate not-for-profit corporation licensed under Article 28 of the Public Health Law, maintaining its separate operating certificate following completion of the project.

As active parent and co-operator, Northwell Healthcare, Inc. will have the power and authority to make decisions for its affiliate as stated in its certificate of incorporation and bylaws, and the active parent powers with regards to Phelps as described in 10 NYCRR 405.1(c) as follows:

- Appointment or dismissal of management level employees and medical staff, except the election or removal of corporate officers by the members of a not-for-profit corporation;
- Approval of operating and capital budgets;
- Adoption or approval of operating policies and procedures;
- Approval of certificate of need applications filed by or on behalf of Phelps;
- Approval of debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
- Approval of contracts for management or for clinical services; and
- Approval of settlements of administrative proceedings or litigation to which Phelps is party, except approval by the members of a not-for-profit corporation of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Northwell Healthcare, Inc.'s exercise of powers will allow Phelps providers to:

- Formulate consistent corporate policies and procedures across the system;
- Ensure a consistent approach to regulatory compliance, standards of care, and medical staff credentialing;
- Organize the network providers into an efficient and accessible continuum of care responsive to community needs;
- Collaborate in areas designed to conserve resources, such as joint purchasing;
- Facilitate clinical integration and the use of best practices;
- Share resources; and
- Reflect common mission, philosophy, values and purposes.

Phelps is a community hospital that serves the residents of Westchester County and the surrounding communities of Rockland, Putnam and Dutchess Counties in New York and Fairfield County in Connecticut. Phelps controls certain subsidiaries and affiliates, including Phelps Hospice. Northwell Healthcare, Inc., whose sole corporate member is Northwell Health, Inc., is a comprehensive, integrated healthcare delivery system comprised of 21 hospitals across the New York metropolitan area, as well as physician practices and providers of subacute care including home care, long-term care and hospice services. The purpose of this transaction is to enable Northwell and Phelps to improve the wellness of the communities served; deliver value to patients and payors; increase operational efficiencies; support a long-term financial commitment to Phelps; and advance clinical best practices, efficient and effective governance, and stewardship of community assets.

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no impact on utilization or changes to beds or services. There are also no planned staffing or revenue and expenditure changes anticipated.

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, working capital requirements or budgets associated with this application.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of evidence of approval by the Office of Alcohol and Substance Abuse Services, acceptable to the Department. [PMU]
2. Submission of evidence of approval by the Office of Mental Health, acceptable to the Department. [PMU]
3. Submission of a photocopy of a Certificate of Incorporation of Northwell Health, Inc. along with any and all amendments thereto, which is acceptable to the Department. [CSL]
4. Submission of a photocopy of the By-laws of Northwell Health, Inc. along with any and all amendments thereto, which is acceptable to the Department. [CSL]
5. Submission of a photocopy of the Certificate of Incorporation of Northwell Healthcare, Inc. along with any and all amendments thereto, which is acceptable to the Department. [CSL]
6. Submission of a photocopy of an By-laws of Northwell Healthcare, Inc,, along with any and all amendments thereto, which is acceptable to the Department. [CSL]
7. Submission of a photocopy of a Certificate of Amendment to the Certificate of Incorporation of Phelps Memorial Hospital Association, which is acceptable to the Department. [CSL]
8. Submission of a photocopy of an Amended By-laws of Phelps Memorial Hospital Association, which is acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

February 9, 2017

Need Analysis

Analysis

Northwell Healthcare, Inc., along with Phelps Hospital, and their respective affiliates, desire to enter into a transaction for the purpose of having Phelps Hospital join Northwell Healthcare, Inc., in support of their common and unifying vision for value and quality in health care, thereby enabling them to:

- Improve the wellness of all communities served;
- Deliver unprecedented value to patients, payors, and employers;
- Increase operational efficiencies;
- Support a substantial, long-term financial, mission and quality-enhancing commitment to the legacy assets of Phelps Hospital by making a sustained commitment to the existing and future Phelps Hospital assets and operations as part of the combination; and
- Advance clinical best practices, efficient and effective governance, and stewardship of community assets.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Character and Competence

The sole corporate member of Northwell Healthcare, Inc. is Northwell Health, Inc.

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.

Upon review of the 32-member Board of Trustees of Northwell Healthcare, Inc., the following disclosures were made:

Mr. Epstein disclosed that the Jewish Board of Family and Children's Services with which he is affiliated entered into a settlement with the NY Office of Medicaid Inspector General to reconcile excess payments received relative to Office of Mental Health's reimbursement methodology.

Mr. Richard Goldstein disclosed that he had been both a director and shareholder of corporation which filed for bankruptcy protection in 2009 then subsequently sold their assets.

Mr. Hiltz disclosed that, as a registered broker dealer, his firm is regulated by NASD and FINRA and is subject to regular examinations. On two occasions, the firm agreed to the imposition of regulatory fines (each under $5,000) for routine business claims rather than pursue a dispute resolution process.

Mr. Charles Merinoff disclosed that he had been named in an employment action involving a company that he was affiliated with in 2009. The matter was settled at arbitration in July 2012.

Mr. Ranieri disclosed that a company with which he was affiliated had entered into a settlement agreement in March 2013 with the SEC for failure to adequately oversee a third party's activities in 2008 related to marketing a particular fund.

Compliance with Applicable Codes, Rules and Regulations

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.

In an S&O dated February 6, 2007, Staten Island University Hospital was fined $8,000 based on the investigation of a patient admitted for a left sided mediastinotomy (insertion of a tube into the chest). The procedure was begun on the right side of the chest and an anesthesiologist noticed the error ten minutes into the procedure. In another S&O dated July 23, 2007, the hospital was fined $12,000 due to an overdose of a controlled substance which caused a patient's death. Nursing administered a drug at a higher rate than was ordered and continued administration even after the medication had been discontinued by a surgical resident.

In September 2008, Staten Island University Hospital (SIUH) entered into a settlement with the U.S. Attorney's Office, the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General's Office of the State of New York and agreed to pay a monetary settlement of $76.4M to the federal government and $12.4M to the state and enter into a 5-year Corporate Integrity Agreement. The settlement covered payments related to stereotactic radiosurgery treatments; provision of detoxification services above licensed capacity; SIUH's graduate medical education program; and the provision of inpatient psychiatric services above licensed capacity.

In an S&O dated December 11, 2008, North Shore University Hospital- Manhasset was fined $18,000 based on post-operative care rendered to an elderly patient. Following surgery for an aneurysm, the patient developed multiple decubiti, fell out of bed resulting in a dislocated femur and developed renal failure. It was determined that follow-up care was delayed or inadequate.

In an S&O dated July 8, 2010, Syosset Hospital was fined $42,000 based an investigation of the care a child received related to an adenotonsillectomy. The patient was improperly cleared for surgery and, despite multiple comorbidities, was not kept for observation post-operatively. The patient expired after discharge.

In September 2010, North Shore-Long Island Jewish Health System settled claims without a finding or admission of fraud, liability or other wrongdoing relative to a qui tam lawsuit filed under the civil False Claims Act by a private whistleblower and investigated by the U.S. Attorney's Office. The $2.95M settlement covered a 10-year period and primarily related to isolated errors in various cost reports rather than the allegations.

In November 2010, Civil Investigative Demands (CIDs) for documents, interviews and other information relating to North Shore University Hospital's clinical documentation improvement program were issued by the US Attorney's Office for the Southern District. The Health System complied, however, to date, there have been no specific demands for repayment or findings of liability in this matter.

In December 2010, the Civil Division of The United States Department of Justice (DOJ) requested the Health System execute a one-year tolling agreement to provide the government time to review claims for payment of implantable cardioverter defibrillators (ICDs) and related services for which Medicare does not cover. The Health System has executed eight extensions to the initial tolling agreement. In 2016, the investigation was resolved by agreement with the DOJ, and the matter is now closed. When the government's review is complete, it may seek repayment of any claims that were not proper as determined by its resolution model.

In October 2011, the US Attorney's Office for the Western District of New York initiated a review of Southside Hospital's inpatient admissions for atherectomy procedures. And, in June 2012, the US Attorney's Office for the Eastern District of New York subpoenaed documentation relating to services rendered at Staten Island University Hospital's inpatient specialized burn unit. To date, the government has not indicated whether there is any potential liability in either matter.

In a S&O dated November 5, 2014, Broadlawn Manor Nursing & Rehab Center was fined $6,000 based on an inspection completed on December 19, 2011 for issues involving Accidents and Supervision; Administration; and Quality Assurance.

In a subsequent S&O filed on January 5, 2016, Broadlawn received a fine of $8,000 based on an inspection finding of April 18, 2014 involving the lack of supervision and reassessment of a resident who exhibited wandering and elopement behavior. After several episodes of wandering the resident was found face down in the parking lot. The facility failed to investigate this incident and the circumstances leading up to it.

Again, on July 12, 2016, a S&O was issued along with a $10,000 fine for inspection findings of October 12, 2015 involving the care provided to a resident identified as at moderate risk for skin breakdown. This resident developed a stage IV decubitus ulcer which required surgical debridement. It was determined that the physician's orders for this patient were not properly followed.

In June 2012, the OIG and U.S. Attorney's Office for the Eastern District of New York subpoenaed Staten Island University Hospital (SIUH) for documentation relating to services rendered at SIUH's inpatient specialized burn unit dating back to 2005. Requested documentation was provided in 2012 and, in 2013, SIUH responded to follow-up questions. To date, the government has not indicated whether SIUH has any potential liability in this matter.

In October 2012, a Program Integrity Contractor acting on behalf of the Centers for Medicare & Medicaid Services (CMS) reviewed 33 inpatient cardiac stent claims for 25 Medicare patients that had been submitted by Lenox Hill Hospital (LHH) between October 2007 and December 2010. The Contractor determined that the documentation did not support inpatient admission and/or the medical necessity of the of the cardiac stent procedure for the majority of the claims. The contractor requested that LHH undertake a self-audit and voluntary disclosure of its billing and claims history for elective cardiac stent admissions during this time. In 2016, LHH completed the self-audit and made a repayment to Medicare.

In a S&O dated November 21, 2016, Long Island Jewish Medical Center was fined $4,000 based on complaint investigation findings related to Infection Control Practices. During the investigation, 24 staff were observed not following acceptable of standards of practice for Infection Control practices in Surgical Areas. Specifically, staff demonstrated improper attire and exposure of hair during procedures.

Also on November 21, 2016, the Department issued a S&O and $10,000 fine to Northern Westchester Hospital. Immediate Jeopardy was identified on April 22, 2016 during an allegation survey. The issues involved the calling of a code team in a timely manner for a newborn baby (who subsequently expired). It was determined that hospital staff were not trained in the code policy and as such, did not initiate the code via the proper procedure.

On January 19, 2017, the Department issued a S&O to Plainview Hospital regarding a pattern of infection control practices which were not consistent with accepted standards and levied a fine of $4,000.

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

Financial Analysis

There will be no change in authorized services, the number or type of acute care beds or utilization as a result of approval of this project.

There is no purchase price consummating the transfer of ownership interests to Northwell HealthCare, Inc. Phelps Hospital and Northwell Healthcare, Inc. separately financed the acquisition and each entity agreed to be fully responsible for the respective costs and expenses for effectuating this transaction. No other consideration has been exchanged.

Capability and Feasibility

The applicant stated that upon approval of this application by the Public Health and Health Planning Council, Northwell Healthcare, Inc. would obtain consent for the proposed changes from necessary lenders, insurers and trustees. There will be no change in the daily operations of each health care entity, although each is expected to experience cost benefits from the active parent designation.

BFA Attachment B is Northwell Health, Inc.'s consolidated 2015 financial statements and their internal financial statements as of September 30, 2016, which shows the entity maintained positive working capital, a positive net asset position and had positive net income of $ 81,564,000 and $84,084,000, respectively.

BFA Attachments C and D are, respectively, Phelps Hospital's 2015 financial statements and their internal financial statements as of September 30, 2016. Phelps maintained positive working capital, a positive net asset position and net income of $12,118,000 in 2015. As of September 30, 2016, Phelps maintained positive working capital, a positive net asset position and net income of $12,536,000.

The designation of Northwell Healthcare, Inc. as the active parent and co-operator of Phelps is expected to enhance Phelps' facilities and contribute to a greater marketing presence for the Corporation and its providers.

Based on the preceding, 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	Northwell Health, Inc. – 2015 and September 30, 2016 financials
BFA Attachment C	Phelps Memorial Hospital - 2015 Certified Financials
BFA Attachment D	Phelps Memorial Hospital - Internal Financials as of September 30, 2016

Public Health and Health Planning Council

Project # 162353-E
Northwell Quality and Medical Affairs, Inc.

Program:	**Hospital**	***County:***	**Nassau**
Purpose:	**Establishment**	***Acknowledged:***	**November 2, 2016**

Executive Summary

Description

Northwell Healthcare, Inc. (NHCI), a not-for-profit corporation located in Nassau County, seeks approval to establish Northwell Quality and Medical Affairs, Inc. (NQMA) as co-operator and second active parent of seven Northwell Healthcare, Inc. co-operated acute-care hospitals and one co-operated residential health care facility (RHCF). The intent is for NQMA to have specific responsibility for medical, graduate and allied health professional staff appointments and privileging for the hospitals and RHCF. The facilities (all voluntary not-for profit corporations) are as follows:

- North Shore University Hospital (764 beds) located at 300 Community Drive, Manhasset (Nassau County);
- Long Island Jewish Medical Center(1,025 beds) located at 270-05 76th Ave, New Hyde Park (Suffolk County);
- Glen Cove Hospital (247 beds) located at 101 St. Andrews Lane, Glen Cove (Nassau County);
- Plainview Hospital (204 beds) located at 888 Old Country Road, Plainview (Nassau County);
- Southside Hospital (320 beds) located at 301 East Main St., Bay Shore (Suffolk County):
- Staten Island University Hospital - North (508 beds) located at 475 Seaview Avenue and
  Staten Island University Hospital - South (206 beds) located at 375 Seguine Avenue, both in Staten Island (Richmond County);
- Lenox Hill Hospital (632 beds) located at 100 East 77th St., New York (New York County); and
- Northwell Health Stern Family Center for Rehabilitation (256 beds) located at 300 Community Drive, Manhasset (Nassau County).

Northwell Healthcare, Inc., whose sole corporate member is Northwell Health, Inc., is a comprehensive, integrated health care delivery system that is comprised of 21 hospitals across the New York metropolitan area as well as physician practices and providers of subacute care including home care, long-term care, and hospice services. On July 19, 2016, the Board of Trustees of Northwell Healthcare Inc. voted to restructure its governance and to reduce the Board of Trustees to 32 members from 133 members. The vote to restructure was due to the need to ensure that Northwell Health's governance continues to achieve its mission across the entire enterprise, given the increasingly complex and challenging healthcare environment. The rationale for this change is that with a Board of Trustees of 32 members, carrying out its fiduciary responsibilities for privileging and staff appointments would place demands on the Board members' time, which would be unduly burdensome given their other committee responsibilities (i.e., compensation, audit and compliance, quality, finance, due diligence, investment, governance, and community and public health committees).

Operationally, each co-operated facility will delegate to NQMA the activity of staff appointments, reappointments, changes in status, clinical privileges, and Department administrative matters. As co-operated facilities, the hospitals and the skilled nursing facility will have responsibility for taking final action if there is an appellate review concerning corrective actions or adverse appointment recommendations. The Chairman of NQMA will also be a board member of Northwell Healthcare, Inc. Northwell Healthcare, Inc. and each of the co-operated facilities have “mirror boards”, meaning that the board members of Northwell Healthcare, Inc. and the facilities are the same.

There are no capital or operating costs associated with the formation of NQMA or NQMA carrying out its functions, and no construction costs associated with this project.

As active parent and co-operator, the following duties will be transferred from Northwell Healthcare, Inc. to NQMA:

- Approval for appointments or reappointments to the medical staff, graduate staff and allied health professional staff and changes in status with respect to such staffs, such as leave of absence;
- Approval for the granting of clinical privileges with respect to the medical staff, graduate staff and allied health professional staff;
- Approval of departmental administrative matters with respect to the medical staff, graduate staff and allied health professional staff, such as approval for the appointment of department chairs.

Notwithstanding the delegation of the above noted limited duties to NQMA, the governing body of the first parent, Northwell Healthcare, Inc., intends to exercise all authority and responsibility for carrying out governing body responsibilities with respect to operating the hospitals and RHCF. Also, the governing body expressly reserves the taking of final action concerning corrective actions or adverse appointment recommendations where there has been an appellate review under medical staff bylaws by an appellate review committee of the board of trustees of Northwell Healthcare, Inc. and/or NQMA. The final action concerning such a corrective measure or adverse appointment recommendations is expressively reserved to the board of trustees of Northwell Healthcare, Inc.

OPCHSM Recommendation

Contingent Approval

Need Summary

This establishment will not have an impact on utilization, and no changes to certified beds or services are being proposed.

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, working capital requirements or budgets associated with this application.

Recommendations

Health Systems Agency
There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management
Approval contingent upon:
1. Submission of evidence of approval by the Office of Alcohol and Substance Abuse Services, acceptable to the Department. [PMU]
2. Submission of evidence of approval by the Office of Mental Health, acceptable to the Department. [PMU]
3. Submission of photocopies of executed and completed facility lease agreements of all facilities under control of the applicant, acceptable to the Department. [CSL]
4. Submission of an executed copy of the by-laws of the applicant, which is acceptable to the Department. [CSL]
5. Submission of the by-laws and certificate of incorporation of Northwell Health, Inc., which are acceptable to the Department. [CSL]

Approval conditional upon:
1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date
February 9, 2017

Need Analysis

Analysis
Northwell Healthcare Inc. is proposing to establish Northwell Quality and Medical Affairs, Inc. (NQMA) as the co-operator of seven hospitals and a skilled nursing facility which are currently co-operated by Northwell Healthcare. This is part of a broader restructuring of the Northwell Health system. The new NQMA entity will be primarily responsible for medical staff appointments and administrative matters. The facilities which would enter into a co-operator relationship with NQMA are:

- North Shore University Hospital
- Long Island Jewish Medical Center
- Glen Cove Hospital
- Plainview Hospital
- Southside Hospital
- Staten Island University Hospital
- Lenox Hill Hospital
- Northwell Health Stern Family Center for Rehabilitation

This proposal would not have an impact on the certified services offered at the affected facilities.

Recommendation
From a need perspective, approval is recommended.

Program Analysis

Character and Competence
The sole corporate member of Northwell Healthcare, Inc. is Northwell Health, Inc.

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.

Upon review of the 14-member Board of Trustees of Northwell Quality and Medical Affairs, Inc., the following disclosures were made:

Mr. Granger, Mr. Stuart Levine, Mr. Marsh, Mr. Murcott, Dr. Rosof and Mr. Howard Stave disclosed involvement in the following: a qui tam lawsuit filed in September of 2010. North Shore-Long Island Jewish Health System settled claims without a finding or admission of fraud, liability or other wrongdoing relative to a qui tam lawsuit filed under the civil False Claims Act by a private whistleblower and investigated by the U.S. Attorney's Office. The $2.95M settlement covered a 10-year period and primarily related to isolated errors in various cost reports rather than the allegations; in December 2010, the Civil Division of The United States Department of Justice (DOJ) requested the Health System execute a one-year tolling agreement to provide the government time to review claims for payment of implantable cardioverter defibrillators (ICDs) and related services for which Medicare does not cover. The Health System has executed eight extensions to the initial tolling agreement. In 2016, the investigation was resolved by agreement with the DOJ. and the matter is now closed. When the government's review is complete, it may seek repayment of any claims that were not proper as determined by its resolution model; in October 2011, the US Attorney's Office for the Western District of New York initiated a review of Southside Hospital's inpatient admissions for atherectomy procedures; in June 2012, the US Attorney's Office for the Eastern District of New York subpoenaed documentation relating to services rendered at Staten Island University Hospital's inpatient specialized burn unit. To date, the government has not indicated whether there is any potential liability in either matter; in October 2012, a Program Integrity Contractor acting on behalf of the Centers for Medicare & Medicaid Services (CMS) reviewed 33 inpatient cardiac stent claims for 25 Medicare patients that had been submitted by Lenox Hill Hospital (LHH) between October 2007 and December 2010. The Contractor determined that the documentation did not support inpatient admission and/or the medical necessity of the of the cardiac stent procedure for the majority of the claims. The contractor requested that LHH undertake a self-audit and voluntary disclosure of its billing and claims history for elective cardiac stent admissions during this time. In 2016, LHH completed the self-audit and made a repayment to Medicare; in September 2008, Staten Island University Hospital (SIUH) entered into a settlement with the U.S. Attorney's Office, the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General's Office of the State of New York and agreed to pay a monetary settlement of $76.4M to the federal government and $12.4M to the state and enter into a 5-year Corporate Integrity Agreement. The settlement covered payments related to stereotactic radiosurgery treatments; provision of detoxification services above licensed capacity; SIUH's graduate medical education program; and the provision of inpatient psychiatric services above licensed capacity.

Mr. Richard Goldstein disclosed that he had been both a director and shareholder of corporation which filed for bankruptcy protection in 2009 then subsequently sold their assets.

Compliance with Applicable Codes, Rules and Regulations

Mr. Gary Cohen reported ownership interest in Northern Westchester Hospital. 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.

On November 21, 2016, the Department issued a S&O and $10,000 fine to Northern Westchester Hospital. Immediate Jeopardy was identified on April 22, 2016 during an allegation survey. The issues involved the calling of a code team in a timely manner for a newborn baby (who subsequently expired). It was determined that hospital staff were not trained in the code policy and as such, did not initiate the code via the proper procedure.

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

Financial Analysis

There will be no change in authorized services, the number or type of acute care beds or utilization as a result of approval of this project.

Capability and Feasibility

BFA Attachment B is Northwell Health, Inc.'s 2015 certified and internal financial summaries as of September 30, 2016, which indicates they have maintained positive working capital and net assets positions, and maintained positive net income of $81,564,000 and $84,084,000, respectively.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Pre and Post-Organizational Charts
BFA Attachment B	Northwell Health, Inc. Financial Summary - 2015 certified and internals as of September 30, 2016.

Public Health and Health Planning Council

Project # 162391-E
Winthrop-University Hospital

Program:	**Hospital**	***County:***	**Nassau**
Purpose:	**Establishment**	***Acknowledged:***	**November 15, 2016**

Executive Summary

Description

NYU Langone Health System, Inc., a not-for-profit corporation whose sole corporate member is New York University, requests approval to be established as the active parent and co-operator of Winthrop-University Hospital, a 591-bed, voluntary not-for-profit, Article 28 acute care hospital located at 259 First Street in Mineola (Nassau County), and Winthrop-University Home Health Agency, an Article 36 certified home health agency (CHHA) serving Queens, Nassau and Suffolk counties. Approval is also sought to change the name of the hospital to NYU Winthrop Hospital and use the assumed name of NYU Winthrop. The hospital is operated by Winthrop-University Hospital Association, which also operates the Article 36 CHHA and a long-term home health care program. The active parent affiliation for the Article 36 CHHA is part of this application request.

As the active parent and co-operator, NYU Langone Health System will have the following rights, powers and authorities with respect to the Article 28 and Article 36 Winthrop-University Hospital Association entities:

- Electing the Corporation's Board of Directors;
- Removing the Corporation's Board of Directors;
- Filling any vacancies in the Corporation's Board of Directors;
- Amending, repealing, or adopting new By-laws;
- Approving the Corporation's merger or consolidation with another entity;
- Approving the sale, lease, exchange or other disposition of all, or substantially all, of the assets of the Corporation;
- Reviewing the vision, mission and strategic and financial plans of the Corporation;
- Approving the incurrence of any indebtedness of $5,000,000 or more in any given fiscal year;
- Approving any transaction undertaken by the Corporation having a value of $25,000,000 or more;
- Approving the creation, acquisition and or dissolution of an entity in which the Corporation is proposed to be, or is, the controlling member of; and
- Exercising any powers by the Corporation, acting in its capacity as direct or indirect member, shareholder or partner of any affiliate, subsidiary or joint venture.

The proposed affiliation is intended to help Winthrop maintain their status as an acute care hospital on Long Island providing tertiary care, research and medical education programs, while making the hospital the hub of a high-quality, high-value, regional healthcare delivery system. There will be no change in either the authorized services or the number or type of beds as a result of approval of this project. Also, there are no projected changes in the utilization, revenues or expenses of the Winthrop University Hospital Association as a direct result of this project. The Hospital will remain a separate not-for-profit corporation licensed under Article 28 of the Public Health Law, maintaining its separate operating certificate following completion of the project.

OPCHSM Recommendation
Contingent Approval

Need Summary
This change in ownership will not have an impact on utilization, and no changes to beds or services certified at Winthrop-University Hospital are being proposed.

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 and no projected incremental change in staffing, operating expenses or operating revenues associated with this application.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of a photocopy of the applicant's amended by-laws, acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

February 9, 2017

Need Analysis

Analysis
This proposal to establish NYU Langone Health System as the active parent of Winthrop-University Hospital Association will have no impact on the operating certificate of Winthrop University Hospital or affiliated providers, and no impact on services is expected.

Conclusion
Integrating the hospital into the NYU Langone Health System will provide opportunities for improved quality, expanded access and cost reductions, and will improve access to capital for the hospital, enabling future investments in patient services.

Recommendation
From a need perspective, approval is recommended.

Program Analysis

Project Proposal
NYU Langone Health System, a not-for-profit corporation whose sole corporate member is New York University, requests approval to become the active parent and co-operator of Winthrop University Hospital Association.

Winthrop University Hospital is a not-for-profit, 591-bed Article 28 acute care hospital located in Nassau County at 259 First Street in Mineola. NYU Langone Health System, a not-for-profit entity of which New York University (NYU) is the sole corporate member, is the parent of an integrated healthcare system that includes four (4) hospitals across the New York metropolitan area as well as 140 ambulatory facilities, a federally qualified health center, physician practices and providers of subacute care including home care and long term care.

Winthrop University Hospital and its respective affiliates seeks to join the NYU Langone Health system in order to have access to capital that will enable improvement and expansion of services, access to the System's operational efficiencies and strategies and the ability to connect to the System's clinically integrated network. There will be no change in either authorized services or the number or type of beds as a result of this proposed change in governance structure.

Character and Competence
NYU Langone Health System has a 58-person Board. The sole corporate member of NYU Langone Health System is New York University.

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.

Upon review of the 58-member Board of Trustees of NYU Langone Health System, the following disclosures were made:

Mr. Berkley disclosed that he was the Chairman of the Board of Directors of a national organization in 2010 that settled allegations pertaining to Connecticut's Uniform Securities Act. Mr. Berkley has also been affiliated with five corporations that filed voluntary petitions seeking reorganization under Chapter 11.

Mr. Bronfman disclosed that he was named in an action involving a company he was affiliated with which involved allegations related to financial disclosures, executive compensation and stock trading. The court determined that the trading allegations were substantiated, but Mr. Bronfman was not liable to the civil claimants and he was ultimately fined 2.5 million euros.

Mr. Leeds disclosed that in 2010, a company he was affiliated with settled an administrative proceeding with the SEC regarding an inquiry into past compliance policies, record-keeping procedures and documentation production. The company agreed to a censure, the entry of a cease and desist order and payment of penalties totaling $160,000.

Mr. Nickell disclosed that the company with which he is affiliated has been involved in a number of litigation matters. A class action complaint filed in 2014 alleging financial statements is pending, one action regarding fiduciary duties is in mediation and one employee allegation filed in 2007 has been settled. Mr. Nickell also reports involvement in numerous bankruptcy proceedings.

Mr. Ronald Perelman disclosed: a settled claim in 2008 involving a complaint of breaches in fiduciary duty; two settled claims in 2011 involving complaints of breaches in contract; a settled claim in 2012 involving a complaint of a breach of fiduciary duty; a settled claim in 2013 involving shareholder litigation; one settled action in 2013 involving a complaint of a breach of fiduciary duty; one action pending involving a complaint regarding swing profits; and a claim settled in 2016 involving a complaint of fraud and breach of contract. Mr. Perelman also disclosed involvement in three bankruptcy proceedings.

Mr. Douglas Phillips disclosed one pending action involving an employee matter.

Mr. Barry Schwartz disclosed two actions settled in 2013, one involving a claim of breach of fiduciary duty and one involving a claim of legal malpractice involving another individual at the firm where he was employed; an action settled in 2012 involving a claim of breach of fiduciary duty; and that he was an officer of three holding companies that filed bankruptcy petitions.

Mr. Wechsler disclosed one shareholder class action in 2006 that was settled.

Compliance with Applicable Codes, Rules and Regulations

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.

In a Stipulation and order (S&O) dated November 16, 2006, NYU Hospitals Center was fined $16,000 based on the investigation of two occurrences of wrong sided surgery. The first involved a hernia surgery and the second involved the removal of a catheter.

In an S&O dated February 2, 2007, NYU Hospitals Center was fined $6,000 based on a complaint investigation of the care rendered to a patient who underwent surgery on his jaw. The patient experienced extensive bleeding and arrested. Intubation was hindered by the fixation performed and the patient expired.

In an S&O dated May 29, 2007 NYU Hospitals Center was fined $6,000 following the investigation of the death of an infant. It was determined that there were significant delays in diagnosis and in recognizing the patient's deteriorating condition.

In an S&O dated May 28, 2008 NYU Hospitals Center was fined $6,000 following the investigation of a patient admitted for treatment of a seizure disorder. The investigation determined that the monitoring ordered for this patient did not occur, leading to the patient's death.

In an S&O dated March 12, 2012 Lutheran Augustana Center for Extended Care and Rehabilitation was fined $22,000 ($12,000 and $10,000 respectively) following the investigation of a complaint involving an error in prescribing and a finding identified during a recertification survey. The complaint involved a physician who wrote an order for insulin for a non-diabetic patient in error. The patient subsequently became hypoglycemic after receiving the dose of insulin and required transfer to the hospital for respiratory distress.

On survey, a resident was identified who had poor intake and known elevated blood urea nitrogen (BUN). The resident was not monitored nor provided with adequate fluids. The resident subsequently experienced episodes of vomiting and an elevated BUN which required transfer to the hospital for acute renal failure.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Capability and Feasibility

There are no issues of capability or feasibility as there are no project costs or any expected changes to the budgets associated with this application.

BFA Attachment B is the certified financial statements of NYU Hospitals Center for the years ended August 31, 2014 and August 31, 2015. As shown, the entity had an average positive working capital position and an average positive net asset position. Also, the entity achieved an average excess of revenues over expenses of $221,000,000 from September 1, 2014 through August 31, 2015.

BFA Attachment C is the 2014 and 2015 certified financial statements of Winthrop University Hospital Association and Subsidiaries. As shown, the entity had an average positive working capital position and an average positive net asset position from 2014 through 2015. Also, the entity achieved an average excess of revenues over expenses of $25,414,164 from 2014 through 2015.

BFA Attachment D is the internal financial statements of NYU Hospital Center as of August 31, 2016. As shown, the entity had a positive working capital position and a positive net asset position through August 31, 2016. Also, the entity achieved a gain from operations of $278,390,000 through August 31, 2016.

BFA Attachment E is the internal financial statements of Winthrop University Hospital as of September 30, 2016. As shown, the entity had a positive working capital position and a positive net asset position through September 30, 2016. Also, the entity achieved a net operating income of $12,528,514 through September 30, 2016.

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Organizational Chart Pre-Closing and Post-Closing
BFA Attachment B	Financial Summary - August 31, 2014 and August 31, 2015 certified financial statements of NYU Hospitals Center
BFA Attachment C	Financial Summary - 2014 and 2015 certified financial statements of Winthrop University Hospital
BFA Attachment D	Financial Summary - August 31, 2016 internal financial statements of NYU Hospital Center
BFA Attachment E	Financial Summary - September 30, 2016 internal financial statements of Winthrop University Hospital

Public Health and Health Planning Council

Project # 162396-E
WMC Health Network - Ulster, Inc.

Program:	**Hospital**	***County:***	**Ulster**
Purpose:	**Establishment**	***Acknowledged:***	**November 18, 2016**

Executive Summary

Description

WMC Health Network-Ulster, Inc. (WMC Ulster), an existing New York not-for-profit corporation, requests approval to be established as the active parent and co-operator of HealthAlliance, Inc. d/b/a HealthAlliance of the Hudson Valley (HealthAlliance), a New York not-for-profit corporation, and active parent, of the following voluntary not-for-profit Article 28 hospitals:

- HealthAlliance Hospital Broadway Campus (HA Broadway), a 150-bed acute care hospital located at 396 Broadway, Kingston (Ulster County);
- HealthAlliance Hospital Mary's Avenue Campus (HA Mary's Avenue), a 150-bed acute care hospital located at 105 Mary's Avenue, Kingston (Ulster County); and
- Margaretville Memorial Hospital (MMH), a 15-bed Critical Access Hospital located a 42084 State Highway 28, Margaretville (Delaware County).

It is noted that MMH is the sole corporate member of Margaretville Nursing Home, Inc. d/b/a Mountainside Residential Care Center (Mountainside), an 82-bed, not-for-profit, Article 28 residential hearth care facility (RHCF) adjoining the hospital. The skilled nursing facility is not part of this application request.

In March 2016, WMC Ulster became the sole member and passive parent of HealthAlliance. Upon approval of this application, WMC Ulster will become the active parent and co-operator of HealthAlliance and the three hospitals. The sole member of WMC Ulster is Westchester County Health Care Corporation (WCHCC) d/b/a Westchester Medical Center (WMC), an existing New York state public benefit corporation.

As active parent and co-operator, WMC Ulster, will have the following rights, powers and authorities with respect to the Article 28 hospitals, as stated in its certificate of incorporation and bylaws, reserve powers list, and the active parent powers as described in 10 NYCRR 405.1(c):

- Appointment of the members of the Board of Trustees of the hospitals;
- Appointment or dismissal of officers, managers and medical staff;
- Approval of the operating and capital budgets and strategic and operating plans;
- Adoption or approval of operating policies and procedures;
- Approval of certificate need applications filed by or on behalf of the hospitals;
- Approval of any indebtedness of the hospitals;
- Approval of management or clinical services contracts;
- Adoption or approval of an amendment, repeal or other change to the organizational documents of the s including the adoption of any new By-Laws;
- Approval of settlements of administrative or other litigation or proceedings to which the hospitals are a party; and
- Negotiation of payor and managed care contracts on behalf of HealthAlliance and the hospitals.

The stated purpose of the transaction is to establish a coordinated, highly integrated system with the objective of improving quality, increasing access and lowering the costs of health care in the communities served by HealthAlliance. There will be no change in either authorized services or the number or type of beds as a result of approval of this project. In addition, there are no projected changes in the utilization, revenues or expenses of the hospitals as a direct result of this project. The hospitals will remain separate not-for-profit corporations certified under Article 28 of the Public Health Law, maintaining separate operating certificates following completion of the project.

OPCHSM Recommendation

Contingent Approval

Need Summary

There are no requested changes to beds or services through this project.

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 and no projected incremental change in staffing, operating expense or operating revenues associated with this application.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of evidence of approval by the Office of Alcohol and Substance Abuse Services, acceptable to the Department. [PMU]
2. Submission of evidence of approval by the Office of Mental Health, acceptable to the Department. [PMU]
3. Submission of the Certificate of Amendment of the Certificate of Incorporation of WMC Health Network - Ulster, Inc., which is acceptable to the department. [CSL]
4. Submission of the Amended and Restated By-laws of WMC Health Network - Ulster, Inc., which is acceptable to the department. [CSL]
5. Submission of the Restated Certificate of Incorporation of HealthAlliance, Inc., which is acceptable to the department. [CSL]
6. Submission of the Amended and Restated By-laws of HealthAlliance, Inc., which is acceptable to the department. [CSL]
7. Submission of the Certificate of Amendment of the Certificate of Incorporation of HealthAlliance Hospital Broadway Campus, which is acceptable to the department. [CSL]
8. Submission of the Amended and Restated By-laws of HealthAlliance Hospital Broadway Campus, which is acceptable to the department. [CSL]
9. Submission of the Certificate of Amendment of the Certificate of Incorporation of HealthAlliance Hospital Mary's Avenue Campus, which is acceptable to the department. [CSL]
10. Submission of the Amended and Restated By-laws of HealthAlliance Hospital Mary's Avenue Campus, which is acceptable to the department. [CSL]
11. Submission of the Certificate of Amendment of the Certificate of Incorporation of Margaretville Hospital, which is acceptable to the department. [CSL]
12. Submission of the Amended and Restated By-laws of Margaretville Hospital, which is acceptable to the department. [CSL]

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

February 9, 2017

Need Analysis

Analysis

This proposal to establish WMC Health Network - Ulster, Inc. as the active parent of HealthAlliance, Inc., and as the active parent of the three hospitals within the HealthAlliance network, will have no immediate impact on the operating certificates of the affected hospitals or affiliated providers. The three facilities that are the subject of this application are as follows:

- Margaretville Hospital, a 15-bed Critical Access Hospital located at 42084 State Highway 28, Margaretville, NY 12455, in Delaware County
- HealthAlliance Hospital Mary's Avenue Campus, a 150-bed hospital located at 105 Marys Avenue, Kingston, NY 12401, in Ulster County
- HealthAlliance Hospital Broadway Campus, a 150-bed hospital located at 396 Broadway, Kingston, NY 12401, in Ulster County

Conclusion

This proposal is expected to provide opportunities for cost-saving efficiencies and improved access to capital enabling improved quality, expanded access and cost reductions throughout the HealthAlliance network.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Character and Competence

The sole corporate member of WMC Health Network - Ulster, Inc. is Westchester County Health Care Corporation (WCHCC) d/b/a Westchester Medical Center (WMC), an existing public benefit corporation.

The board of WMC Health Network - Ulster, Inc. is as follows:

Name	Title
Mitchell C. Hochberg	Chair
Michael D. Israel*	President
Mark S. Tulis	Vice-Chair
Zubeen P. Shroff	Treasurer
Julie A. Switzer*	Secretary
Thomas A. Collins*	Director
Kevin M. Ryan*	Director
Marsha J. Casey*	Director

**also existing Director on HealthAlliance's Board*

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.

Mr. Israel, Ms. Switzer and Ms. Casey disclosed an affiliation with Westchester Medical Center (WMC). At times, WMC has been the subject of investigations, to include the following:

- In November 2011, WMC received a Civil Investigative Demand (CID) from the U.S. Attorney's Office for the Southern District of NY (USAO/SDNY) regarding in- and outpatient mental health services furnished at WMC's Behavioral Health Center. WMC was advised during settlement discussion that the investigation stemmed from a pending qui tam complaint. IN October 2012, WMC resolved the matter in its entirety for $7 million.
- In March 2015, WMC settled another a qui tam complaint filed related to contractual agreements between WMC and physicians on its staff for $18.8 million.
- In July 2015, WMC received a CID from the USAO/SDNY related to claims WMC submitted to the Medicaid and Medicare programs in the course of furnishing clinical services as part of clinical trials conducted at WMC. The matter is pending.

Compliance with Applicable Codes, Rules and Regulations

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.

- In a Stipulation and Order (S&O) dated February 6, 2007, Westchester Medical Center was fined $12,000 based on the findings of a complaint investigation involving a patient who entered the hospital for the surgical removal of plaque from his right carotid artery. The facility performed a left side carotid endarterectomy.
- In an S&O dated January 3, 2008, Mountainside Residential Care Center was fined $2,000 based on findings from a survey completed on March 20, 2007 where the facility was cited for issues involving Quality of Care – Accidents.

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

Capability and Feasibility

There are no issues of capability or feasibility, as there are no project costs or budgets associated with this application.

BFA Attachment B is Westchester County Health Care Corporation's (WCHCC) 2013-2015 certified and their internal financial statements as of September 30, 2016. As shown, WCHCC had a positive working capital position and a negative net asset position for the period. In addition, WCHCC achieved an average operating income of $5,894,615 from 2013 through 2015 and an operating loss of $10,664,000 as of September 30, 2016. The 2016 loss is due to a NYS actuarial pension adjustment in the amount of $11,250,000 as required under GASB 68. Prior to this, the facility achieved a profit of $586,000 for the nine-month period. The applicant has determined that this adjustment will cause an overall loss for 2016, but has now factored this pension adjustment into their future budgets.

BFA Attachment C is HealthAlliance, Inc.'s 2014 and 2015 certified financial statements and their internal financial statements as of August 31, 2016. As shown, the entity had a negative working capital position and an average negative net asset position from 2014 through August 31, 2016. In addition, the entity incurred average operating losses of $14,275,664 from 2014 through 2015 and $4,146,827 as of August 31, 2016. State support from the Interim Access Assurance Fund (SFY 2014-15), the Vital Access Provider Assistance Program and the Value Based Payment - Quality Improvement Program (SFYs 2015-16 and 2016-17) has been provided to help HealthAlliance mitigate these operating losses. The applicant indicated the reason for the losses and the negative working capital is declining utilization experienced by the HealthAlliance hospitals. Current market trends have shown a significant reduction in Medicare readmissions and the hospitals have been negatively impacted by changes related to population health management and NYS's Delivery System Reform Incentive Payment Program. To improve operations, HealthAlliance developed a strategic plan to consolidate services into a single facility at the Mary's Avenue Campus, reducing beds from 300 down to 201, and create a medical village at the vacated Broadway Campus facility. A Capital Restructuring Financing Program (CRFP) grant award in the amount of $88.8 million will be used to fund the physical plant restructuring project.

As previously noted, HealthAlliance joined WMC Ulster in a passive parent relationship on March 30, 2016. This application is a further step in a corporate reorganization to enhance HealthAlliance's ability to provide quality care locally, enable access to physicians and services in Westchester Medical Center's Health Network, and help the entity attain financial stability. Anticipated benefits of the affiliation with WCHCC/WMC include the following:

- Increase HealthAlliance's access to the capital markets that will allow the new facility to offer modernized clinical services in as all private room environment;
- Enable a reorganization of clinical services between HealthAlliance and Mid-Hudson Regional Hospital to gain better efficiencies and improve quality of care at both campuses;
- Provide HealthAlliance with telemedicine support to further improve timeliness of consults and performance in the Emergency Department and Outpatient Clinics;
- Allow HealthAlliance to participate in system-wide, value-based, purchasing initiatives by utilizing the network infrastructure and contracting process; and
- Allow full consolidation of various back-office functions to improve service and reduce costs in areas such as IT, finance, revenue cycle, human resources and purchasing.

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Organizational Chart
BFA Attachment B	Financial Summary- 2013-2015 certified and the January 1, 2016-September 30, 2016 internal financial statements of Westchester County Health Care Corporation.
BFA Attachment C	Financial Summary- 2014 and 2015 certified and the January 1, 2016-August 31, 2016 financial statements of HealthAlliance, Inc.

Public Health and Health Planning Council

Project # 162407-E
Upper Allegheny Health System

Program:	**Hospital**	***County:***	**Cattaraugus**
Purpose:	**Establishment**	***Acknowledged:***	**November 25, 2016**

Executive Summary

Description

Kaleida Health, a voluntary not-for-profit corporation, requests approval to be established as the active parent of Upper Allegheny Health System (UAHS) and the active parent/co-operator of Olean General Hospital (OGH). UAHS is the sole corporate member of OGH, a 186-bed, voluntary not-for-profit, Article 28 hospital located at 515 Main Street, Olean (Cattaraugus County), and Bradford Regional Medical Center (BRMC), a 107-bed acute care hospital located in Pennsylvania. As a result of this transaction, Kaleida Health will become the active parent of UAHS and thus the grandparent to both OGH and BRMC.

As the active parent of UAHS, Kaleida Health will have the following rights, power and authorities with respect to UAHS (including both OGH and BRMC):

- Approval and appointment of the members of the board of UAHS;
- Appointment and removal of the CEO of UAHS;
- Approval of amendments to the articles or certificates of incorporation and bylaws of UAHS, OGH, and BRMC;
- Approval of UAHS's, OGH's and BRMC's annual operating and capital budgets;
- Approval of sale, lease, mortgage or encumbrance of any UAHS, OGH, or BRMC assets in excess of $250,000;
- Approval of any merger, business consolidation, acquisition or joint venture by UAHS, OGH, or BRMC;
- Approval of any filing at the state or federal level of a bankruptcy petition, or the taking of any action regarding insolvency, by UAHS, OGH, or BRMC;
- Approval of any indebtedness in excess of $250,000 by UAHS, OGH, or BRMC excluding vendor debt incurred in the Ordinary Course of Business;
- Allocation of costs to UAHS, OGH, or BRMC based upon a cost allocation formula developed jointly by Kaleida Health and UAHS;
- Adoption of strategic plans for UAHS;
- Approval of management agreements in which UAHS, OGH, or BRMC is a party, that have not already been authorized by Kaleida or are not included in a Kaleida-approved budget;
- Approval of changes in clinical services offered by UAHS, OGH, or BRMC;
- Approval of certificate of need applications prepared by UAHS, OGH, or BRMC; and
- Approval of settlements of administrative proceedings or litigation to which UAHS, OGH or BRMC is a party.

The stated purpose of this transaction is to strengthen rural healthcare and allow UAHS to participate in a fully integrated healthcare delivery system. There are no projected changes in the utilization, revenues or expenses of the affiliates as a direct result of this project. There are no costs associated with this project and there are no changes to staffing or services concurrent with the approval of this application. There will be no reduction in either authorized services or the number or type of beds as a result of approval of this project. UAHS will remain a separate not-for-profit corporation, maintaining separate operating certificates following completion of the project.

OGH is a rural acute care hospital that was established in 1898. The hospital has been providing care to the residents of Olean and the surrounding communities of New York's Southern Tier for over 117 years. The hospital operates six hospital extension clinics and one school-based hospital extension clinic.

Kaleida Health is an Article 28 integrated health care delivery system located in Buffalo (Erie County) that provides acute care hospital, skilled nursing, rehabilitation, outpatient and home healthcare services primarily to the 1.5 million residents of Western New York. Kaleida Health includes the Buffalo General Medical Center/Gates Vascular Institute, DeGraff Memorial Hospital, Millard Fillmore Suburban Hospital and the Women and Children's Hospital of Buffalo. Kaleida Health also operates HighPointe on Michigan and the DeGraff Memorial Hospital skilled nursing facilities, and the Visiting Nursing Association. Additionally, Kaleida Health operates a laboratory division and multiple joint venture ambulatory surgery centers. The system is a major clinical teaching affiliate of the SUNY-Buffalo School of Medicine and Biomedical Science (UB), providing clinical training to approximately 850 SUNY Buffalo medical students and post-graduate students each year.

BFA Attachment A presents the organizational chart of the Legal Corporate Structure of Kaleida Health pre-closing and post-closing.

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no immediate impact on utilization, and no changes to the beds or services certified at Olean General Hospital are being proposed.

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 and no projected incremental change in staffing, operating expenses or operating revenues associated with this application.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

<u>Approval contingent upon</u>:

1. Submission of evidence of approval by the Office of Mental Health, acceptable to the Department. [PMU]
2. Submission of a photocopy of the amended Bylaws of Kaleida Health, acceptable to the Department. [CSL]
3. Submission of a photocopy of the amended Bylaws of Upper Allegheny Health System, Inc., acceptable to the Department. [CSL]

<u>Approval conditional upon</u>:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

February 9, 2017

Need Analysis

Background

Kaleida Health is proposing to be established as the active parent of UAHS. No changes to the operating certificate of Olean General Hospital or other facilities within the UAHS network are being proposed.

Kaleida Health is an existing not-for-profit corporation located at 100 High Street, Buffalo, NY 14203, in Erie County. Kaleida Health operates an extensive network of hospitals, extension clinics and RCHFs in New York State. Upper Allegheny Health System (UAHS) is a voluntary, not-for-profit corporation located at 515 Main Street, Olean, NY 14760, in Cattaraugus County. Upper Allegheny Health System is the co-operator and active parent of Olean General Hospital, a 186-bed facility co-located with UAHS. UAHS additionally operates Bradford Regional Medical Center in Pennsylvania.

Analysis

This proposal to establish Kaleida Health as the active parent of Upper Allegheny Health System would have no impact on the operating certificates of the affected hospital or affiliated providers, and no immediate impact on services. This affiliation is intended to present opportunities for improved access to care, improved quality and cost savings through efficiencies of scale.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Character and Competence

The board of Kaleida Health is as follows:

Name	Position Held
Frank Curci	Chair
William Maggio	Vice-Chair
David Milling, MD	Secretary
Christopher Ross	Treasurer
Nicholas Aquino	Director
Amy L. Clifton	Director
Evan Evans, MD	Director
Kevin Gibbons, MD	Director
Christopher T. Greene	Director
Jody Lomeo	Director
Darren King	Director
Mary Lou Rusin, RN	Director
Francisco Vasquez, PhD	Director
Brenda McGee*	Director

**proposed new member from UAHS board*

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.

Dr. Evans disclosed one closed medical malpractice case without judgement.

Dr. Gibbons disclosed two open medical malpractice cases.

Ms. McGee disclosed an affiliation with St. Bonaventure University. On May 3, and November 23, 2010, St. Bonaventure settled claims filed be the EEOC and the NYS Office of Human Rights. Ms. McGee also disclosed that she has been a board member of Bradford (PA) Regional Medical Center since November 2009. In August 2010, BMRC settled a qui tam suit relating to violations of the Stark Act.

Compliance with Applicable Codes, Rules and Regulations

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.

The Department has taken enforcement action against the following Kaleida Article 28 entities:

- In a Stipulation and Order dated July 23, 2007, the Department issued a $24,000 fine to Women's & Children's Hospital based on the findings of a complaint investigation into the care rendered to two teenagers in the facility's Emergency Room. Delayed treatment and/or inappropriate treatment resulted in deaths to both.
- In a Stipulation and Order dated January 13, 2016, the Department issued a $16,000 fine to Highpointe on Michigan Health Care Facility for multiple deficiencies discovered during a survey that concluded on April 17, 2015. Immediate Jeopardy was called and the facility was cited in the following areas: Treatment and Care for Special Needs; Accidents/Hazards; Governing Body; and Investigating and Reporting Abuse.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Capability and Feasibility

There are no issues of capability or feasibility as there are no project costs or any expected changes to the budgets associated with this application.

BFA Attachment B is the 2014 and 2015 certified financial statements of Kaleida Health. As shown, the entity had an average positive working capital position and an average positive net asset position. Also, the entity achieved an average income from operations of $19,241,000 from 2014 through 2015.

BFA Attachment C is the 2014 and 2015 certified financial statements of Olean General Hospital. As shown, the entity had an average positive working capital position and an average positive net asset position from 2014 through 2015. Also, the entity achieved an average income from operations of $1,379,251 from 2014 through 2015.

BFA Attachment D is the internal financial statements of Kaleida Health as of June 30, 2016. As shown, the entity had a positive working capital position and a positive net asset position through June 30, 2016. Also, the entity achieved an income from operations of $14,016,000 through June 30, 2016.

BFA Attachment E is the internal financial statements of Olean General Hospital as of June 30, 2016. As shown, the entity had a positive working capital position and a positive net asset position through June 30, 2016. Also, the entity incurred a loss from operations of $74,474 through June 30, 2016. The applicant indicated that the loss was due to the following: lower inpatient volumes in exempt units (Sub-acute Rehab and Psychiatry); negative impact of estimated 2015 needed contractual allowance reserves bleeding into 2016; outpatient revenue was under budget related to lower radiation medicine, chemotherapy, and dental clinic services; and expenses were over budget due to overages in Hospitalist coverage and the need to use more agency nurse staff.

BFA Attachment F is the 2014 and 2015 certified financial statements of Bradford Regional Medical Center. As shown, the entity had an average negative working capital position and an average positive net asset position from 2014 through 2015. The applicant has indicated that the reason for the negative working capital position is prior historical losses (carryover of poor performance from 2010 and prior years). The losses are being mitigated in more recent years. Also, the entity achieved an average income from operations of $1,080,911 from 2014 through 2015.

BFA Attachment G is the internal financial statements of Bradford Regional Medical Center as of September 31, 2016. As shown, the entity had a negative working capital position and a positive net asset position through September 31, 2016. The applicant has indicated that the reason for the negative working capital position is prior historical losses as noted above. Also, the entity incurred an average income of operations of $336,294 through September 31, 2016.

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Organizational Chart of Kaleida Health pre-closing and post-closing.
BFA Attachment B	Financial Summary - 2014 and 2015 certified financial statements of Kaleida Health.
BFA Attachment C	Financial Summary - 2014 and 2015 certified financial statements of Olean General Hospital
BFA Attachment D	Financial Summary - June 30, 2016 internal financial statements of Kaleida Health.
BFA Attachment E	Financial Summary - June 30, 2016 internal financial statements of Olean General Hospital
BFA Attachment F	Financial Summary - 2014 and 2015 certified financial statements of Bradford Regional Medical Center
BFA Attachment G	Financial Summary- September 31, 2016 internal financial statements of Bradford Regional Medical Center

Public Health and Health Planning Council

Project # 162026-B
Manhattan RSC, LLC d/b/a Manhattan Reproductive Surgery Center

Program:	**Diagnostic and Treatment Center**	***County:***	**New York**
Purpose:	**Establishment and Construction**	***Acknowledged:***	**July 15, 2016**

Executive Summary

Description
Manhattan RSC, LLC d/b/a Manhattan Reproductive Surgery Center (MRSC), a New York limited liability company, requests approval to establish and construct a single-specialty Article 28 freestanding ambulatory surgery center (FASC) specializing in gynecological services. The facility will be housed in approximately 10,467 square feet of leased space on the 21st floor of a building located at 65 Broadway, New York (New York County). The proposed FASC will include one Class “B” procedure room, two Class “C” operating rooms, pre-op and recovery areas with three pre-op bays and eight recovery bays, and the requisite support areas.

George D. Kofinas, M.D. is the sole member of MRSC and will serve as the facility’s Medical Director. Dr. Kofinas is board-certified in Obstetrics and Gynecology (OB/GYN) and in Reproductive Endocrinology and Infertility. The Center will offer traditional gynecological services and reproductive endocrinology-infertility services, including in-vitro fertilization.

OPCHSM Recommendation
Contingent approval with an expiration of the operating certificate five years from the date of its issuance.

Need Summary
The applicant projects 838 procedures in Year One with Medicaid at 2% and charity care at 2%. The applicant indicated that, upon approval of this application, the physicians will bring the OBS practices into the regulatory environment of an Article 28 FASC, providing a measure of compliance with the latest standards of safe health care delivery.

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
Total project costs of $4,131,814 will be met through member’s equity of $651,459; $680,355 in Landlord Allowances; and a bank loan for $2,800,000 at 5.75% interest rate for a five-year term. JP Morgan Chase Bank, N.A has provided a letter of interest. The projected budget is as follows.

	Year One	Year Three
Revenues	$4,808,952	$4,954,303
Expenses	$3,357,201	$3,378,560
Net Income/(Loss)	$1,451,751	$1,575,743

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

<u>Approval with an expiration of the operating certificate five years from the date of its issuance, contingent upon:</u>

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 by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women and handicapped persons) and the center’s commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
3. Submission of a statement, acceptable to the Department, that the applicant will consider creating or entering into an integrated system of care that will reduce the fragmentation of the delivery system, provide coordinated care for patients, and reduce inappropriate utilization of services. The applicant will agree to submit a report to the Department beginning in the second year of operation and each year thereafter detailing these efforts and the results. [RNR
4. Submission of a signed agreement with an outside, independent entity, acceptable to the Department, to provide annual reports to DOH following the completion of each full year of operation. Reports will be due within 60 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. Each report is for a full operational year and is not calendar year based. For example, if the Operating Certificate Effective Date is June 15, 2018, the first report is due to the Department no later than August 15, 2019. Reports must include:
   a. Actual utilization including procedures;
   b. Breakdown of visits by payor source;
   c. Percentage of charity care provided by visits;
   d. Number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
   e. Number of emergency transfers to a hospital;
   f. Number of nosocomial infections recorded;
   g. A brief list of all efforts made to secure charity cases; and
   h. A brief description of the progress of contract negotiations with Medicaid managed care plans. [RNR]
5. Submission of an executed Development Services Agreement, acceptable to the Department. [HSP]
6. Submission of an executed Administrative Services Agreement, acceptable to the Department. [HSP]
7. Submission of an executed loan commitment, acceptable to the Department of Health. [BFA]
8. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
9. Submission of a photocopy of the applicant's amended Administrative Services Agreement, acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's amended Development Services Agreement, acceptable to the Department. [CSL]
11. Submission of a photocopy of the applicant's amended Billing Services Agreement, acceptable to the Department. [CSL]

12. Submission of a photocopy of the applicant's Anti-Kickback Statement signed by the applicant's attorney, acceptable to the Department. [CSL]
13. Submission of a photocopy of the applicant's amended and executed Operating Agreement, acceptable to the Department. [CSL]
14. Submission of a photocopy of the applicant's lease agreement, acceptable to the Department. [CSL]
15. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-03 Outpatient Facilities. [AER]

Approval conditional upon:

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Construction must start on or before May 1, 2017 and construction must be completed by January 1, 2018, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the start date this shall constitute abandonment of the approval. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. [PMU]
3. The submission of annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]
4. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
5. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
6. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
7. The clinical space must be used exclusively for the approved purpose. [HSP]

Council Action Date
February 9, 2017

Need Analysis

Analysis

The service area consists of New York County. New York County has a total of 15 freestanding ambulatory surgery centers: eight multi-specialty ASCs and seven single-specialty ASCs. The table below shows the number of patient visits at ambulatory surgery centers in New York County for 2014 and 2015.

ASC Type	Facility Name	Total Patient Visits	
		2014	2015
Single	Carnegie Hill Endo, LLC	11,426	11,898
Multi	Center for Specialty Care Inc.	3,885	3,759
Multi	East Side Endoscopy	9,284	9,302
Multi	Fifth Avenue Surgery Center	1,544	751
Multi	Gramercy Park Digestive Disease Center	9,343	12,613
Multi	Gramercy Surgery Center, Inc.	2,667	3,030
Single	Kips Bay Endoscopy Center, LLC	9,084	9,561
Single	Manhattan Endoscopy Center, LLC	12,656	12,293
Multi	Manhattan Surgery Center	2,502	5,087
Single	Mid-Manhattan Surgi-Center	3,900	3,360
Multi	Midtown Surgery Center	3,161	2,598
Single	Retinal Ambulatory Surgery Center of New York Inc.	1,984	2,963
Multi	SurgiCare of Manhattan, LLC	3,734	4,439
Single	West Side GI	12,549	14,608
Single	Yorkville Endoscopy Center	10,685	8,596
Total		98,404	104,858

Source: SPARCS-2016

Patient visits to ASCs in New York County showed a 6.6% year-to-year increase from 2014 to 2015. The population of New York County in 2010 was 1,585,873 with 167,763 (10.6%) females between the ages of 35 and 49. This is the primary population group seeking treatment for infertility. Per Cornell Program on Applied Demographics (PAD) projection data, this population group is estimated to grow to 183,707 by 2025 and represent 11.4% of the projected population of 1,615,772.

The number of projected procedures is 838 in Year One and 863 in Year Three. These projections are based on the current practices of participating surgeons. The table below shows the projected payor source utilization for Years 1 and 3.

Projections-162026	Year One		Year Three	
	Volume	%	Volume	%
Commercial Ins - MC	662	79.0%	682	79.0%
Medicare - MC	17	2.0%	17	2.0%
Medicaid - MC	17	2.0%	17	2.0%
Private pay	125	15.0%	130	15.0%
Charity Care	17	2.0%	17	2.0%
Total	838	100.00%	863	100.00%

The Center initially plans to obtain contracts with the following Medicaid Managed care plans: Fidelis and Healthfirst. The applicant states that there are nine Federally Qualified Health Centers (FQHC) located within one mile of the proposed site. The center plans to reach out to the neighboring FQHCs to provide service to underinsured patients desiring in-vitro fertilization (IVF) services.

Conclusion

Approval of this project will bring gynecological and infertility surgery services into an Article 28 setting for the communities of New York County.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Project Proposal

Proposed Operator	Manhattan RSC, LLC
Doing Business As	Manhattan Reproductive Surgery Center
Site Address	65 Broadway New York, NY (New York County)
Surgical Specialties	Single Specialty: Gynecological Services
Operating Rooms	2 (Class C)
Procedure Rooms	0
Hours of Operation	7 days a week, 6:00 am to 8:00 pm,
Staffing (1st / 3rd Year)	12.0 FTEs / 12.0 FTEs
Medical Director	George D. Kofinas, M.D., FACOG
Emergency, In-Patient & Backup Support Services Agreement and Distance	Will be provided by Mt Sinai Hospital West 5.6 miles / 29 minutes
On-call service	An answering service with access to the surgeon (or on-call physician) will be provided

Character and Competence

The sole member of Manhattan RSC, LLC is George D. Kofinas, M.D.

Dr. Kofinas is Board-certified in Obstetrics and Gynecology and holds sub-certification in Reproductive Endocrinology and Infertility. He has operated a private practice with a focus on reproductive medicine, surgery and in-vitro fertilization (IVF) for over 20 years and has over 30 years of experience in the field of Reproductive Endocrinology and Infertility. From 1987 to 2000, while at the Brooklyn Hospital Center, Dr. Kofinas served in several positions, to include: Chief of Reproductive Endocrinology and Infertility; Chairman of the Department of Obstetrics and Gynecology; and Director of the Residency Program. Since November 2000, he has served as New York Methodist Hospital's Chief of Reproductive Endocrinology and Infertility. Dr. Kofinas plans to perform procedures at the proposed Center as well as serve as the Center's Medical Director.

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.

Dr. Kofinas disclosed three open malpractices cases.

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.

Integration with Community Resources

The Center will have a referral relationship with a local FQHC which, along with other neighboring diagnostic and treatment centers and outpatient clinics, will serve as primary care alternatives for those patients who do not have access to primary care services. The facility will also establish and maintain a list of nearby primary care physicians who are accepting new patients. The Center will serve all patients without regard to personal characteristics or source of payment. A sliding fee scale and charity care will be available for those patients who are uninsured or underinsured and desire general gynecological surgical and reproductive endocrinology/infertility ambulatory surgical services.

The Center intends on utilizing a state-of-the-art electronic medical record and will consider integrating into a Health Information Exchange. The Center also plans on exploring possible participation in an Accountable Care Organization.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Lease Rental Agreement

The applicant submitted an executed lease for the proposed site, summarized below:

Date:	September 22, 2016
Premises:	10,467 square feet on the 21st floor of 65 Broadway New York
Landlord:	65 Broadway Owner LLC
Lessee:	Manhattan RSC, LLC
Term:	16 years with one five-year renewal option
Rental:	$512,883 annually ($42,740.25/month or $49 per sq. ft.) with a 2.25% annual rate increase
Provisions:	Triple Net, lessee pays all fees associated with the leased asset

The applicant provided an affidavit stating that the lease is an arm's length arrangement. The applicant submitted letters from two NYS licensed realtors attesting to the rent being of fair market value.

Administrative Services Agreement

The applicant submitted an executed Administrative Services Agreement (ASA), as summarized below:

Date:	January 5, 2017
Facility/Operator:	Manhattan RSC, LLC
Administrator:	Frontier Healthcare Management Services, LLC
Service Provided:	Administrative services including: staffing/scheduling; accounting; purchasing; compliance with policies and procedures, and medical staff By-laws/rules; medical staff application and credentialing; accreditation; physical plant and materials management; nursing and administration.
Term:	Five years with two additional automatic two-year renewals
Fee/Compensation:	$250,000 base fee per year, with a 1.5% cost of living increase per year; $350,000 bonus compensation for every $4 million operating profit the facility generates during any year of the contract.

While Frontier Healthcare Management Services, LLC will provide all of the above services, the Licensed Operator retains ultimate authority, responsibility and control for the operations.

Billing Services Agreement

The applicant submitted an executed Billing Services Agreement (BSA), as summarized below:

Date:	January 5, 2017
Facility/Operator:	Manhattan RSC, LLC
Contractor:	Frontier Healthcare Billing Services, LLC
Service Provided:	All Billing services including obtaining/entering pre-authorization patient information into the scheduling system, verifying patients eligibility and benefits, answering inquiries on claims on behalf of the facility, submitting bills, referring uncollectible bills to a collection agent and providing billing reports.
Term:	Five-years with two additional automatic two-year renewals
Billing Fee:	$30 per technical and professional claim and a $4,170 monthly fee per FTE required for benefit verification/authorization. A 3% per year cost of living increase shall be applied to the preceding years' fees at the beginning of each calendar year.

While Frontier Healthcare Billing Services, LLC. Will provide all of the above services, the Licensed Operator retains ultimate authority, responsibility and control for the operations.

Total Project Cost and Financing

Total project costs, estimated at $4,131,814, are broken down as follows:

Renovation & Demolition	$2,512,080
Design Contingency	$251,208
Construction Contingency	$251,208
Movable Equipment	$986,328
Interim Interest Expense	106,400
CON Application Fee	$2,000
CON Processing Fee	22,590
Total Project Cost	$4,131,814

Project costs are based on a start date of May 1, 2017, with an eight-month construction period.

The applicant's financing plan appears as follows:

Cash	$651,459
Landlord Improvement Allowance	$680,355
Bank Loan (5.75% interest, 5-year term)	$2,800,000
Total	$4,131,814

JP Morgan Chase Bank, N.A. has provided a letter of interest for the loan at the stated terms.

Operating Budget

The applicant has submitted their first and third year operating budgets, in 2016 dollars, as summarized below:

	Year One		Year Three	
	Per Proc.	Total	Per Proc.	Total
Revenues				
Medicaid	$903.88	$15,366	$931.24	$15,831
Medicare	$1,346.88	$22,897	$1,387.59	$23,589
Commercial	$6,056.51	$4,009,409	$6,056.59	$4,130,593
Private Pay	$6,090.24	$761,280	$6,033.00	$784,290
Total Revenues		$4,808,952		$4,954,303
Expenses				
Operating	$2,964.98	$2,484,656	$2,941.91	$2,538,869
Capital	$1,041.22	$872,545	$972.99	$839,691
Total Expenses	$4,006.21	$3,357,201	$3,914.90	$3,378,560

Net Income or (Loss)	$1,451,751	$1,575,743
Utilization (procedures)	838	863

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

Medicaid	2.0%
Medicare	2.0%
Commercial	79.0%
Charity	2.0%
Private Pay	15.0%
Total	100.0%

The following is noted with respect to the submitted budget:

- Revenues are based on current and projected Federal and State government reimbursement rates, with commercial payor rates reflecting adjustments based on experience in the region.
- Expense assumptions are based upon staffing, operating and capital costs as determined based on the experience of the participating physicians, as well as the experience of other FASCs in New York State in providing similar service patient care.
- Utilization projections are based on the current caseloads of participating physicians. The doctors have submitted letters in support of their utilization projections
- Breakeven is approximately 83.65% of projected utilization or 701 procedures in Year One, and 81.46% of projected utilization or 703 procedures in Year Three.

The budgets are reasonable.

Capability and Feasibility

The total project cost of $4,131,814 will be satisfied with $651,459 equity from the proposed member; a $680,355 landlord improvement allowance; and a bank loan for $2,800,000 at the above stated terms. JP Morgan Chase Bank, N.A. has provided a letter of interest.

The working capital requirement is estimated at $565,613 based on two months of third year expenses. The applicant will provide $315,613 from personal resources and will finance $250,000 for a five-year term at approximately 6% interest. JP Morgan Chase Bank, N.A. has provided a letter of interest. BFA Attachment A is the net worth statements of the applicant member, which indicates sufficient liquid resources to meet the equity and working capital requirements. BFA Attachment B is the pro-forma balance sheet that shows operations will start with $1,370,328 in equity.

MSRC projects net income of $1,451,751 and $1,575,743 in the first and third years, respectively. Revenues for Medicare and Medicaid are based on current and projected Federal and State government reimbursement rates, with commercial payor rates reflecting adjustments based on experience in the region. The budgets are reasonable.

The applicant recognizes the need to address the eventual change over to Managed Care Organizations (MCOs). They are not yet in a position to execute and negotiate contracts or letters of intent with MCOs at this time, but plan on establishing contracts upon approval of this application.

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement of Proposed Member of Manhattan RSC, LLC d/b/a Manhattan Reproductive Surgery Center
BFA Attachment B	Pro Forma Balance Sheet of Manhattan RSC, LLC d/b/a Manhattan Reproductive Surgery Center
BHFP Attachment	Map

Public Health and Health Planning Council

Project # 162212-E
Griffiss Surgery Center

Program:	**Diagnostic and Treatment Center**	***County:***	**Oneida**
Purpose:	**Establishment**	***Acknowledged:***	**September 21, 2016**

Executive Summary

Description
Griffiss EC, LLC d/b/a Griffiss Surgery Center, a proprietary Article 28 diagnostic and treatment center (D&TC) located at 105 Dart Circle, Rome (Oneida County), requests approval for a two-year extension to its five-year limited life. The D&TC was approved by the Public Health Council (PHC) under CON 092062 as a single-specialty freestanding ambulatory surgery center (FASC) specializing in ophthalmology services. PHC's approval was for a conditional five-year limited life and the Center began operation effective January 3, 2012. The facility was subsequently approved as a multi-specialty FASC, adding plastic surgery services effective September 22, 2014 (CON 122206). The applicant notified the Department before the limited life expiration date to request the extension. There will be no change in services provided.

OPCHSM Recommendation
Contingent Approval of a two-year extension of the operating certificate from the date of the Public Health and Health Planning Council recommendation letter.

Need Summary
Data submission by the applicant, as a contingency of CON 092062, is complete. Charity Care did not meet projections and the Center has outlined a plan to improve Charity Care utilization. Approval of an extension to the limited life should afford them time to implement the plan.

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
There are no project costs associated with this application. The projected budget is as follows

Revenues	$3,150,000
Expenses	2,863,436
Net Income	$286,564

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Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval of a two-year extension of the operating certificate from the date of the Public Health and Health Planning Council recommendation letter, contingent upon:

1. Submission of a signed affidavit stating the applicant will publicize its charity care policy by including it in a patient information package provided to all patients upon their initial visit to the center. [RNR]
2. Submission of a signed agreement with an outside, independent entity, acceptable to the Department, to provide quarterly reports to DOH. Reports will be due within 60 days of the conclusion of each quarter of operation as identified by the Effective Date on the Operating Certificate issued at project completion. Reports must include:
   a. Actual utilization including procedures;
   b. Breakdown of visits by payor source;
   c. Percentage of charity care provided by visits;
   d. Number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
   e. Number of emergency transfers to a hospital;
   f. Number of nosocomial infections recorded;
   g. A brief list of all efforts made to secure charity cases;
   h. A brief description of the progress of contract negotiations with Medicaid managed care plans; and
   i. The number of patient referrals received from the following clinics: Utica Health Center, Upstate Cerebral Palsy, Mary Rose Clinic, and the Sister Rose Vincent Family Medicine Center. [RNR]

Approval conditional upon:

1. The submission of quarterly reports to the Department as prescribed by the related contingency, each quarter, for the duration of the limited life approval of the facility. [RNR]

Council Action Date

February 9, 2017

Need Analysis

Analysis

The primary service area is Oneida County. The table below provides Year Three utilization for CON 092062 (projections and actual, by payor), actual data for 2015, and projections for Year One following approval of this CON.

Payor	CON 092062 Projected Year 3 (2014)	Actual Year 3 (2014)	Actual 2015	CON 162212 Projections Year 1
Commercial FFS	10%	25.8%	26.4%	26.9%
Commercial MC		0.0%	1.0%	0.7%
Medicare FFS	77%	42.2%	42.0%	39.9%
Medicare MC		21.2%	23.6%	23.9%
Medicaid FFS	10%	1.6%	0.6%	1.0%
Medicaid MC		6.3%	5.2%	6.0%
Private Pay	1%	0.0%	1.1%	0.5%
Charity Care	2%	0.0%	0.1%	1.1%
Other [1]		2.7%		
Total	100%	100%	100%	100%

[1] 2014 data is from the AHCF cost report, "Other" refers to Worker's Comp & Government payors

The table below compares projected procedures under CON 092062 with actual experience.

CON 092062 - Procedures	**Year One**		**Year Three**	
Griffis Surgery Center	**Projections**	**Actual**	**Projections**	**Actual**
Total	2,643	2,199	2,914	3,465

The Center provided the following information regarding their efforts to provide services to the under-insured and insured.

- The center has contracts with the following Medicaid managed care plans: Fidelis, Blue Cross Medicaid and United Healthcare.
- Since its opening, the Center has been accepting referrals from the Mary Rose Clinic.
- The Center instituted a Financial Assistance Policy, which established guidelines under which the center will provide care for free or at a reduced cost to patients who are unable to pay.

In recognition of the need for the center to improve its percentage of charity care, the center has developed an action plan going forward.

- Develop or maintain referral progams with the following providers:
  - Utica Community Health Center, an FQHC.
  - Upstate Cerebral Palsy, an FQHC Look-alike program (new).
  - Mary Rose Clinic in Oneida, NY.
  - Sister Rose Vincent Family Medicine Center in Utica, NY (new).
- Publicizing its Financial Assistance Policy, designating a Financial Assistance Coordinator and coordinating with the medical practices of its staff members, the center will make a stronger effort to identify those patients needing financial assistance in advance of procedures.

It should be noted that there are fewer uninsured individuals in Oneida County now compared to when Griffiss' original CON was submitted. According to the American Community Survey (ACS) information provided through the US Census website, in 2012 the number of uninsured in Oneida County was estimated to be 19,561, or 8.7 percent of the county population. In 2014, the estimated number of uninsured decreased to 12,350, or 5.5 percent of the county's population. This represents an almost 37% decrease in the estimated number of uninsured individuals in Oneida County. Additionally, a significant portion of the ophthalmologic patient base is over 65 and eligible for Medicare. Ophthalmology services has accounted for more than 95% of the patient visits since 2014 at this facility.

Conclusion
Griffis Surgery Center's charity care level has been negligible. As the facility strives to reach the proposed 1.1% level of charity care going forward, the action plan outlined by the applicant, if effectuated, would represent a good faith effort to provide service to the uninsured and underinsured. United Cerebral Palsy and the Sister Rose Vincent Family Medicine represent two new avenues for obtaining charity care cases. The request for an extension to the limited life should allow the Center time to adequately implement its plan for charity care and meet or exceed its Medicaid projection of 7%.

Recommendation
From a need perspective, contingent approval of a two-year extension of the operating certificate is recommended.

Program Analysis

Program Proposal
Griffiss Surgery Center, an existing Article 28 Diagnostic and Treatment Center certified as a multi-specialty freestanding ambulatory surgical center (ASC), located at 105 Dart Circle in Rome (Oneida County), requests a two year extension of temporary life following a five year conditional, limited life approval.

The Center, a joint venture among Rome Memorial Hospital and four ophthalmologists, was originally established in Project No. 092062 as a single-specialty ASC specializing in ophthalmology. In 2014, it became a multi-specialty surgical center after receiving Council approval under Project No. 122206.

There are no anticipated changes in services and staffing is expected to increase slightly from 13.4 FTEs to 13.8 FTEs by the third year post-approval.

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 complaint

Recommendation
From a programmatic perspective, approval is recommended.

Financial Analysis

Operating Budget

The applicant has submitted an operating budget, in 2017 dollars, for the current year (2015) and year one of operation subsequent to receiving the limited-life extension, summarized below:

	Current Year		Year One	
Revenues	Per Proc.	Total	Per Proc.	Total
Commercial FFS	$1,148.50	$1,094,519	$1,095.32	$1,129,275
Commercial MC	$928.34	35,277	$1,171.80	29,295
Medicare FFS	$700.11	1,061,370	$733.15	1,121,715
Medicare MC	$718.63	613,710	$692.11	635,355
Medicaid FFS	$658.92	15,814	$226.15	8,820
Medicaid MC	$1,118.96	205,888	$964.09	222,705
Private Pay	$384.16	14,598	$1,095.32	2,835
Total Revenues		$3,041,177		$3,150,000
Expenses				
Operating	$661.50	$2,388,680	$647.30	$2,481,756
Capital	$107.04	386,515	$99.55	381,680
Total Expenses	$768.54	$2,775,195	$746.85	$2,863,436
Net Income		$265,982		$286,564
Utilization (procedures)		3,611		3,834

Expense and utilization are based on the historical experience of Griffiss Surgery Center and potential additions to medical staff.

Capability and Feasibility

There are no project costs associated with this application.

The submitted budget indicates a net income of $286,564 during the first year of operation subsequent to receiving an extension to their limited-life. Revenues and expenses are based on current reimbursement methodologies for the surgery center and historical experience of the operating facility. The budget appears reasonable.

BFA Attachments A and B are, respectively, the certified and latest internal financial summaries of Griffiss Surgery Center, which indicates the facility has maintained positive working capital and members' equity position. Also, the facility generated an average net income of $579,569 during 2014-2015 and $636,114 as of October 31, 2016, respectively.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary 2014-2015, Griffiss Surgery Center
BFA Attachment B	Internal Financial Summary as of October 31, 2016, Griffiss Surgery Center

Public Health and Health Planning Council

Project # 162290-E
Melville SC, LLC d/b/a Melville Surgery Center

Program:	**Diagnostic and Treatment Center**	***County:***	**Suffolk**
Purpose:	**Establishment**	***Acknowledged:***	**November 22, 2016**

Executive Summary

Description
Melville SC, LLC d/b/a Melville Surgery Center (the Center), an existing New York limited liability company, requests approval to transfer 51% membership interest in the Article 28 freestanding ambulatory surgery center (FASC) to Northwell Health Melville ASC Ventures, LLC. The Center is located in leased space at 1895 Walt Whitman Road, Melville (Suffolk County), New York. The facility is certified as a multi-specialty FASC and is licensed to provide Lithotripsy O/P service. There are no proposed changes to services or program. The Center performed 6,426 procedures in 2015 and 3,540 procedures in the first six months of 2016.

On September 13, 2016, the members of Melville SC, LLC entered into a Membership Interest Purchase Agreement with Northwell Health Melville ASC Ventures, LLC for approximately $13,157,767.

Upon approval of this application, there will be three classes of members, defined as follows:
- Class A Member - 15 individual physician members (34.3% total);
- Class B Member - four individual members of Ambulatory Surgical Centers of America (14.7% total); and
- Class C Member - Northwell Health Melville ASC Ventures, LLC (51%)

All members, regardless of class, will have the same economic and voting rights based on their percentage ownership interest in Melville Center.

The sole member of Northwell Health Melville ASC Ventures, LLC is North Shore University

Hospital (NSUH), a voluntary not-for-profit, 804-bed tertiary care hospital located at 300 Community Drive in Manhasset, (Nassau County). NSUH is a member of Northwell Healthcare, Inc., whose sole corporate member is Northwell Health, Inc., a comprehensive, integrated healthcare delivery system comprised of numerous hospitals across the New York metropolitan area, as well as physician practices and providers of subacute care including home care, long-term care and hospice services. Also, NSUH is a member of the Northwell Health Obligated Group, which was formed to provide its members with an enhanced credit position and expanded access to capital markets.

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no Need recommendation for this application.

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

Northwell Health Melville ASC Ventures, LLC will acquire 51% interest in the operations of Melville SC, LLC via $13,157,767 cash equity as provided for in the membership interest purchase agreement. The payment will be made by Northwell Health, Inc. from their current operations. The funds will be distributed to the current members of Melville SC, LLC in proportion to their units sold. There are no project costs associated with this application. The proposed budget is as follows:

Revenues	$12,618,525
Expenses	$8,676,289
Net Income/(Loss)	$3,942,236

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

<u>Approval contingent upon</u>:

1. Submission of an executed first amendment to the administrative services agreement, acceptable to the Department of Health. [BFA]
2. Submission of a photocopy of the executed Certificate of Amendment of the Articles of Organization of Melville SC, LLC, acceptable to the Department. [CSL]
3. Submission of a photocopy of the applicant's amended Administrative Service Agreement, acceptable to the Department. [CSL]
4. Submission of a photocopy of the executed Amended and Restated Operating Agreement of Melville SC, LLC, acceptable to the Department. [CSL]
5. Submission of a photocopy of an amended lease agreement between 1895 WWA, LLC and Melville SC, LLC, acceptable to the Department. [CSL]

<u>Approval conditional upon</u>:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

February 9, 2017

Program Analysis

Character and Competence

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,

For this project, a Character and Competence Review was conducted on the members of Northwell Health Melville ASC Ventures, LLC, and the following disclosures were made:

Mr. Epstein disclosed that the Jewish Board of Family and Children's Services with which he is affiliated entered into a settlement with the NY Office of Medicaid Inspector General to reconcile excess payments received relative to Office of Mental Health's reimbursement methodology.

Mr. Richard Goldstein disclosed that he had been both a director and shareholder of corporation which filed for bankruptcy protection in 2009 then subsequently sold their assets.

Mr. Hiltz disclosed that, as a registered broker dealer, his firm is regulated by NASD and FINRA and is subject to regular examinations. On two occasions, the firm agreed to the imposition of regulatory fines (each under $5,000) for routine business claims rather than pursue a dispute resolution process.

Mr. Charles Merinoff disclosed that he had been named in an employment action involving a company that he was affiliated with in 2009. The matter was settled at arbitration in July 2012.

Mr. Ranieri disclosed that a company with which he was affiliated had entered into a settlement agreement in March 2013 with the SEC for failure to adequately oversee a third party's activities in 2008 related to marketing a particular fund.

Compliance with Applicable Codes, Rules and Regulations

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.

In an S&O dated February 6, 2007, Staten Island University Hospital was fined $8,000 based on the investigation of a patient admitted for a left sided mediastinotomy (insertion of a tube into the chest). The procedure was begun on the right side of the chest and an anesthesiologist noticed the error ten minutes into the procedure. In another S&O dated July 23, 2007, the hospital was fined $12,000 due to an overdose of a controlled substance which caused a patient's death. Nursing administered a drug at a higher rate than was ordered and continued administration even after the medication had been discontinued by a surgical resident.

In September 2008, Staten Island University Hospital (SIUH) entered into a settlement with the U.S. Attorney's Office, the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General's Office of the State of New York and agreed to pay a monetary settlement of $76.4M to the federal government and $12.4M to the state and enter into a 5-year Corporate Integrity Agreement. The settlement covered payments related to stereotactic radiosurgery treatments; provision of detoxification services above licensed capacity; SIUH's graduate medical education program; and the provision of inpatient psychiatric services above licensed capacity.

In an S&O dated December 11, 2008, North Shore University Hospital- Manhasset was fined $18,000 based on post-operative care rendered to an elderly patient. Following surgery for an aneurysm, the patient developed multiple decubiti, fell out of bed resulting in a dislocated femur and developed renal failure. It was determined that follow-up care was delayed or inadequate.

In an S&O dated July 8, 2010, Syosset Hospital was fined $42,000 based an investigation of the care a child received related to an adenotonsillectomy. The patient was improperly cleared for surgery and, despite multiple comorbidities, was not kept for observation post-operatively. The patient expired after discharge.

In September 2010, North Shore-Long Island Jewish Health System settled claims without a finding or admission of fraud, liability or other wrongdoing relative to a qui tam lawsuit filed under the civil False Claims Act by a private whistleblower and investigated by the U.S. Attorney's Office. The $2.95M settlement covered a 10-year period and primarily related to isolated errors in various cost reports rather than the allegations.

In November 2010, Civil Investigative Demands (CIDs) for documents, interviews and other information relating to North Shore University Hospital's clinical documentation improvement program were issued by the US Attorney's Office for the Southern District. The Health System complied, however, to date, there have been no specific demands for repayment or findings of liability in this matter.

In December 2010, the Civil Division of The United States Department of Justice (DOJ) requested the Health System execute a one-year tolling agreement to provide the government time to review claims for payment of implantable cardioverter defibrillators (ICDs) and related services for which Medicare does not cover. The Health System has executed eight extensions to the initial tolling agreement. In 2016, the investigation was resolved by agreement with the DOJ, and the matter is now closed. When the government's review is complete, it may seek repayment of any claims that were not proper as determined by its resolution model.

In October 2011, the US Attorney's Office for the Western District of New York initiated a review of Southside Hospital's inpatient admissions for atherectomy procedures. And, in June 2012, the US Attorney's Office for the Eastern District of New York subpoenaed documentation relating to services rendered at Staten Island University Hospital's inpatient specialized burn unit. To date, the government has not indicated whether there is any potential liability in either matter.

In a S&O dated November 5, 2014, Broadlawn Manor Nursing & Rehab Center was fined $6,000 based on an inspection completed on December 19, 2011 for issues involving Accidents and Supervision; Administration; and Quality Assurance. In a subsequent S&O filed on January 5, 2016, Broadlawn received a fine of $8,000 based on an inspection finding of April 18, 2014 involving the lack of supervision and reassessment of a resident who exhibited wandering and elopement behavior. After several episodes of wandering the resident was found face down in the parking lot. The facility failed to investigate this incident and the circumstances leading up to it. Again, on July 12, 2016, a S&O was issued along with a $10,000 fine for inspection findings of October 12, 2015 involving the care provided to a resident identified as at moderate risk for skin breakdown. This resident developed a stage IV decubitus ulcer which required surgical debridement. It was determined that the physician's orders for this patient were not properly followed.

In June 2012, the OIG and U.S. Attorney's Office for the Eastern District of New York subpoenaed Staten Island University Hospital (SIUH) for documentation relating to services rendered at SIUH's inpatient specialized burn unit dating back to 2005. Requested documentation was provided in 2012 and, in 2013, SIUH responded to follow-up questions. To date, the government has not indicated whether SIUH has any potential liability in this matter.

In October 2012, a Program Integrity Contractor acting on behalf of the Centers for Medicare & Medicaid Services (CMS) reviewed 33 inpatient cardiac stent claims for 25 Medicare patients that had been submitted by Lenox Hill Hospital (LHH) between October 2007 and December 2010. The Contractor determined that the documentation did not support inpatient admission and/or the medical necessity of the of the cardiac stent procedure for the majority of the claims. The contractor requested that LHH undertake a self-audit and voluntary disclosure of its billing and claims history for elective cardiac stent admissions during this time. In 2016, LHH completed the self-audit and made a repayment to Medicare.

In a S&O dated November 21, 2016, Long Island Jewish Medical Center was fined $4,000 based on complaint investigation findings related to Infection Control Practices. During the investigation, 24 staff were observed not following acceptable of standards of practice for Infection Control practices in Surgical Areas. Specifically, staff demonstrated improper attire and exposure of hair during procedures.

Also on November 21, 2016, the Department issued a S&O and $10,000 fine to Northern Westchester Hospital. Immediate Jeopardy was identified on April 22, 2016 during an allegation survey. The issues involved the calling of a code team in a timely manner for a newborn baby (who subsequently expired). It was determined that hospital staff were not trained in the code policy and as such, did not initiate the code via the proper procedure.
In a S&O dated December December 8, 2006 Forest Hills Hospital was fined $12,000 following the investigation of wrong sided hernia surgery.

On January 19, 2017, the Department issued a S&O to Plainview Hospital regarding a pattern of infection control practices which were not consistent with accepted standards and levied a fine of $4,000.

Recommendation
From a programmatic perspective, approval is recommended.

Financial Analysis

Membership Interest Purchase Agreement
The applicant has submitted an executed Membership Interest Purchase Agreement which will be effectuated upon Public Health and Health Planning Council (PHHCP) approval of this CON. The terms of the agreement are summarized below:

Date:	September 13, 2016
Seller:	Melville SC, LLC
Buyer:	Northwell Health Melville ASC Ventures, LLC
Asset Acquired:	51% membership interest in Melville SC, LLC
Purchase Price:	$13,157,767 (Net Working capital should not be less than $956,320; The Purchase Price is subject to 51% net working capital (WC) adjustment on WC below $956,320 or above $1,016,090
Payment of Purchase Price:	$50,000 upon execution $13,107,767 due at closing

The purchase price for the operations is proposed to be satisfied via equity from Northwell Health, Inc., sole member of Northwell Health Melville ASC Ventures, LLC. A letter of interest has been provided by Northwell Health, Inc.

BFA Attachment D is Northwell Health, Inc.'s 2015 certified financial statement, which indicates the entity has sufficient liquid assets to cover the purchase price associated with this project.

Administrative Services Agreement

The applicant noted that Melville Center has had an Administrative Service Agreement (ASA) since May 15, 2005 with Cataract & Laser Center Partners, LLC (whose owners are Class B members). A draft First Amendment to the ASA has been provides, summarized as follows:

Date:	June 20, 2016
Consultant:	Cataract & Laser Center Partners, LLC d/b/a Ambulatory Surgical Centers of America
Facility:	Melville SC, LLC
Services Provided:	Development & Administrative Services; assist to secure and monitor all relevant permits, licenses and certifications to operate the center; assist in purchasing supplies and capital equipment; secure project financing; develop policies and procedure manuals; assist in billing and collections, account receivable & account payable; advise in joint venture agreements; assist in formation, implementation and ongoing monitoring of utilization management and quality assurance procedures; software management; coordinate contractual relationships with various external organizations; assist in developing a proposed capital budget, monthly financial reports; perform other consulting or administrative duties as may be requested.
Frist Amendment:	Coordinate preparation of documents associated with licensure and continuing operations, any matters requiring outside legal counsel will be handled by outside legal counsel selected by the Surgical Center. Surgical Center has the right to hire an outside consultant to assist with managed care contracting activities, including but not limited to, contract negotiation, contract renewal negotiation and contract termination activities.
Term:	Ten Years, Renew Automatically for successive 3 years terms unless either party gives 90 days prior written notice not to renew.
Fee:	$240,000 per year ($20,000 per month)

Melville SC, LLC retains ultimate control in all of the final decisions associated with the services.

Operating Budget

The applicant has submitted operating budgets for the current year of operations (2015) and for Year One (2017 dollars), as shown below:

	Current Year		Year One	
Revenue	Per Proc.	Total	Per Proc.	Total
Medicaid-FFS	$1,248.16	$610,348		$0
Medicaid-MC	$0	$0	$1,247.61	$622,555
Medicare-FFS	$1,506.08	$2,784,734	$1,506.06	$2,840,428
Commercial-FFS	$2,430.23	$6,090,160	$2,430.35	$6,211,962
Commercial-MC	$2,694.04	$1,619,116	$2,694.12	$1,651,498
Private Pay	$254.41	$10,431	$253.33	$10,640
All other *	$1,336.50	$1,256,314	$1,336.23	$1,281,442
Total Revenue		$12,371,103		$12,618,525
Expenses				
Operating	$1,249.50	$8,029,316	$1,215.29	$8,129,078
Capital	$86.42	$555,305	$81.81	$547,211
Total Expenses	$1,335.92	$8,584,621	$1,297.10	$8,676,289
Net Income		$3,786,482		$3,942,236
Utilization (Procedures)		6,426		6,689

** HMO/Workers Comp/No Fault*

Utilization by payer source related to the submitted operating budget is as follows:

	Current Year		Year One	
	Procedures	%	Procedures	%
Medicaid-FFS	489	7.61%	0	0.00%
Medicaid-MC	0	0.00%	499	7.46%
Medicare-FFS	1,849	28.77%	1,886	28.20%
Commercial-FFS	2,506	39.00%	2,556	38.21%
Commercial-MC	601	9.35%	613	9.16%
Private Pay	41	0.64%	42	0.63%
Charity	0	0.00%	134	2.00%
All Other	940	14.63%	959	14.34%
Total	6,426	100%	6,689	100%

Medicaid and Charity Care utilization were projected to be 7.46% and 2.00%, respectively, of total procedures in the first year of operation. As documented in the AHCF cost reports filed with the Department, the facility has experienced difficulty meeting a modest charity care level to date. However, Medicaid utilization was 2.1% (2012), 3.0% (2013), and 2.0% (2014) of their total caseload. The applicant indicates that they achieved 7.61% Medicaid utilization in 2015 and this trend continues through to the present.

To improve their efforts to treat underserved populations, Melville Center has implemented an action plan, the main part of which revolves around tapping into Northwell Health's charity care program. To increase charity care referrals, the facility will utilize Northwell Health's call center for ASC charity care and will reach out to Federally Qualified Health Centers located within a designated radius from Melville Center. Additionally, the Melville Center will monitor charity care referrals to determine whether the Center's hours of operation are a barrier to patients receiving care and will adjust hours of operation to accommodate those patients. With these efforts and program changes, the applicant feels they can achieve 9.5% of its annual visits in year one and year three for Charity Care and Medicaid recipients.

Capability and Feasibility

There are no project costs associated with this application. Northwell Health Melville ASC Ventures, LLC will acquire 51% of the operations of Melville SC, LLC for $13,157,767 which will be funded via cash equity from Northwell Health, Inc. A letter of interest has been provided by Northwell Health, Inc. A review of BFA Attachment D (Northwell Health, Inc.'s 2015 certified financial statements) shows the entity has sufficient liquid assets to cover the purchase price.

The submitted budget indicates an excess of revenues over expenses of $3,942,236 during year one. Revenues are based on current reimbursement methodologies for FASC services. The budget appears reasonable.

BFA Attachment B is Melville SC, LLC's financial summary for the period 2013 through 2015, which shows the entity had an average positive working capital of $1,623,755, an average positive equity position of $ 3,092,255 and an average net income of $3,642,817 for the period. BFA Attachment C is the (cash basis) internal financial statements for Melville SC, LLC as of July 31, 2016, which shows positive working capital, positive net assets and the operating income of $3,317,701.

BFA Attachment D is the 2014-2015 certified financial statement of Northwell Health, Inc., which shows that the entity maintained a positive working capital position, positive net assets position and generated positive excess of revenue and gains and losses over expenses of $190,784,000 and $347,444,000 respectively. The entity has generated net income of $286,996,000 as of September 30, 2016.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Pre and Post Organizational Chart of Melville SC, LLC
BFA Attachment B	Melville SC, LLC's 2014-2015 and 2016 Internal Financial Summary
BFA Attachment C	Internal Financial Statement, Melville SC, LLC
BFA Attachment D	Northwell Health, Inc.'s 2014-2015 Certified Financial Statement and Internal Financial Statement as of September 30, 2016

NEW YORK STATE OF OPPORTUNITY. Department of Health

Public Health and Health Planning Council

Project # 162300-E
Plattsburgh ASC, LLC d/b/a Cataract Center for the Adirondacks

Program:	**Diagnostic and Treatment Center**	***County:***	**Clinton**
Purpose:	**Establishment**	***Acknowledged:***	**October 27, 2016**

Executive Summary

Description

Plattsburgh ASC, LLC d/b/a Cataract Center for the Adirondacks (Cataract Center), an existing New York limited liability company, requests approval to transfer 100% membership interest in the proprietary, Article 28 diagnostic and treatment center (D&TC) from two withdrawing members to two new members. Cataract Center is certified as a single-specialty freestanding ambulatory surgery center (FASC) specializing in ophthalmology services. The FASC includes two operating rooms and is located in 3,335 square feet of leased space at 450 Margaret Street, Plattsburgh (Clinton County). There will be no change or disruption in services.

Ownership of the operations before and after the requested change is as follows:

Current Operator	
Plattsburgh ASC, LLC	
Members	
Kjell Dahlen, M.D.	50%
Benjamin Franklin Vilbert, M.D.	50%

Proposed Operator	
Plattsburgh ASC, LLC	
Members	
Roy Arogyasami, M.D.	50%
Joseph Rini, M.D.	50%

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no Need recommendation of this application.

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 is no construction or renovation associated with this project. The purchase price for the operations is $1,599,973 to be funded through personal loans. Glens Falls National Bank and Trust Company provided a letter of interest for each proposed member to fund their portion ($799,987) of the purchase price. Each loan carries a 7-year term at 4.5% fix rate of interest. The projected budget is as follows

	Year One	Year Three
Revenues	$1,742,506	$1,742,506
Expenses	$1,258,522	$1,258,522
Net Income	$483,984	$483,984

Recommendations

Health Systems Agency
There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management
<u>Approval contingent upon</u>:
1. Submission of an executed personal loan commitment for Roy Arogyasami, M.D., acceptable to the Department of Health. [BFA]
2. Submission of an executed personal loan commitment for Joseph Rini, M.D., acceptable to the Department of Health. [BFA]
3. Submission of an executed Attestation for Service Agreements, acceptable to the Department of Health. [BFA]
4. Submission of a photocopy of the new Operating Agreement of Plattsburgh ASC, LLC D/B/A Cataract Center for the Adirondacks, LLC, which is acceptable to the department. [CSL]

<u>Approval conditional upon</u>:
1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date
February 9, 2017

Program Analysis

Character and Competence

Member Name	Current Membership Interest	Proposed Membership Interest
Kjell Dahlen, M.D.	50%	-----
Benjamin Franklin Vilbert, M.D.	50%	-----
Joseph A. Rini, M.D., *Medical Director*	-----	50%
Roy Arogyasami, M.D	-----	50%

Drs. Joseph Rini and Roy Arogyasami are practicing ophthalmic surgeons. Dr. Rini earned his medical degree at Drexel University College of Medicine and completed an ophthalmology residency at Albert Einstein College of Medicine. Dr. Roy earned his medical degree from Columbia University, completed an ophthalmology residency at St. Luke's Roosevelt in Manhattan and a two-year surgery fellowship at Retina Associates of New Orleans. He is a board-certified ophthalmic surgeon specializing in vitreo-retinal surgery.

Dr. Arogyasami disclosed one open (pre-trial) malpractice case.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted for the two proposed individual members 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

Membership Interest Purchase Agreement

The applicant has submitted an executed Membership Interest Purchase Agreement which will become effective upon Public Health and Health Planning Council approval of this CON. The terms of the agreement are summarized below:

Date:	August 18, 2016
Seller:	Kjell Dahlen, M.D. and Benjamin Franklin Vilbert, M.D.
Purchaser:	Roy Arogyasami, M.D. and Joseph Rini, M.D.
Acquired Assets:	Beneficial owners free and clear of liens and encumbrances of the membership interest purchased hereunder. The interest shall constitute one hundred (100%) percent of the membership interest.
Purchase Price:	$1,599,973 paid at closing

The purchase price for the operations is proposed to be satisfied as follows:

Equity from Members through personal loans	$1,599,973

The applicant members provided their respective letter of interest from Glens Falls National Bank and Trust Company to fund their portion ($799,987) of the purchase price. Each personal loan carries a 7-year term at 4.5% fix rate of interest. BFA Attachment A presents the net worth summaries for Roy Arogyasami, M.D. and Joseph Rini, M.D which reveals resources are available if ever needed.

Administrative Services and Billing Agreement

The applicant has submitted an executed Administrative Services and Billing Agreement (ASBA) with Eye Care for the Adirondacks, P.C. (ECA), which is summarized as follows:

Date:	September 1, 2016
Provider:	Eye Care for the Adirondacks, P.C.
Licensed Operator:	Plattsburgh ASC, LLC d/b/a Cataract Center for the Adirondacks
Administrative Services Provided:	Provide certain administrative personnel as required, assist with purchasing, human resource management, and computer support. Assist with financial management services including budgeting, accounting, controlling and reporting, financial and variance analysis. Assist with negotiating payer contracts, insurance credentialing, and data reporting.
Billing Services Provided:	On behalf of the operator prepare patient billing including prepare payers claims forms and other required material, perform follow-up services, maintain systems and administer controls for recording and reporting collections.
Term:	1-year terms with 1-year automatic renewals
Fees:	Administrative Service: 2016 average $4,469.32 per month (based on 20% of Controller's W-2 wages and 15% of Administrator & Ex. Dir. Assistant W-2 wages.) Billing Services: $4,300 per month

Eye Care for the Adirondacks, P.C. will provide all of the above services. The Licensed Operator will retain ultimate authority, responsibility, and control for the operations. Effective October 4, 2016, the members of ECA and their membership interest are identical to the proposed new operator/members of the Cataract Center.

Lease Rental Agreement

The applicant has submitted an executed Lease Rental Agreement for the site, the terms of which are summarized below:

Date:	January 1, 2015
Premises:	3,335 sq. ft. located at 450 Margaret Street, Plattsburg, NY (Article 28 space)
Owner/Landlord:	450 Margaret Street Properties, Inc.
Lessee/Tenant:	Plattsburgh ASC LLC.
Term:	Ten years Plus (1) 10-year renewal term
Payment:	$64,630 ($19.38 per sq. ft.) with 3% yearly increases.
Provisions:	Taxes, insurance, utilities and maintenance

On October 4, 2016, Drs. Arogyasami and Rini purchased 100% ownership interest (50% each) in 450 Margaret Street Properties, Inc. from Drs. Dahlen and Vilbert, the current operators and realty owners of the FASC. The applicant has provided an affidavit attesting to the relationship between the landlord and the tenant in that the members and their membership interest are identical. Letters from two NYS licensed realtors have been provided attesting to the rental rate being of fair market value.

Operating Budget

The applicant has submitted the current year and the projected first and third years operating budgets, in 2016 dollars, as summarized below:

	Current (2015)		Year One		Year Three	
Revenues	Per Proc.	Total	Per Proc.	Total	Per Proc.	Total
Medicaid	$596.29	$104,351	$596.29	$104,351	$596.29	$104,351
Medicare	$601.54	322,424	$601.54	322,424	$601.54	322,424
Commercial	$703.80	1,304,839	$703.80	1,304,839	$703.80	1,304,839
Self-Pay	$465.70	9,314	$465.70	9,314	$465.70	9,314
Other	$789.00	1,578	$789.00	1,578	$789.00	1,578
Total Revenues		$1,742,506		$1,742,506		$1,742,506
Expenses						
Operating	$436.81	$1,130,028	$436.81	$1,130,028	$436.81	$1,130,028
Capital	$49.67	128,494	$49.67	128,494	$49.67	128,494
Total Expenses	$486.48	$1,258,522	$486.48	$1,258,522	$486.48	$1,258,522
Net Income (Loss)		$483,984		$483,984		$483,984
Utilization		2,587		2,587		2,587
Cost Per Procedure		$486.48		$486.48		$486.48

Utilization by payor source for the Current Year, and Years One and Three subsequent to the ownership change, are summarized below:

	Current Year		Year One & Three	
Payer	Procedures	%	Procedures	%
Medicaid	175	6.77%	175	6.77%
Medicare	536	20.72%	536	20.72%
Commercial	1,854	71.66%	1,854	71.66%
Self-Pay	20	.77%	20	.77%
Other	2	.08%	2	.08%
Total	2,587	100%	2,587	100%

- The Ambulatory Patient Group reimbursement rates reflect current and projected Federal and State government rates, with commercial and private payers reflecting adjustments based on experience in the region.
- Revenue and Expense assumptions are based upon the experience of the proposed members (who are currently employed by the FASC and preforming procedures at the facility).
- Breakeven is approximately 1,870 visits or 72.3% of project visits.
- Utilization assumptions are based on the facility's historical experience.

Capability and Feasibility

There is no construction or renovation associated with this project. The purchase price for Plattsburgh ASC, LLC d/b/a Cataract Center for the Adirondacks is $1,599,973, which will be funded via personal loans. Glens Falls National Bank and Trust Company provided a letter of interest for each proposed member to fund their portion of the purchase price ($799,987) at the above stated terms.

The working capital requirement is estimated at $209,754 based on two months of first year expenses. Funding will come from ongoing operations. BFA Attachments D and E are Plattsburgh ASC LLC 2014-2015 certified financials and internal financials as of October 31, 2016, respectively, which show average positive working capital of $248,164 and average net assets of $659,198. Net Income for 2014 and 2015 averaged $440,737 and net income for the ten months in 2016 was $339,546. Review of BFA Attachment E shows the operations will start with $546,240 in equity.

Plattsburgh ASC, LLC projects a net income of $483,984 in both the first and third years of operation. The budget appears reasonable.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Plattsburgh ASC, LLC members net worth summary
BFA Attachment B	450 Margaret Street Properties, Inc. members net worth summary
BFA Attachment C	Real Property Members
BFA Attachment D	2014 - 2015 Certified Financial Statement, Plattsburgh ASC, LLC
BFA Attachment E	Internal Financial Statement as of October 31, 2016, Plattsburgh ASC, LLC

Public Health and Health Planning Council

Project # 162358-B
North Fork SC, LLC

Program:	**Diagnostic and Treatment Center**	***County:***	**Suffolk**
Purpose:	**Establishment and Construction**	***Acknowledged:***	**November 3, 2016**

Executive Summary

Description
North Fork SC, LLC (NFSC), an existing New York limited liability company, requests approval to establish and construct an Article 28 diagnostic and treatment center (D&TC) to be certified as a dual single-specialty, freestanding ambulatory surgery center (FASC) specializing in gastroenterology and pain management procedures. The applicant will lease 5,564 square feet of an existing building located at 700 Boisseau Avenue, Southold (Suffolk County), New York. The FASC will include one procedure room, two operating rooms, three pre-operating bays and six post-operative bays, along with the requisite support areas.

The proposed members of North Fork SC, LLC and their ownership percentages are as follows:

Frank Adipierto, M.D.	45%
Dhiren Mehta, M.D.	35%
Eastern Long Island Hospital Association	20%

The applicant indicated that all of the projected procedures for the FASC are currently being performed at Eastern Long Island Hospital and that no other Article 28 entity will be impacted by the project.

OPCHSM Recommendation
Contingent Approval

Need Summary
The applicant projects 3,450 procedures in Year One with Medicaid at 31% and charity care at 2%.

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
Total project costs of $3,496,465 will be met through members' equity of $534,630, a capital lease for $340,774, and other assets of $121,061 to be provided by Dr. Adipierto via a personal loan with a 30-year term and 4.5% interest rate. The remaining balance of $2,500,000 will be financed via a bank loan for a 7-year term with a 15-year amortization and interest estimated at 5.04% based on the Federal Home Loan Bank (FHLB) rate (2.79% as of December 27, 2016) plus 225 basis points. The projected budget is as follows:

	Year One	Year Three
Revenues	$2,711,260	$3,615,013
Expenses	$2,635,969	$2,699,976
Gain/(Loss)	$75,291	$915,037

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and 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 loan commitment, acceptable to the Department of Health. [BFA]
3. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
4. Submission of an executed building lease, acceptable to the Department of Health. [BFA]
5. Submission of an executed capital lease, acceptable to the Department of Health. [BFA]
6. Submission of an executed personal loan for Dr. Adipierto, acceptable to the Department of Health. [BFA]
7. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
8. Submission of an assumed name, acceptable to the Department. [HSP]
9. Submission of a photocopy of an Amended Operating Agreement of North Fork SC, LLC, which is acceptable to the department. [CSL]
10. Submission of a photocopy of the lease agreement between North Fork SC, LLC and 700 Boisseau Avenue Realty, LLC, which is acceptable to the department. [CSL]
11. Submission of a photocopy of the Certificate of Amendment of the Articles of Organization of North Fork SC, LLC, which is acceptable to the department. [CSL]
12. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-03. [AER]

Approval conditional upon:

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Construction must start on or before July 1, 2017 and construction must be completed by March 1, 2018, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the start date this shall constitute abandonment of the approval. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. [PMU]
3. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
4. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
5. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
6. The clinical space must be used exclusively for the approved purpose. [HSP]

Council Action Date

February 9, 2017

Need Analysis

Analysis

The service area consists of Suffolk County which has a total of 12 freestanding ambulatory surgery centers: six multi-specialty ASCs, five single-specialty ASCs and one dual single-specialty ASC. The table below shows the number of patient visits at ambulatory surgery centers in Suffolk County for 2014 and 2015.

ASC Type	Facility Name	Total Patient Visits 2014	2015
Dual	Advanced Surgery Center of Long Island (opened 6/5/14)	970	6,627
Single	Digestive Health Center of Huntington, Inc.	3,103	3,458
Single	Great South Bay Endoscopy Center, LLC (opened 8/5/14)	1,542	4,565
Single	Island Digestive Health Center (opened 5/22/14)	2,732	5,044
Single	Island Endoscopy Center, LLC	9,887	8,983
Multi	Long Island Ambulatory Surgery Center	9,775	11,942
Single	Long Island Hand & Orthopedic Surgery Center, LLC	673	638
Multi	Melville Surgery Center	5,763	5,994
Multi	North Shore Surgi-Center	7,583	7,178
Multi	Progressive Surgery Center	1,356	1,112
Multi	South Shore Surgery Center	3,232	4,089
Multi	Suffolk Surgery Center	6,601	6,305
Total		53,217	65,935

Source: SPARCS-2016

The Suffolk County ASCs showed a 23.9% year-to-year increase in patient visits from 2014 to 2015.

The population of Suffolk County in 2010 was 1,493,350 with 625,791 individuals (41.9%) age 45 and over. This is the primary population group utilizing ambulatory surgery services. Per Cornell Program on Applied Demographics (PAD) projection data, this population group is estimated to grow to 674,710 by 2025 and represent 43.7% of the projected population of 1,543,715.

The number of projected procedures is 3,450 in Year One and 4,600 in Year Three. These projections are based on the current practices of participating surgeons. All of the projected procedures at the proposed center are currently being performed at Eastern Long Island Hospital, a 20% member of the applicant. The table below shows the projected payor source Years One and Three.

Projections-162358	Year One Volume	Year 1%	Year Three Volume	Year 3%
Commercial Ins	1,932	56%	2,576	56%
Medicare	1,277	37%	1,702	37%
Medicaid	104	3 %	138	3 %
Charity Care	69	2 %	92	2%
Other	68	2%	92	2%
Total	3,450	100.00%	4,600	100.00%

To serve the underinsured population, the center intends to obtain contracts with the following Medicaid Managed Care plans: AmeriChoice and Fidelis Medicaid**.** The center plans to meet with Hudson River Healthcare, an FQHC, to establish a patient referral relationship. The center will also reach out to local family shelters and homeless shelters in an effort to provide service to the underinsured residents in the service area.

The applicant is committed to serving all persons in need without regard to ability to pay or source of payment.

Conclusion
Approval of this project will allow for additional access to ambulatory surgery services outside of the hospital setting for the communities of Suffolk County.

Recommendation
From a need perspective, approval is recommended.

Program Analysis

Project Proposal
Eastern Long Island Hospital Association (ELIH) is a member of the applicant. In this proposal, ELIH is partnering with local physicians to create an ASC in the community. The development of this center will enhance access to services, more effectively utilize health care resources, and provide a convenient option by reducing the need to travel to Eastern Long Island Hospital for services.

Proposed Operator	North Fork SC, LLC
Site Address	700 Boisseau Avenue Southold, NY 11971 (Suffolk County)
Surgical Specialties	Single Specialty: Pain Management Single Specialty: Gastroenterology
Operating Rooms	2 (Class B)
Procedure Rooms	1 (Class A)
Hours of Operation	Monday through Friday from 8:00 a.m. to 4:00 p.m. Providing pain management services 4 days/week and gastroenterological services 1 day/week. (As the center matures, hours will be expanded as needed to accommodate patients and physicians.)
Staffing (1st Year / 3rd Year)	12.7 FTEs / 12.7 FTEs
Medical Director(s)	Frank Adipietro, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Expected to be provided by Eastern Long Island Hospital 5.0 miles/ 8 minutes
On-call service	All patients will be provided with the number of a 24/7 on-call service which will immediately refer the patient to the center's on-call physician (a member of the center's credentialed medical staff).

Character and Competence

The members of North Fork SC, LLC and their membership interest are detailed in the chart below:

Name	Membership Interest
Frank Adipietro, M.D., ***Medical Director***	45%
Dhiren Mehta, M.D.	35%
Eastern Long Island Hospital Association	20%
Frank Adipietro, MD	
Scott Bennett	
Daniel Brisotti	
Janice Claudio	
Paul Connor	
Vickie DeFriest	
Carole Donlin	
Helene Fall	
Margaret Flanagan	
David Fujita	
Robert Goldman	
Douglas Mathie	
Maureen Mills	
Thomas Murray	
James Preston	
Joseph Pufahl	
Jay Quartararo	
Edward Schott	

Frank Adipietro, M.D. will serve as the center's Medical Director. Dr. Adipietro is a board-certified anesthesiologist who is currently an attending physician at ELIH.

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.

Ms. Fall disclosed that, in a former role as a Municipal Manager for a New Jersey Township, any lawsuit filed against the township named her, either by name or title.

Dr. Mehta disclosed two settled malpractice cases.

Mr. Quartararo disclosed an open legal malpractice claim that was filed in 2008 against him and his legal firm related to the filing of a gift tax return and deed.

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.

Integration with Community Resources

The center will look to establish an outreach plan to the underserved which will include the development of referral arrangements with federally qualified health centers (FQHQs) and other community-based providers. The center is committed to serving all persons in need without discrimination due to any personal characteristics. Patients will not be excluded based on ability to pay and a sliding scale and charity care will be provided.

The center intends on implementing an electronic medical record (EMR) system, within 18 months of opening, which allows the patient's health information and plan of care to be accessible to the health care providers of the center and other health care providers outside of the center involved in providing medical care to the patient. Additionally, the center will consider joining a regional health information exchange (RHIO) or qualified health information exchange (HIE).

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total project costs, estimated at $3,496,465, are as follows:

Renovation & Demolition	$1,738,152
Design Contingency	173,815
Construction Contingency	173,815
Architect/Engineering Fees	173,815
Construction Manager Fees	43,454
Other Fees	20,000
Movable Equipment	1,060,399
Financing Costs	62,500
Interim Interest Expense	29,401
CON Application Fee	2,000
CON Processing Fee	19,114
Total Project Cost	$3,496,465

Project costs are based on a start date of July 1, 2017, with an eight-month construction period.

The applicant's financing plan appears as follows:

Cash Equity (Applicant)	$534,630
Capital Lease	$340,774
Other (Dr. Adipierto's personal loan, 4.5% Interest, 30-year term)	$121,061
Bank Loan (5.04% interest, 7-year term, 15-year payout)	$2,500,000
Total	$3,496,465

Bridgehampton National Bank has provided a letters of interest at the stated terms for the bank loan and the personal loan to Dr. Adipierto (for up to $600,000).

Lease Rental Agreement

The applicant submitted a draft lease for the proposed site. The terms are summarized below:

Premises:	Approximately 5,564 rentable square feet in an existing building located at 700 Boisseau Avenue, Southold (Suffolk County), NY
Landlord:	700 Boisseau Avenue Realty, LLC
Lessee:	North Fork SC, LLC
Term:	10 years with one (5) year renewal term
Rent:	$150,000 annually ($12,500 monthly or $26.96 per square foot.) with a 3% annual increase from year 3 going forward.
Provisions:	Triple Net lease

The applicant provided an affidavit stating that the lease is an arm's length arrangement. The applicant submitted letters from two NYS licensed realtors attesting to the rent being of fair market value.

Capital Lease Rental Agreement

The applicant submitted a draft capital lease for two Cios Fusion mobile imaging machines. The terms are summarized below:

Equipment:	2 Cios Fusion Machines 1-I348HO
Lessor:	Siemens Financial Services, Inc.
Lessee:	North Fork SC, LLC
Term:	5 years
Rental:	$82,120.20 annually ($6,843.35 monthly)
Provisions:	End of term option to purchase equipment for $1

Operating Budget

The applicant submitted their first and third year operating budgets, in 2017 dollars, summarized below:

	Year One		Year Three	
	Per Proc.	Total	Per Proc.	Total
Revenues				
Medicaid	$731.19	$76,044	$734.72	$101,392
Medicare	$612.81	$782,557	$613.05	$1,043,409
Commercial	$919.57	$1,776,615	$919.57	$2,368,820
Other	$1,102.09	$76,044	$1,102.09	$101,392
Total Revenues		$2,711,260		$3,615,013
Expenses				
Operating	$625.19	$2,156,916	$488.00	$2,244,764
Capital	$138.86	$479,053	$98.96	$455,212
Total Expenses	$764.05	$2,635,969	$586.96	$2,699,976
Net Income or (Loss)		$75,291		$915,037
Utilization (procedures)		3,450		4,600

The following is noted with respect to the submitted budget:

- Revenue assumptions are based on current and projected Federal and State government reimbursement rates, with private pay payor rates reflecting adjustments based on estimated rates to be negotiated based on industry norms and ELIH's experience.
- Utilization projections are based on the current caseloads of Drs. Adipierto and Mehta. The applicant indicated that all of the projected procedures will come from Eastern Long Island Hospital, and that they are more appropriately performed at a FASC. Each physician has submitted letters in support of their utilization projections.
- Expense assumptions are based upon staffing, operating and capital costs as determined based on the experience of the participating physicians and ELIH, as well as the experience of other FASCs in New York State in providing similar service patient care.
- The breakeven based on the projected utilization is approximately 97.25% or 3,355 procedures in Year One, and 74.67% or 3,435 procedures in Year Three.

The budgets are reasonable.

Capability and Feasibility

The total project cost of $3,496,465 will be satisfied by the proposed members' equity contribution of $534,630, a capital lease for $340,774, other assets of $121,061 from Dr. Adipierto (via proceeds of a personal loan at the above stated terms), and a $2,500,000 bank loan at the above stated terms.

Working capital requirements are estimated at $449,996 based on two months of third year expenses. The applicant has submitted a letter of interest from Bridgehampton National Bank to finance $224,998 of the working capital for a one-year term at Prime plus 1% interest, currently estimated 4.5% (Prime rate was 3.5% as of December 16, 2016). The remaining $224,998 will be provided from the members. Dr. Metha and ELIH will provide their portion of the working capital through their financial resources. Dr. Adipierto does not have sufficient liquid resources to meet the equity and working capital requirement. Bridgehampton National Bank has provided a letter of interest for a personal loan to Dr. Adipierto of up to $600,000 to cover his portion of the equity and working capital requirements. BFA Attachment A is the net worth statement of the proposed physician members and the financial statements of ELIH, which indicates that both ELIH and Dr. Metha have sufficient liquid resources to meet the equity and working capital requirements.

BFA Attachment B is the pro-forma balance sheet of that shows operations will start with $1,225,417 in equity.

North Fork SC, LLC projects a net income of $75,291 and $915,037 in the first and third years, respectively. Revenues for Medicare and Medicaid are based on current and projected reimbursement rates for the respective payors. The payment rates for commercial payors were determined by the applicant based on contacts made with various similar service providers to obtain their current rate schedules. The budgets are reasonable.

The applicant demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement and certified financial statements of members of North Fork SC, LLC
BFA Attachment B	Pro Forma Balance Sheet of North Fork SC, LLC
BHFP Attachment	Map

NEW YORK STATE OF OPPORTUNITY. | Department of Health

Public Health and Health Planning Council

Project # 161303-E
Smile New York Outreach, LLC

Program:	**Diagnostic and Treatment Center**	***County:***	**Queens**
Purpose:	**Establishment**	***Acknowledged:***	**April 29, 2016**

Executive Summary

Description

Smile New York Outreach, LLC (Smile), a proprietary Article 28 diagnostic and treatment center (D&TC) with its administrative office located at 37-30 Review Avenue, Long Island City (Queens County), requests approval to extend their limited life for three years and to transfer 100% ownership interest in the D&TC to one new member. The current sole member, Matthew C. Harrison, Jr., proposes to transfer his membership interest to a new member as he plans to retire. Smile provides preventive dental care services (exams, cleanings and sealants) to underprivileged children in approved schools using transportable equipment. They are currently authorized through the School-Based Health Center Dental Program to serve children in Bronx, Kings, New York, Queens, Richmond and Westchester Counties. Smile was granted a five-year limited life as a demonstration project under CON 101116, and operations began effective July 29, 2011. The applicant notified the Department before their limited life expiration requesting a three-year extension.

Smile was originally approved to provide restorative care via referrals to proximate dentists or in their mobile van. A fixed site is required for Article 28 certification, but in this instance, the mobile van was deemed to satisfy that requirement as part of that demonstration project. Subsequent to approval, Smile stopped using the mobile van and has limited provision of restorative care to their patients, only through referrals to local private dental practices. As part of this application, Smile will add restorative dental care to their school-based program in the current school year.

Additionally, Smile has committed to developing a fixed site for the delivery of follow-up care for patients identified in school visits as needing restorative care that cannot be provided at the school sites and where referral to Smile's community dentist network is not a preferred option. The site will be at a to-be-determined location in New York City. Smile will submit a separate Certificate of Need application for this project to construct and certify the fixed site within six months of this project's review by the Public Health and Health Planning Council. It is expected that the entire process to bring the fixed site online will take approximately 12-18 months. As a result of this commitment, the Department will no longer require Smile to maintain or use a mobile van.

Ownership of the operations before and after the requested change is as follows:

Current
Smile New York Outreach, LLC

Member	%
Matthew C. Harrison, Jr.	100%

Proposed
Smile New York Outreach, LLC

Member	%
Stephen Marshall, D.D.S	100%

Smile New York Outreach, LLC employs one FTE, an administrator. All other staff, including all clinical staff, clinical operations, and most administrative functions are provided through contracted entities.

Smile is currently approved by the Department of Health School Based Health Center Dental (SBHC-D) program to operate at 262 school sites, and approval of this application relates only to these school sites. Requests to operate at any additional school sites will be handled separately through the SBHC-D program.

OPCHSM Recommendation

Contingent Approval of a three-year extension of the operating certificate from the date of the Public Health and Health Planning Council recommendation letter.

Need Summary

The service area includes Bronx, Kings, Queens, Richmond, New York and Westchester counties. The schools served by Smile New York are mostly located in areas with high levels of poverty. The service area includes a significant number of census tracts that are designated as Health Professional Shortage areas for Dental Health Services or as Medically Underserved Area/Population.

Program Summary

Smile will be required to abide by programmatic reporting requirements and has committed to adding restorative care at the schools this school year and building a fixed site within eighteen months of approval. 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 proposal. The projected budget is as follows:

	Current Year	Year One
Revenues	$1,241,147	$4,261,186
Expenses	$1,228,299	$4,249,998
Gain/(Loss)	$12,848	$11,188

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval of a three-year extension of the operating certificate from the date of the Public Health and Health Planning Council recommendation letter, contingent upon:

1. Submission of signed agreement, acceptable to the Department, to participate in the Department of Health School Based Health Center Dental (SBHC-D) program's reporting requirements for all providers as outlined here. Quarterly reports and annual performance measures, as defined and outlined by the Department, must be completed and submitted within 30 days of due date. Quarterly reports/submissions will include but are not limited to:
    a. Dates each school was visited and types of services provided SBHC-D enrollment and school enrollment;
    b. Changes related to SBHC-D site name, address, and/or closure;
    c. For children in NYC, number and percent of children requiring follow up care and the number of children in receipt of follow up care using case management from a) Smile or b) NYC DOHMH/NYC DOE case manager, reported separately;
    d. For children seen outside of NYC school district, number and percent of children requiring follow up care and the number and percent of children in receipt of follow up care using case management from Smile. [BDH]
2. Submission of an executed Operating Agreement of Smile New York Outreach, LLC, which is acceptable to the Department. [HSP]
3. Submission of an executed Software License and Services Agreement that is acceptable to the Department. [HSP]
4. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
5. Submission of an executed Clinical Services Agreement, acceptable to the Department. [BFA]
6. Submission of a real property lease, which is acceptable to the department. (CSL)
7. Submission of a photocopy of the Operating Agreement of Smile New York Outreach, LLC, which is acceptable to the department. (CSL)
8. Submission of a Membership Interest Purchase Agreement, acceptable to the Department. (CSL)
9. Submission of an executed Software License and Services Agreement, acceptable to the Department. [CSL]
10. Submission of an executed affidavit from the applicant agreeing to the Department's Division of Family Health's requirements for operation, acceptable to the Department. (CSL)
11. Submission of the applicant's executed Clinical Services Agreement, acceptable to the Department. (CSL)
12. Submission of the applicant's executed Business Associates Agreement, acceptable to the Department. (CSL)

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Submission of a Certificate of Need application, acceptable to the Department, for a fixed dental treatment clinic site by August 8, 2017, and commencement of clinic operations at the site, approved by the Department, by August 8, 2018. [PMU]

Council Action Date

February 9, 2017

Need Analysis

Background

The Smile New York Outreach service area includes Bronx, Kings, Queens, Richmond, New York and Westchester Counties. The schools served are mostly in areas with high levels of poverty. The service area includes a significant number of census tracts that are designated as Health Professional Shortage areas for Dental Health Services or as Medically Underserved Area/Population.

Smile New York Outreach offers preventative services such as exams, cleanings and sealant for students who have not received these routine dental services outside the school setting. Smile New York has been approved to provide school-based health care dental services to 262 schools throughout the New York City region. Services are provided utilizing portable equipment. The applicant will be adding restorative care to their services beginning this school year. The number of projected visits is 41,167 by the third year.

The applicant is committed to serving all persons in need without regard to ability to pay or source of the payment.

Conclusion

Approval of this project allows for the continued access to dental care services to the underprivileged children within the New York City and Westchester areas.

Recommendation

From a need perspective, contingent approval with a three-year extension of their operating certificate is recommended.

Program Analysis

Project Description

Smile New York Outreach, LLC is an approved School-Based Health Center Dental (SBHC-D) program sponsor currently approved to serve 262 schools within Bronx, Kings, Queens, Richmond, New York and Westchester counties. Preventive dental services are provided using portable equipment.

The original approval was for Smile to operate as a SBHC-D provider using a mobile van to provide restorative care when or if families chose not to visit a community dental provider for such care. However, upon review of this CON it was confirmed by the applicant that Smile is no longer using a mobile dental van to provide services and has not been providing any restorative care directly. Through the review of this project, Smile has committed to provide restorative services at the approved schools beginning in the fall (2016) and has committed to building a fixed site in addition to maintaining the referral network of 122 dental providers. The new fixed-site will be used for the delivery of follow-up care for patients identified in school visits who need restorative care that cannot be performed in the school setting. This facility will also be open to the broader community for dental services. The site will be at a to-be-determined location in New York City. Smile will submit a separate Certificate of Need Application to construct and certify the fixed site. Referrals to Smile's community dentist network for restorative care will also be made available.

Analysis

Programmatic concerns related to Smile operations have been adequately addressed through letters and conference calls with the Department's School-Based Health Center Dental Program. Concerns were related to: approved school list discrepancies, staffing, policies and procedures related to treatment protocol, referral and follow-up/case management protocols, after-hours access to services, infection control, and quality improvement.

Smile has also indicated that sealant retention checks are performed by "routine random sampling of our providers every six months." In discussion with the Department, Smile indicated that retention checks are performed on every child annually. The Department will monitor performance for sealant checks in quarterly reports.

Smile employs one FTE, an administrator. All of the clinical treatment team and administrative staff is contracted through Big Smiles Dental NY PLLC and ReachOut Healthcare America, Ltd, as documented in the Clinical Services Agreement and the Software License and Services Agreement. Dr. Marshall will serve as Dental Director and oversee quality assurance functions. Smile's staffing pattern appears to be adequate for providing services to children in the current 262 schools twice a year.

Smile and its contracted providers will continue to utilize its internal protocols for case management. Smile has indicated that it will work with the New York City Office of School Health, who is adding their own case management resources, to assist with families when Smile has been unsuccessful in confirming receipt of care.

Character and Competence

Currently, Mr. Matthew Harrison is the sole member of Smile New York Outreach, LLC. Mr. Harrison plans to retire and proposes the transfer of his membership interest to Stephen Marshall, D.D.S.

Dr. Marshall is a former Associate Professor of Clinical Dentistry and has previously served as the Senior Associate Dean of the Columbia University College of Dental Medicine. Dr. Marshall has also served as the Vice President of Columbia University Healthcare, Inc., an Article 28 dental/primary care facility.

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.

Compliance with Applicable Codes, Rules and Regulations

The dental staff will continue to ensure that procedures performed in the schools and at the facility conform to generally accepted standards of practice and that privileges granted are within the dentist'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 as evidenced by its signed affidavit and execution of an agreement with the Department.

Smile 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 complaint

Conclusion
Smile will be required to abide by programmatic requirements and has committed to adding restorative care at the schools this current school year and building a fixed site within eighteen months of approval. 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, contingent approval with a three-year extension of the operating certificate is recommended.

Financial Analysis

Membership Interest Purchase Agreement
The applicant submitted an executed Membership Interest Purchase Agreement for the transfer of ownership, to be effectuated upon PHHPC approval. The terms of the agreement are as follows:

Date:	April 21, 2016
Seller:	Matthew Harrison, Jr.
Buyer:	Stephen Marshall, DDS
Assets Assumed:	100% Membership interest in Smile New York Outreach, LLC
Excluded Assets:	None
Liabilities Assumed:	All liabilities associated with the business
Excluded Liabilities	N/A
Purchase Price:	$100
Payment of Purchase Price:	Cash (paid on execution date of agreement)

The applicant 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. As of December 2, 2016 there was an outstanding audit liability of $200,640.

Software License and Services Agreement
As disclosed under CON 101116, the applicant entered into a Software License and Services Agreement with ReachOut Healthcare America, Ltd. for computer system, purchasing, and administrative services, summarized as follows:

Date:	November 1, 2010
Provider:	ReachOut Healthcare America, Ltd. (RHA)
Facility:	Smile New York Outreach, LLC
Term:	Agreement shall continue in effect unless terminated by either parties for cause.
Services Provided:	Exclusive software license restricted to the territory of the City of New York; full time access of RHA's computer system for receiving and transmitting dental records and instant retrieval storage system for each dental visit to a school; clerical data entry and statistical reporting. Pursuant to clinic's direction; purchase supplies and equipment and provision of fully equipped dental vans for lease. Financial services includes; accounting, bookkeeping, monitoring and payment of accounts. Assist in the preparation of physical audits of equipment and supplies.
Compensation:	$400 per day per school visited (paid monthly)

The Software License and Services Agreement provides for the administration of non-clinical aspects of the operation, including providing dental equipment, supplies, information systems, scheduling, customer service and financial planning, reporting and analysis. The agreement was originally restricted to the territory of New York City and amended to include Westchester County under CON 112250. The applicant indicated that the agreement will continue to be in effect upon PHHPC approval of this application.

Clinical Services Agreement

Also under CON 101116, the applicant entered into a Clinical Services Agreement, which provides for all clinical staff of the D&TC and assistance with other administrative services for clinical operations, as described below:

Date:	November 1, 2010
Provider:	Big Smiles Dental New York, PLLC
Facility:	Smile New York Outreach, LLC
Term:	Agreement shall continue in effect unless terminated by either parties for cause.
Services Provided:	Administrative services for clinical aspects of the operation including assisting the Clinic in formulating professional policies, determining staffing requirements, submitting monthly summary reports, assigning a dentist to attend all Clinic Quality Improvement Committee meetings, and participating in survey/evaluations required by state or federal government agencies; PLLC shall engage, either as employees or independent contractors, dentists, dental hygienists and dental support staff to provide services at the Clinic; PLLC shall hire, monitor and supervise its dentists and dental staff providing professional services to the Clinic's patients and ensure that adequate professional staff are available during all hours when and at all locations where the Clinic provides dental services; PLLC shall provide the Dental Director for the Clinic.
Compensation:	$1,400 per day per school visited (paid monthly)

Big Smiles Dental New York, PLLC has a relationship with ReachOut Healthcare America, Ltd., The fees related to these two agreements (combined, $1,800 per day per school visited) are included in the financials as salaries, benefits and contract services expenses and general and administrative expenses.

Operating Budget

The following is a summary of the submitted operating budget, presented in 2016 dollars, for the Current Year and Year One subsequent to the change in membership and limited life extension:

	Current Year		Year One	
Revenues	Per Visit	Total	Per Visit	Total
Medicaid	$154.04	$1,193,927	$128.00	$4,108,767
Commercial	$72.51	$15,300	$72.52	$49,386
All Other	$94.44	$31,920	94.44	$103,033
Total		$1,241,147		$4,261,186
Expenses				
Operating	$93.48	$1,192,297	$100.81	$4,149,998
Capital	$2.82	$36,002	$2.43	$100,000
Total	$96.31	$1,228,299	$103.24	$4,249,998
Net income/loss		$12,848		$11,188
Utilization (Visits)		12,754		41,167

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

- Projected Medicaid revenue is based on the facility's current Medicaid rate discounted to reflect the impact of managed care.
- Utilization by payor source for Year One is expected as follows:

Medicaid	77.98%
Charity Care	17.72%
Commercial	1.65%
All Other	2.65%

- Breakeven utilization is projected at 41,059 visits or 99.74% of projected Year One visits.

Capability and Feasibility

There are no project costs associated with this proposal. Stephen Marshall, D.D.S will acquire 100% membership interest in Smile New York Outreach, LLC for $100 as detailed above**.**

Working capital requirements are estimated at $708,333 based on two months of year one expenses. The proposed member will provide $354,167 in equity. The remaining $354,166 will be provided through a working capital loan at an interest rate of 7% with a five-year term. ReachOut HealthCare America, Ltd. has provided a letter of interest for the proposed working capital financing. BFA Attachment A is the net worth statement for the proposed new owner, which shows suficient resources to cover both the purchase price and the working capital equity requirements for this project.

BFA Attachment D is the pro-forma balance sheet of Smile New York Outreach, LLC, which indicates a negative member's equity of $789,584 as of the change of ownership. The negative member's equity is due to the applicant taking over the long-term debt liability of $1,523,722 as part of the purchase agreement. The applicant indicated that the long-term debt is associated with a private party loan that was entered into by Smile New York Outreach, LLC in 2014.

The budget indicates a net income of $11,188 will be achieved during Year One. The budget appears reasonable.

BFA Attachment C is Smile New York Outreach, LLC's 2013-2015 certified financial statements and their internal financial statements as of August 31, 2016, which show that the facility generated an average operating loss of $179,599 and had an average negative net asset position and an average positive working capital position for the 2013-2015 period shown. The internal financials as of August 31, 2016, show that the entity generated an operating loss of $15,002 and had a negative net asset position and a positive working capital position for the period shown. The applicant indicated that the 2013-2015 loss was caused by Smile being in a small number of schools during the period 2014 **-** July 20, 2015. On July 21, 2015, Smile was authorized to add a substantial number of schools to its service list, which allowed the facility to begin the overall operations turnaround. The applicant indicated that the 2016 loss through the end of August was due to Smile operating in both July and August when schools are not in session. Smile anticipated a return to profitable status once school resumed. BFA Attachment C also shows Smile's recently updated statement of operations as of November 30, 2016, which shows that the facility generated a net loss of $32,000 after one-time only expenses of $120,000. These expenses are associated with the processing of this CON. Without these expenses the facility would have generated a net income of $88,000 through November 30, 2016.

Per the auditor's notes to the 2015 certified financial statements, as of December 31, 2015, Smile had a long-term liability of $2,025,614 payable to a private party that provided funding for the operating cash flow needs of the D&TC. In accordance with the agreement Smile entered into with this private party, "no interest is due on the amounts advanced and the private party will not demand payment earlier than January 2, 2017." The auditor provided a Going Concern disclosure in the 2015 financials, indicating that the advanced amounts are not due until January 2, 2017, and the private party indicated their intent to continue to fund cash flow needs. However, no assurance could be provided that these events would occur. The financial statements did not include any adjustments relating to recoverability of assets or liabilities should the D&TC be unable to continue in existence.

It is noted that per the internal financials as of August 31, 2016, the long-term liability is stated at $1,523,722. The executed Membership Interest Purchase Agreement provides that the proposed new member will assume all liabilities associated with the business.

Recommendation

From a financial perspective, contingent approval with a three-year extension of the operating certificate is recommended.

Attachments

BFA Attachment A	Net Worth of Proposed Member of Smile New York Outreach, LLC
BFA Attachment B	Organization Chart
BFA Attachment C	2013-2015 Certified, 1/1/2016-8/31/2016 Internal Financial Statements and the 11/30/2016 Internal Statement of Operations for Smile New York Outreach, LLC
BFA Attachment D	Pro Forma Balance Sheet for Smile New York Outreach, LLC

Public Health and Health Planning Council

Project # 152135-E
Delmar Acquisition I LLC d/b/a Bethlehem Commons Nursing and Rehabilitation Center

Program:	**Residential Health Care Facility**	***County:***	**Albany**
Purpose:	**Establishment**	***Acknowledged:***	**September 1, 2015**

Executive Summary

Description

Delmar Acquisition I, LLC, a Delaware limited liability company authorized to do business in New York State, requests approval to be established as the new operator of Bethlehem Commons Care Center, a 120-bed, not-for-profit, Article 28 Residential Health Care Facility (RHCF) located at 125 Rockefeller Road, Delmar (Albany County). Upon approval of this application, the facility will be named Bethlehem Commons Nursing and Rehabilitation Center. There will be no change in beds or services provided.

On June 10, 2015, Good Samaritan Lutheran Health Care Center, Inc. entered into an Asset Purchase Agreement (APA) with Delmar Acquisitions I, LLC for the sale and acquisition of the operating and real property interests of Bethlehem Commons Care Center for a purchase price of $12,500,000. The APA also included the sale and acquisition of Kenwood Manor, a 67-bed adult home located in Delmar, for a purchase price of $750,000, and Normanskill Terrace, a 39-bed independent living facility located in Delmar, for a purchase price of $200,000, resulting in a total purchase price of $13,450,000. The Lutheran Care Network, Inc. is the sole member of Good Samaritan Lutheran Health Care Center, Inc. BFA Attachment B shows an organizational chart of the programs and services sponsored by The Lutheran Care Network, Inc.

Good Samaritan Lutheran Health Care Center, Inc. has provided a letter stating that, due to the difficult operating climate for small independent skilled nursing facilities, and their inability to refinance related mortgages for the above noted properties, they decided to sell the assets. A lengthy process was undertaken to select a qualified buyer that would agree to pricing terms deemed fair and reasonable for Good Samaritan. The proceeds of the sale will be used to pay off substantial liabilities in connection with the properties (mortgage debt and outstanding payables) and to continue their charitable mission and ministries, which may include future construction of a greenhouse model skilled nursing facility on the grounds of Coburg Village in Rexford, New York.

Ownership of the RHCF before and after the requested change is as follows:

<u>Current Operator</u>	
Good Samaritan Lutheran Health Care Center, Inc.	100%
<u>Proposed Operator</u>	
Delmar Acquisitions, LLC	100%
<u>Members</u>	
Zipporah Farkas	45%
Joseph Schlanger	45%
Lizer Jozefovic	10%

Upon Public Health and Health Planning Council (PHHPC) approval of this application, Delmar Acquisition I, LLC will enter into an Assignment and Assumption Agreement with Delmar Realty I, LLC for assignment of the real property interest of the RHCF for a purchase price of $10.

There is a relationship between Delmar Acquisition I, LLC and Delmar Realty I, LLC in that the entities have common ownership. The applicant will lease the premises from Delmar Realty I, LLC.

A separate application for the change in ownership of the adult home, Kenwood Manor, is currently under review by the Department of Health.

OPCHSM Recommendation

Contingent Approval

Need Summary

Bethlehem Commons Care Center's occupancy was 96.9% in 2011, 95.8% in 2012 and 94.4% in 2013. Occupancy as of June 29, 2016 is 96.7%, with 4 vacant beds. The current operator did not submit a cost report in 2014 so no certified occupancy is provided, however, unaudited occupancy during this period is approximately 95.0%.

Program Summary

This application proposes to establish Delmar Acquisition I, LLC as the new operator of Bethlehem Commons Care Center. The facility will be operated as Bethlehem Commons Nursing and Rehabilitation Center.

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background review indicates the applicants have met the standard for approval as set forth in Public Health Law §2801-a (3).

Financial Summary

There are no project costs associated with this application. The purchase price for the RHCF operations and realty is $12,500,000 to be funded with members' equity of $1,250,000 and a bank loan for $11,250,000 with interest at 6.5% plus 30-day LIBOR (0.48% as of July 13, 2016) and a 25-year term. The projected budget is as follows

	Year One
Revenues	$12,269,500
Expenses	10,505,800
Net Income	$1,763,700

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. 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 continue to enhance access to Medicaid residents. At 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 to 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; and
   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. [RNR]
3. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
   a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
   b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
   c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
   d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
   e. Other factors as determined by the applicant to be pertinent. [RNR]
4. Submission of an executed loan commitment, acceptable to the Department of Health. [BFA]
5. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
6. Submission of an executed building lease, acceptable to the Department of Health. [BFA]
7. Submission of an executed Assignment and Assumption Agreement for the real property interest of the residential health care facility, acceptable to the Department of Health. [BFA]
8. Submission of a photocopy of the applicant's executed lease agreement, acceptable to the Department. [CSL]
9. Submission of a photocopy of the applicants Authority to do Business in New York, acceptable to the Department. [CSL]
10. Submission of the applicants executed copy of the Purchase and Sales Agreement, acceptable to the Department. [CSL]
11. Submission of a photocopy of the applicants amended and executed Operating Agreement, acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date
February 9, 2017

Need Analysis

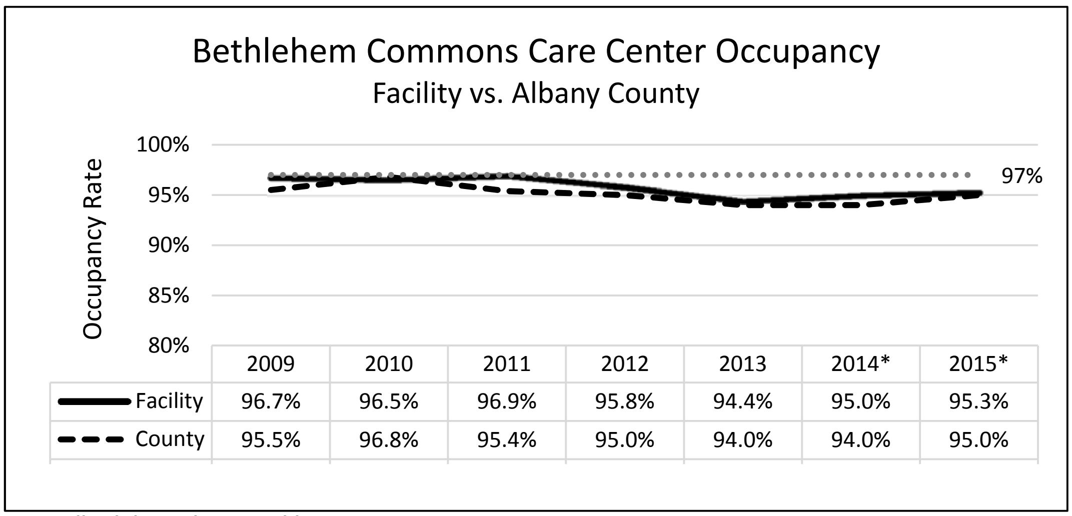
Background
Delmar Acquisition I, LLC, seeks approval to become the established operator of Bethlehem Commons Care Center, a 120-bed Article 28 residential health care facility (RHCF), located at 125 Rockefeller Road, Delmar, 12054 in Albany County.

Analysis
There is currently a need for 25 beds in Albany County based on the current need methodology:

Albany County

2016 Projected Need	1,844
Current Beds	1,819
Beds Under Construction	0
Total Resources	1,819
Unmet Need	25

The overall occupancy for Albany County is 94.0% in 2013 as indicated in the chart below:



*unaudited; based on weekly census

Occupancy as of June 29, 2016 is 96.7%, with 4 vacant beds. The current operator did not submit a cost report in 2014 so no certified occupancy is provided. However, according to weekly census reports, occupancy during this period is approximately 95.0%.

Access
Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

Bethlehem Commons Care Center's Medicaid admissions for 2012 and 2013 are 4.5% and 3.5%, respectively. This facility did not exceed Albany County's 75% Medicaid admission threshold rates in 2012 and 2013 of 10.7% and 11.3%, respectively; the facility will be required to follow the contingency plan and the condition as noted below. Since the current operator did not submit a cost report for 2014, no certified Medicaid admissions are noted.

Conclusion
Approval of this application will maintain a needed resource for the residents it serves.

Recommendation
From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Bethlehem Commons Care Center	Bethlehem Commons Nursing and Rehabilitation Center
Address	125 Rockefeller Road Delmar, NY. 12054	Same
RHCF Capacity	120	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Not for Profit Corporation	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	Good Samaritan Lutheran Health Care Center, Inc.	Delmar Acquisition I, LLC <u>Members:</u> Joseph Schlanger 45% Zipporah Farkas 45% Lizer Jozefovic 10%

Character and Competence - Background
Facilities Reviewed

<u>Nursing Homes</u>

Middletown Park Rehabilitation and Health Care Center (29%)	03/10 to present
Putnam Nursing and Rehabilitation Center (42%)	07/14 to present
Salem Hills Rehab and Health Care (70.10%)	06/06 to present
Sky View Rehabilitation and Health Care Center (25.5%)	10/13 to present
Waterview Hills Rehabilitation and Health Care Center (70.10%)	06/06 to present
Bay Vue Nursing and Rehabilitation Center (FL) (15%)	06/15 to present
Krystal Bay Nursing and Rehabilitation Center (FL) (12.5%)	05/13 to present
West Broward Rehabilitation and Health Care (FL) (17.50%)	06/10 to present
Lackawanna Health and Rehab Center (PA) (10%)	11/11 to present
Warren Haven Nursing Home (NJ) (32.5%)	09/15 to present

<u>Assisted Living Facility</u>

Residence at Bayview (FL) (15%)	06/15 to present

<u>LHCSA</u>

Epic HomeCare, LLC (pending) (50%)

Individual Background Review

Lizer Jozefovic lists his employment as managing partner of Epic Healthcare Management LLC, (Epic) an administrative and back office service company for Skyview Rehabilitation and Healthcare, Waterview Hills Rehabilitation and Healthcare, Salem Hills Rehabilitation and Healthcare, Middletown Park Rehabilitation and Health Care and Putnam Nursing and Rehabilitation Center. There are no written agreements between Epic and the aforementioned nursing homes. Staff has reviewed the operating agreement for Epic. Mr. Jozefovic holds expired nursing home administrator licenses from New York and New Jersey, and a Bachelor of Arts from Yeshiva Gedola of Los Angeles. Mr. Jozefovic discloses the following health facility ownership interests:

Nursing Homes	
Middletown Park Rehabilitation and Health Care Center (29%)	03/10 to present
Putnam Nursing and Rehabilitation Center (42%)	07/14 to present
Salem Hills Rehab and Health Care (70.10%)	10/05 to present
Sky View Rehabilitation and Health Care Center (25.5%)	10/13 to present
Waterview Hills Rehabilitation and Health Care Center (70.10%)	10/05 to present
Bay Vue Nursing and Rehabilitation Center (FL) (15%)	06/15 to present
Krystal Bay Nursing and Rehabilitation Center (FL) (12.5%)	05/13 to present
West Broward Rehabilitation and Health Care (FL) (17.50%)	06/10 to present
Lackawanna Health and Rehab Center (PA) (10%)	11/11 to present
Assisted Living Facility	
Residence at Bayview (FL) (15%)	06/15 to present
LHCSA	
Epic HomeCare, LLC (pending) (50%)	

Zipporah Farkas indicates no employment history. Ms. Farkas has a high school diploma from Bais Yaakov of Spring Valley and discloses no health facility ownership interests.

Joseph Schlanger lists his current employment as the Executive Director at the Warren Haven Nursing Home in Warren County, New Jersey. Mr. Shlanger holds a BHL degree from Israel Torah Research Institute. Mr Schlanger discloses the following health facility ownership interest:

Warren Haven Nursing Home (NJ) (32.5%)	09/15 to present

The three individuals are also owners of Cedar Manor Holdings, a proposed 50% member of Cedar Manor Acquisition I LLC (Cedar Manor). Cedar Manor was approved by the PHHPC in August 2016 (161185) to become the established operator of Cedar Manor Nursing and Rehabilitation Center.

Character and Competence – Analysis

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

A review of operations of Middletown Park Rehabilitation and Health Care Center, North Westchester Restorative Therapy and Nursing Center, Putnam Nursing and Rehabilitation Center, Salem Hills Rehabilitation and Nursing Center, Seagate Rehabilitation and Nursing Center, Sky View Rehabilitation and Health Care Center, Waterview Hills Rehabilitation and Health Care Center, Bay Vue Nursing and Rehabilitation Center (FL), Krystal Bay Nursing and Rehabilitation Center (FL), West Broward Rehabilitation and Health Care (FL), Warren Haven Nursing Home (NJ), Lakeview Rehabilitation and Care Center (NJ) and Lackawanna Health and Rehab Center (PA) for the time periods identified above reveals that there were no enforcements.

A review of operations for Warren Haven Nursing Home in New Jersey for the periods identified above did not disclose enforcement actions against the facility.

A review of Residence at Bay Vue (FL) for the time period identified above reveals that there were no legal actions/enforcements.

Quality Review

Provider Name	Overall	Health Inspection	MDS Quality Measures
Bethlehem Commons Care Center	*	*	****
Middletown Park Rehabilitation & HCC	*****	*****	*****
Putnam Nursing And Rehabilitation Center	*	***	*
Salem Hills Rehabilitation And Nursing Center	*****	*****	*****
Sky View Rehabilitation & Health Care Center LLC	***	****	****
Waterview Hills Rehabilitation And Nursing Center	****	****	****
Bay Vue Nursing and Rehabilitation Center	****	***	*****
Krystal Bay Nursing And Rehabilitation	*****	****	*****
West Broward Rehabilitation And Healthcare	*****	****	*****
Lackawanna Health And Rehab Center	*	*	**
Warren Haven Rehab And Nursing Center	**	***	**

Above ratings are based on CMS Provider Rating dated 5/1/2016

Project Review

No changes to the physical environment are proposed in this application. The applicant states that it will not enter into any consulting and services agreements. However, the applicant will be entering into a Medical Billing Service Agreement with LTC consulting Services, LLC, a New Jersey limited liability company. LTC consulting services will be responsible for billing, accounts receivables, accounts payable, and general bookkeeping. The applicant will also contract with Central Care Solutions, also from New Jersey. Central Care solutions will assume operation of the entire dietary department.

Additionally, the applicant states that it intends to raise the case mix index by providing more therapy services which will benefit residents by improving their functional status. The Applicant has also identified a number of residents whose MDS scores do not accurately reflect the level of care that is already being provided to these residents, and getting a more accurate score for these residents will also increase the case mix.

Conclusion

The individual background review indicates the applicants have met the standard for approval as set forth in Public Health Law §2801-a (3).

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement

The applicant submitted an executed Asset Purchase Agreement, to be effectuated upon PHHPC approval, for the purchase of the operating and realty interests associated with the RHCF, adult home and independent living facility. The terms are summarized below:

Date:	June 10, 2015
Seller:	Good Samaritan Lutheran Health Care Center, Inc. (RHCF operator), Kenwood Manor, Inc. (adult home operator), and Good Samaritan Senior Housing Development Fund Company, Inc. (senior housing facility operator)
Buyer:	Delmar Acquisition I, LLC
Assets Acquired:	The assets used in the operation of the Facilities including: Equipment/Furnishings, Assumed Contracts, Permits, Intellectual Property, Business Records, Resident Records and Agreements, Inventory, Proprietary Material, Warranty Rights and Claims, Computer Software, Security Deposits and Prepayments, Numbers and Domain Names, Goodwill, All Other Personal Property, and Real Property
Excluded Assets:	Cash, Intercompany Receivables, Corporate Books of Seller, Seller Plans and Sellers' funds and accounts of all Seller Plans and other employee retirement, deferred compensation, health, welfare, or benefit plans, Credits owed to Seller from contributions to the Pension Fund, all Tax Refunds for periods prior to closing, all insurance policies and benefits prior to closing, SOS Software System, SmartLinx Solutions Software, computer hardware licensed/owned by Seller, all Intellectual Property and intangible rights in "The Lutheran Care Network" or "Good Samaritan Village", bank accounts, rate appeals pending for services prior to close, accounts receivable for period prior to close,
Assumption of Liabilities:	Accrued salaries, paid time off, severance pay, and obligation to contribute to the Pension Fund for 5-years
Purchase Price:	$13,450,000 apportioned as follows: • RHCF: $12,500,000 (Land $950,000, Building $8,550,000, Goodwill $3,000,000; • Kenwood Manor: $750,000 (Land $75,000, Building $675,000); and • Senior Housing: $200,000 (Land $20,000, Building $180,000)
Payment of Purchase Price:	$1,000,000 paid/held in escrow, plus $525,000 additional equity at Closing $11,925,000 due at Closing.

The applicant's financing plan is as follows:

Equity	$1,525,000
Bank Loan - RHCF (6.5% plus 30-day LIBOR interest, 25-year term)	$11,250,000
Bank Loan - Adult Home (6.5% plus 30-day LIBOR interest, 25-year term)	$,675,000
Total	$13,450,000

The total purchase price is apportioned between the RHCF, adult home and senior housing facilities as follows:

	Equity	Bank Loan
Bethlehem Commons Care Center (RHCF)	$1,250,000	$11,250,000
Kenwood Manor and Normanskill Terrace facilities	275,000	675,000
Total	$1,525,000	$11,925,000

Disproportionate share affidavits have been provided by Ms. Farkas and Mr. Schlanger attesting to cover the equity contributions of any member who does not have adequate liquid assets to cover his or her share of the purchase price. Meridian Capital Group, LLC has provided letters of interest for the RHCF and Adult Home financings at the stated terms. Through an Assignment and Assumption Agreement to be effectuated upon PHHPC approval, all rights, title, obligations and interests in the real property of the RHCF under the APA will be transferred to the realty company.

The applicant has submitted an 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 the liability and responsibility. Currently, there are no outstanding Medicaid liabilities or assessments.

Assignment of Purchase and Sale Agreement

The applicant has submitted a draft Assignment of Purchase and Sale Agreement for the RHCF realty interests, as summarized below:

Assignor:	Delmar Acquisition I, LLC
Assignee:	Delmar Realty I, LLC
Assignment:	All rights, title, obligations and interest under the APA dated June 10, 2015, pertaining to the Real Property of the RHCF located at 125 Rockefeller Road, Delmar, NY.
Price:	$10

Lease Agreement

The applicant has submitted a draft lease agreement for the RHCF, as summarized below:

Premises:	120-bed RHCF at 125 Rockefeller Road, Delmar, NY
Landlord:	Delmar Realty I LLC
Lessee:	Delmar Acquisition I LLC
Term:	30 years
Rental:	$927,600 per annum (fixed and payable in monthly installments).
Provisions:	Tenant responsible for utilities, property taxes, water/sewer, insurance (Triple Net).

The lease is a non-arm's length agreement. The applicant has submitted an affidavit attesting that there is a relationship between landlord and tenant in that the entities have identical ownership.

Operating Budget

The applicant has provided the current year (2015) and the operating budget, in 2016 dollars, for the first year after the change in ownership summarized as follows:

	Current Year		Year One	
Revenues	Per Diem	Total	Per Diem	Total
Medicaid	$184.90	$5,267,897	$227.77	$6,580,300
Medicare	$395.54	2,360,211	$450.42	2,679,100
Commercial	$346.38	129,201	$346.35	294,400
Private Pay/Other	$369.38	2,683,895	$369.37	2,715,700
Total Revenue		$10,441,204		$12,669,500
Expenses				
Operating	$244.33	$10,157,785	$220.60	$9,372,600
Capital	$16.63	691,521	$26.67	1,133,200
Total	$261.98	$10,849,306	$246.67	$10,505,800
Net Income (Loss)		($408,102)		$1,763,700
Total Patient Days		41,574		42,486
Occupancy %		94.84%		97.00%

The following is noted with respect to the submitted budget:

- The revenue assumptions are based on the previous experience of the applicant operating other skilled nursing facilities in New Jersey, Pennsylvania, and Wisconsin. The applicant intends to increase the Case Mix Index from 0.82 to 1.11 by providing more therapy services aimed at improving the functional status of the residents. The applicant has identified a number of current residents whose MDS scores do not accurately reflect the level of care they are receiving. The applicant plans to increase patient days through the creation of various programs and services to make the RHCF more attractive to potential future residents.
- Expense assumptions are based on the previous experience of the applicant operating other skilled nursing facilities in New Jersey, Pennsylvania, and Wisconsin. Administrative efficiencies will be implemented to reduce costs. Staffing levels will be reduced by 15.7 FTEs, which will reduce costs by $1,162,430 ($852,312 Salaries and 310,118 in Employee Benefits). Professional fees paid to The Lutheran Care Network, Inc. will be eliminated, reducing cost by $543,725, as the applicant will be able to perform these services directly, and an in-house dietary department will be replaced with a contracted service to provide for all the dietary needs.
- Utilization by payor source for the current year and first year is as follows:

	Current Year	Year One
Medicaid	68.58%	68.0%
Medicare	14.36%	14.0%
Commercial	0.90%	2.0%
Private Pay/Other	16.16%	16.0%

- Breakeven occupancy for year one is 85.91% or 37,630 patient days.

The projected budget appears reasonable.

Capability and Feasibility

There are no project costs associate with this application.

The purchase price for the RHCF is $12,500,000 and will be met via $1,250,000 from member's equity and a bank loan of $11,250,000 with interest at 6.5% plus 30-day LIBOR (0.48% as of July 13, 2016) and a 25-year term. The purchase price for Kenwood Manor, Inc. and Good Samaritan Senior Housing Development Fund Company is $950,000 and will met via $275,000 member's equity and a bank loan of $675,000 at an interest rate of 6.5% plus 30-day LIBOR for a 25-year term. Meridian Capital Group, LLC has provided letters of interest for the RHCF and Adult Home financings at the stated terms.

Working capital requirements are approximately at $1,750,000 based on two months of the first year expenses. The applicant will finance $875,000 at an interest rate of 5% for a five-year term and the remaining $875,000 will be provided from members' equity. Meridian Capital Group, LLC has provided a letter of interest at the stated terms.

BFA Attachment A is the personal net worth statement of the proposed operators, which indicates the availability of sufficient resources overall to fund the equity contribution for the purchase price and working capital requirement. However, liquid resources may not be available from all members proportionate to their proposed ownership interest. Ms. Farkas and Mr. Schlanger have provided disproportionate share affidavits attesting to cover the equity contributions of any member who does not have adequate liquid assets to cover his or her share of the purchase price or working capital equity requirements.

BFA Attachment C is the pro forma balance sheet as of the first day of operation, which indicates a positive net asset position of $1,335,000. Assets include $100,000 in intangible assets, which is not a liquid resource nor is it recognized for Medicaid reimbursement. If intangible assets are excluded, the total net assets would become a $1,235,000.

The submitted budget indicates a net income of $1,763,700, and $1,790,000 for the first and third year, respectively, subsequent to the change in operator. The budget appears reasonable.

The following is a comparison of 2015 historical and projected revenues and expenses for Year One and Year Three of the RHCF:

	Annual 2015	Year One	Year Three
Revenues	$10,441,204	$12,269,500	$12,296,700
Expenses	10,849,306	10,505,800	10,506,700
Net Operating Income	($408,102)	$1,763,700	$1,790,000
Incremental Net Income		$2,171,802	$ 2,198,102

The increase in projected income comes from a decrease in total expenses based on administrative efficiencies under new management, and an increase in revenue based on an increase in patient days along with an increase in the Case Mix Index. The most significant decrease will be from Salaries and Employee Benefits tied to the change in staffing pattern, for a total reduction of $1,162,430.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment D is a financial summary of Good Samaritan Health Care Center, Inc. for the 2013 through 2015 audited period. As shown, the entity had an average negative working capital position and an average negative net asset position from 2013 through 2015. Also, the facility had an average operating loss of $327,616 for the period shown. The main reason for the operating loss and negative net asset position has been the decline in private pay patients, which has a higher reimbursement rate compared to Medicaid and Medicare.

BFA Attachment E is a Financial Summary of Lizer Jozefovic’s affiliated nursing homes. The affiliated RHCFs show an average positive net asset and an average positive net income position for the period shown, with the exception of a net loss for Putnam Nursing Home and average negative working capital positions for the following:

- Skyview Rehab & Health Center’s negative working capital is the result of receiving an inter-company loan that is considered a current obligation, and experiencing a loss in 2013. The facility generated net income of $587,819 in 2014 and $207,952 through August 31, 2015.
- Waterview Hills Rehabilitation and Salem Hills Rehabilitation had a negative working capital position for the period. Both facilities and the realty entity are owned by Lizer Jozefovic and located on same property and campus. The consolidated financial statement of all three entities for 2015 shows a positive working capital position.
- Middletown Park Rehabilitation had a negative working capital due to a mortgage (bridge loan to HUD financing) on the facility for $20 million, which is treated as a current liability on the financial statement. The facility has received approval for a HUD financing to be closed by August 2016, at which time the greater portion of the loan will be classified as long term.
- Putnam Nursing & Rehab’s negative working capital is due to the facility’s poor condition. The current operator purchased the facility in July 2014, and plans for major renovations that will likely make the facility profitable and improve the working capital position.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Summary of Proposed Members
BFA Attachment B	The Lutheran Care Network Organizational Chart
BFA Attachment C	Pro-Forma Balance Sheet
BFA Attachment D	2013-2015 Financial Summary – Good Samaritan Health Care Center, Inc.
BFA Attachment E	Lizer Jozefovic's Affiliated RHCF Ownership Interest and Financial Summary

Public Health and Health Planning Council

Project # 161200-E
Kennedy Pavilion RH LLC d/b/a The Pavilion at Queens for Rehabilitation & Nursing

Program:	**Residential Health Care Facility**	***County:***	**Queens**
Purpose:	**Establishment**	***Acknowledged:***	**March 29, 2016**

Executive Summary

Description

Kennedy Pavilion RH, LLC (KPRH), a New York limited liability company, requests approval to be established as the operator of The Pavilion at Queens for Rehabilitation and Nursing, a 302-bed (including 20 ventilator dependent beds), proprietary, residential health care facility (RHCF) located at 36-17 Parsons Boulevard, Flushing (Queens County). Kennedy Pavilion at Queens RH I, LLC is the current operator of the facility. A separate entity, 3617 BEH Parsons Realty LLC, will acquire the real property. There will be no change in beds or services provided.

On March 15, 2016, Kennedy Pavilion at Queens RH I, LLC entered into an Asset Purchase Agreement (APA) with KPRH for the sale and acquisition of the operating interest of the RHCF for a purchase price of $10,645,500. Concurrently, 3617 BH Parsons Realty, LLC, the current realty owner, entered into a Real Estate Purchase Agreement (REPA) with 3617 BEH Parsons Realty LLC for the sale and acquisition of the realty interest for a purchase price of $50,921,500. Both the APA and REPA were amended on December 20, 2016, reducing the purchase price for the operations to $10,116,500 and increasing the purchase price of the realty to $56,721,197. The price of the operating assets was reduced to reflect the anticipated principal balance of the seller's indebtedness to its landlord at closing. The applicant will pay the purchase price by assuming the principal balance of that note on the closing date. The REPA was amended in like fashion to reflect the principal balance due on the real estate at closing. The APA and REPA will close simultaneously upon approval of this application by the Public Health and Health Planning Council (PHHPC). The applicant will lease the premises from 3617 BEH Parsons Realty LLC. There is a relationship between KPRH and 3617 BEH in that the entities have common ownership.

Ownership of the operations before and after the requested change is as follows:

Current Kennedy Pavilion RH I, LLC	
Members	%
Bernard Fuchs	50%
Deena Hersh	25%
Richard Platschek	25%

Proposed Kennedy Pavilion RH, LLC	
Members	%
Deena Hersh	20%
Esther Farkovits	20%
Joel Edelstein	10%
Bernard Fuchs	10%
Gerald Fuchs	10%
Tova Fuchs	10%
Israel Freund	10%
Avraham Weits	10%

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services at this facility. Occupancy was 98.3% in 2012, 96.5% in 2013, and 94.9% in 2014. Current occupancy, as of September 7, 2016 was 96.0%.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicants identified as new members. No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application.

Financial Summary

There are no project costs associated with this proposal. The purchase prices for the operations and realty are $10,116,500 and $56,721,197, respectively, for a total of $66,837,697. The financing is as follows:

- 3617 BEH Parsons Realty LLC will acquire the RHCF's real property with members' equity of $100 (paid) and the remaining $56,721,097 to be financed via a bank loan for $60,471,000 at 5% interest for a 30-year term.
- KPRH will acquire the RHCF operating interests with members' equity of $100 (paid) and the remaining $10,116,400 to be financed via the assumption of the promissory note with 3617 BH Parsons Realty LLC for a nine-year term and interest at the IRS annually compounded Applicable Federal Rate.

Greystone Funding Corporation has provided a letter of interest for the loan at the stated terms. The applicant indicated that the $3,749,903 remaining balance associated with the proposed realty entity financing is to be used for the sole purpose of additional closing costs should any arise. The projected budget is:

RHCF Revenue	$39,012,604
Vent Revenue	$4,179,574
Total Revenues	$43,192,178
Total Expenses	$37,991,423
Gain/(Loss)	$5,200,755

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of an executed permanent mortgage for the real estate purchase provided from a recognized lending institution at an interest rate acceptable to the Department of Health. Included with the submission must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. [BFA]
2. Submission of an executed promissory note for the RHCF operations purchase, acceptable to the Department of Health. [BFA]
3. Submission of an executed promissory note associated with the real estate purchase, acceptable to the Department of Health. [BFA]
4. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
5. Submission of an executed assignment and assumption agreement for the RHCF's property lease, acceptable to the Department of Health. [BFA]
6. 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]
7. Submission of a plan to continue to enhance access to Medicaid residents. At 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 to 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; and
    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. [RNR]
8. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
    a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
    b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
    c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
    d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
    e. Other factors as determined by the applicant to be pertinent. [RNR]
9. Submission of a photocopy of a signed Certificate of Amendment of Articles of Organization, which is acceptable to the Department. [CSL]
10. Submission of a photocopy of a signed amended Operating Agreement, which is acceptable to the Department. [CSL]
11. Submission of a photocopy of the signed Real Estate Purchase Agreement, which is acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date
February 9, 2017

Need Analysis

Analysis

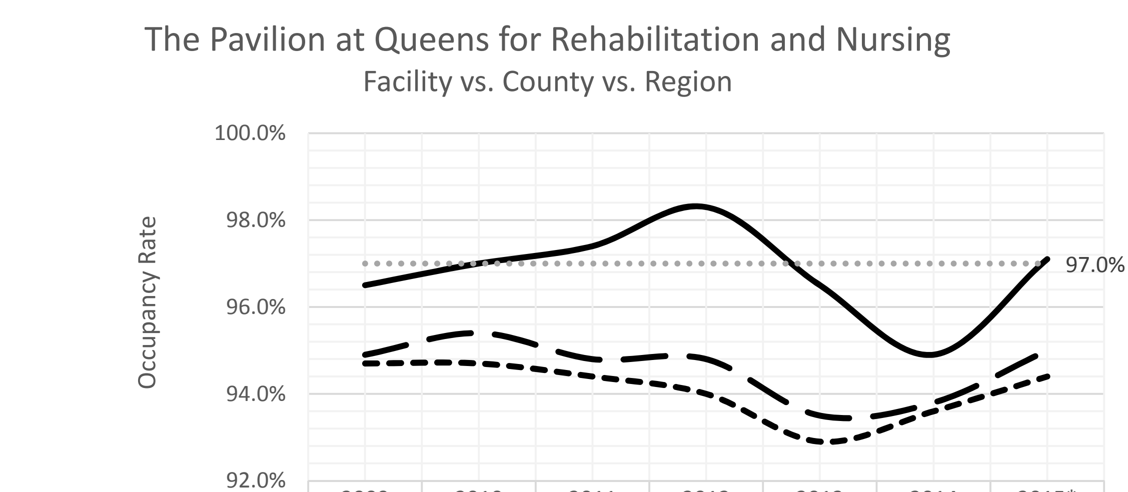
The facility is certified for 282 RHCF and 20 ventilator beds. Per the current Need Methodology, there is a need for 9,715 additional beds in the New York City Region.

RHCF Need – NYC Region

2016 Projected Need	51,071
Current Beds	41,644
Beds Under Construction	-288
Total Resources	41,356
Unmet Need	9,715

The Pavilion at Queens for Rehabilitation and Nursing's RHCF occupancy was 98.3% in 2012, 96.5% in 2013, and 94.9% in 2014. Current overall in 2016 occupancy is 97.7%. This facility includes 20 ventilator-dependent beds. Occupancy for this unit in 2015 was 82.2% (4 vacant beds) and as of September 7, 2016, this unit is 70% occupied, with 6 vacant beds. The facility has a history of maintaining high RHCF occupancy at or near the Department's planning optimum, which is expected to continue going forward.

The overall occupancy for the New York City Region was 93.8% in 2014 and 95% in 2015 (unaudited).



	2009	2010	2011	2012	2013	2014	2015*
Facility	96.5%	97.0%	97.4%	98.3%	96.5%	94.9%	97.1%
Queens County	94.7%	94.7%	94.4%	94.0%	92.9%	93.6%	94.4%
New York City Region	94.9%	95.4%	94.8%	94.8%	93.5%	93.8%	95.0%

*unaudited; based on facility reported daily census

Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

The Pavilion at Queens for Rehabilitation and Nursing's Medicaid admissions of 30.3% in 2013 and 22.9% in 2014 exceeded Queens County's 75% rates in 2013 and 2014 of 26.4% and 24.0%, respectively.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	The Pavilion at Queens for Rehabilitation and Nursing	Same
Address	36-17 Parsons Boulevard Flushing, NY 11354	Same
RHCF Capacity	302	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Proprietary	Proprietary
Class of Operator	Limited Liability Company	Limited Liability Company
Operator	Kennedy Pavilion RH III LLC Richard Platschek 35% Deena Hersh 35% Bernard Fuchs 30%	Kennedy Pavilion RH LLC *Deena Hersh 20% Esther Farkovits 20% *Joel Edelstein 10% Bernard Fuchs 10% Gerald Fuchs 10% Tova Fuchs 10% Israel Freund 10% Avraham Weits 10% *Managing Member

Facilities Reviewed

Nursing Homes

Bensonhurst Center for Rehabilitation and Healthcare	01/2012 to present
Chautauqua Nursing and Rehabilitation	12/2014 to present
Hopkins Center for Rehabilitation and Healthcare	03/2011 to present
Hudson Pointe at Riverdale Center for Nursing and Rehab	01/2006 to 08/2010
Little Neck Care Center	04/2011 to 1/2013
Nassau Extended Care Facility	06/2006 to present
Park Avenue Extended Care Facility	06/2006 to present
Sapphire Center of Central Queens	12/2014 to present
Seagate Rehabilitation and Nursing Center	12/2014 to present
South Shore Rehabilitation and Nursing Center	04/2014 to present
The Citadel Rehab and Nursing Center at Kingsbridge	08/2015 to present
The Pavilion at Queens Rehabilitation and Nursing	01/2015 to present
The Villages of Orleans	01/2015 to present
Throgs Neck Extended Care Facility	06/2006 to present
Townhouse Extended Care Center	06/2006 to present
White Plains Center for Nursing	06/2006 to present
Friendship Ridge (PA)	03/2014 to present

Licensed Home Care Services Agency (LHCSA)

Pella Care, LLC	06/2006 to present
Parent Care Home Care, LLC	06/2006 to present

Individual Background Review

Deena Hersh indicates she is a retired homemaker and has a Bachelor's Degree from Everglades University. She discloses the following ownership health facility ownership interests:

Chautauqua Nursing and Rehabiltation (25% member)	12/2014 to present
Sapphire Center for Rehab & Nursing of Central Queens (35%)	12/2014 to present
Seagate Rehabilitation and Nursing Center (10% member)	12/2014 to present

Joel Edelstein is employed as the Director of Operations at Platinum Credit Management LP, an investment fund located in New York, NY. Mr. Edelstein has a BS degree from Touro College, and will serve as the co-managing member with Deena Hersh. Mr. Edelstein discloses the following health facility interest:

Friendship Ridge (PA) (5% member)	03/2014 to present

Esther Farkovits is currently employed as a teacher in Mdreshet Torah V'Chesed in Israel. Ms. Farkovits has a BS degree from Touro College and discloses the following ownership health facility ownership interests:

The Citadel Rehab and Nursing Center at Kingsbridge (25%)	08/2015 to present
Little Neck Care Center (50%)	04/2011 to 1/2013
Nassau Extended Care Facility (7%)	07/2004 to present
Park Avenue Extended Care Facility (7%)	07/2004 to present
Seagate Rehabilitation and Nursing Center (10%)	12/2014 to present
South Shore Rehabilitation and Nursing Center (45%)	04/2014 to present
Throgs Neck Extended Care Facility (7%)	07/2004 to present
Townhouse Extended Care Center (7%)	07/2004 to present
White Plains Center for Nursing (12%)	07/2011 to present

Israel Freund is currently employed as the controller at the Pavilion of Queens Rehabilitation and Nursing. Mr. Freund has a diploma from Yeshivah Mekor Chaim and is a licensed notary public. Mr. Freund discloses the following health facility ownership interests:

Friendship Ridge (PA) (5%)	03/2014 to present

Bernard Fuchs is the principal in Platinum Management LLC, an investment fund located in New York, NY, and the Chief Executive Officer of Kennedy Management LLC, a healthcare management company. Mr. Fuchs has a degree from Torah Vodaath Talmudic Seminary, and discloses the following health facility ownership interests:

Bensonhurst Center for Rehabilitation and Healthcare (5%)	01/2012 to present
Hopkins Center for Rehabilitation and Healthcare (3%)	03/2011 to present
Hudson Pointe (50%)	01/2006 to 08/2010
The Pavilion at Queens Rehabilitation and Nursing (50%)	01/2015 to present
The Villages of Orleans Health and Rehabilitation Center (100%)	01/2015 to present

Gerald Fuchs is the Chief Operating Officer of The Pavilion at Queens Rehabilitation and Nursing. Mr. Fuchs is a licensed nursing home administrator with license in good standing, and has a BS degree from Touro College. Mr. Fuchs discloses the following health facility ownership interests:

Bensonhurst Center for Rehabilitation and Healthcare (5%)	01/2012 to present
Hopkins Center for Rehabilitation and Healthcare (3%)	03/2011 to present
Friendship Ridge (PA) (5%)	03/2014 to present

Tova Fuchs indicates she has been retired since 2004, and has a Masters degree from Adelphi University. Ms. Fuchs discloses the following health facility ownership interests:

Bensonhurst Center for Rehabilitation and Healthcare (5%)	01/2012 to present
Hopkins Center for Rehabilitation and Healthcare (3%)	03/2011 to present
Friendship Ridge (PA) (5%)	03/2014 to present

Avraham Weits is the Controller of Hopkins Center for Rehabilitation in Brooklyn and the Controller at Beach Terrace Care Center. Mr. Weits has a BS degree from Rabbinical College in Jerusalem, Israel. Mr. Weits discloses no health facility ownership interests.

Character and Competence - Analysis

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

A review of Hopkins Center for Nursing and Healthcare for the period identified above reveals the following:

- The facility was fined $4,000 pursuant to a Stipulation and Order NH-12-37 issued August 24, 2012 for surveillance findings on August 24, 2011. Deficiencies were found under 10 NYCRR 415.4(b) Prohibit Abuse/Neglect/Mistreatment, 10 NYCRR 415.5(a) Dignity and 10 NYCRR 415.26 Administration.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-15-006 issued July 2, 2015 for surveillance findings on February 29, 2012. Deficiencies were found under 10 NYCRR 415.3(c)(l)(ii) – Right to Refuse; Formulate Advanced Directives.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation.

A review of Nassau Rehabilitation and Nursing Center for the period identified above reveals the following:

- The facility was fined $6,000 pursuant to a Stipulation and Order NH-14-007 issued August 24, 2012 for surveillance findings on April 11, 2011. Deficiencies were found under 10 NYCRR 415.12(c)(1) Quality of Care Pressure Sores.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-030 issued January 19, 2016 for surveillance findings on October 15, 2012. Deficiencies were found under 10 NYCRR 415.12(h)(1)(2) Quality of Care Accidents and 10 NYCRR 415.26 Administration.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation.

A review of Bensonhurst Center for Rehabilitation and Healthcare, Chautauqua Nursing and Rehabilitation, Hudson Pointe at Riverdale Center for Nursing and Rehabilitation, Little Neck Care Center, Park Avenue Extended Care Facility, Sapphire Center of Central Queens, Seagate Rehabilitation and Nursing Center, South Shore Rehabilitation and Nursing Center, The Citadel Rehab and Nursing Center at Kingsbridge, The Pavilion at Queens Rehabilitation and Rehabilitation Center, The Villages of Orleans Health and Rehabilitation Center, Throgs Neck Extended Care Facility, Townhouse Extended Care Facility, White Plains Center for Nursing and Friendship Ridge (PA) for the time period identified above reveals that a substantially consistent high level of care has been provided since there were no enforcements.

A review of the licensed home care services agencies Pella Care, LLC and Parent Care Home Care, LLC for the time periods identified above reveals that a substantially consistent high level of care has been provided since there were no enforcements.

Quality Review

Provider Name	**Overall**	**Health Inspection**	**MDS Quality Measures**
The Pavilion At Queens For Rehabilitation & Nrsing	****	****	***
Bensonhurst Center For Rehab And Healthcare	*****	****	*****
Chautauqua Nursing And Rehabiliation	*	**	***
Hopkins Center For Rehabilitation And Healthcare	**	***	***
Nassau Rehabilitation & Nursing Center (Nassau Extended Care)	***	***	*****
Park Avenue Extended Care Facility	****	****	*****
Sapphire Ctr For Rehab & Nursing Of Central Queens	*****	*****	****
Seagate Rehabilitation And Nursing Center	***	****	****
South Shore Rehabilitation And Nursing Center	****	***	*****
The Citadel Rehab & Nursing Ctr At Kingsbridge	**	***	**
The Villages Of Orleans Health And Rehab Ctr	*	*	*
Throgs Neck Rehabilitation & Nursing Center	****	*****	****
Townhouse Center For Rehabilitation & Nrsg (Townhouse Extended Care)	*	**	*
White Plains Center For Nursing Care Llc	**	**	****
Brighton Rehabilitation And Wellness Center (Friendship Ridge)	*	*	**

Project Review

This application proposes to establish Kennedy Pavilion RH LLC as the new operator of The Pavilion at Queens for Rehabilitation and Nursing. The facility will continue to operate under its current name under the new operator.

No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application. All health care facilities are in substantial compliance with all rules and regulations.

Conclusion

The individual background review indicates the applicants have met the standard for approval as set forth in Public Health Law §2801-a(3).

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement (Operations)

The applicant submitted the executed APA and APA Amendment to acquire the RHCF's operating interests. The agreement will become effectuated upon PHHPC approval of this CON.

Date:	March 15, 2016 (amended December 20, 2016)
Seller:	Kennedy Pavilion RH I, LLC
Buyer:	Kennedy Pavilion RH, LLC
Purchased Assets:	All of the following items associated with the operations of the business including: all tangible assets; telephone and fax numbers; websites and domain names; business trade names; service/trademarks and logos; manufactures' and vendors' warranties; seller's rights in any agreements; seller's book and records; seller's licenses, certificates and approvals to do business; resident funds held in trust in connection with the nursing home, Medicaid and Medicare provider numbers and all goodwill.
Excluded Assets:	N/A
Liabilities Assumed:	All associated with basic assets and facility, regardless of when accrued.
Excluded Liabilities:	N/A
Purchase Price:	$10,116,500 (per Amendment)
Payment :	$100 deposit with $10,116,400 due at closing through the assumption of the promissory note with 3617 BH Parsons Realty, LLC.

Purchase and Sale Agreement (Real Property)

The applicant submitted an executed REPA and REPA Amendment for the purchase of the RHCF's real property. This agreement will close concurrent with the APA upon PHHPC approval.

Date:	March 15, 2016 (amended December 20, 2016)
Seller:	3617 BH Parsons Realty, LLC
Buyer:	3617 BEH Parsons Realty LLC
Purchased Assets:	All seller's right, title and interest in and to the real property, buildings and improvements located at 36-17 Parsons Boulevard, Flushing, NY.
Excluded Assets:	None
Liabilities Assumed:	None
Purchase Price:	$56,721,197 (per Amendment)
Payment:	$100 deposit and $56,721,097 due at closing

The operations and real estate purchase prices are proposed to be satisfied as follows:

Operations	
Equity (Operations Members- paid)	$100
Assumption of Promissory Note with 3617 BH Parsons Realty LLC *	$10,116,400
Total Amount for Operations	$10,116,500
Realty	
Equity (Realty Members - paid)	$100
Funds provided via Mortgage (30 years, 5% interest)	$56,721,097
Total Amount for Realty	$56,721,197
Total Realty Funds Available	
Real Estate–Mortgage (30 years, 5% interest)	$60,471,000
Less Amounts Payable to Seller	($56,721,097)
Total Funds Available	$3,749,903

** Terms: 9 years, interest at IRS annually compounded AFR (2.26% as of December 2016)*

Greystone Funding Corporation has provided a letter of interest for the real estate mortgage loan at the stated terms. 3617 BH Parsons Realty LLC has provided a letter of interest for the promissory note related to the operations purchase at the stated terms.

The applicant indicated that the $3,749,903 remaining balance associated with the proposed realty entity financing is to be used for the sole purpose of additional closing costs should any arise.

The applicant 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, the facility has no outstanding Medicaid liabilities.

Lease Agreement

The applicant submitted an executed lease agreement, summarized below:

Date:	September 11, 2014
Premises:	A 302-bed RHCF with 282 RHCF beds and 20 Vent beds located at 36-17 Parsons Boulevard, Flushing, NY
Lessor:	3617 BH Parsons Realty, LLC
Lessee:	Kennedy Pavilion RH I, LLC
Term:	31 years with one (1) 10-year renewal
Rental:	$6,586,036 annually ($548,836.33 monthly)
Provisions:	Lessee pays for all taxes, utilities, insurance and maintenance fees (Triple Net)

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and tenant through common ownership between the entities.

Assignment and Assumption Agreement

The applicant submitted a draft Assignment and Assumption Agreement for the assignment of the facility lease, summarized below:

Assignor (Lessor):	3617 BH Parsons Realty, LLC
Assignee(Lessor):	3617 BEH Parsons Realty LLC
Assignor (Lessee):	Kennedy Pavilion RH I, LLC
Assignee (Lessee):	Kennedy Pavilion RH, LLC
Liabilities:	N/A
Lease Assigned:	Lease associated with the premises located at 36-17 Parsons Boulevard, Flushing, NY
Terms/Provisions:	No change

Operating Budget

The following is a summary of the submitted operating budget, presented in 2016 dollars, for the current year and year one subsequent to the change in ownership:

	Current Year (2015)		Year One	
	Per Diem	Total	Per Diem	Total
Revenue RHCF				
Medicaid	$312.43	$19,066,637	$335.33	$20,485,995
Medicare	$459.45	$7,945,810	$605.48	$10,308,862
Private Pay	$518.56	$11,319,637	$360.49	$7,942,747
Other Revenue		$268,641		$275,000
Total RHCF Revenue		$38,600,725		$39,012,604
Revenue Vent				
Medicare	$709.57	$1,336,833	$925.98	$1,759,362
Medicaid	$558.91	$1,439,187	$611.27	$1,589,302
Private Pay	$971.98	$1,452,138	$553.94	$830,910
Total Vent Revenue		$4,228,158		$4,179,574
Total Revenue		$42,828,883		$43,192,178
Expenses				
Operating	$279.51	$29,656,798	$287.08	$30,474,357
Capital	$63.01	$6,685,601	$70.81	$7,517,066
Total	$342.52	$36,342,399	$357.89	$37,991,423
Net income/loss		$6,486,484		$5,200,755
Utilization (pt. days)		106,103		106,151
Occupancy		96.26%		96.30%

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

- Revenues, expenses and utilization are based on both the facility's current operations and on the applicant's experience operating nursing homes of similar size and census. The projected increase in the RHCF Medicaid rate is due to the increase in the facility's CMI (from 1.23 in 2015 to 1.44 in 2016). The increase in expenses is attributable to small increases in all cost categories with the largest increase related to salary/wages and employee benefits.
- Utilization by payor source for year one is expected as follows:

Medicaid	59.34%
Medicare	18.49%
Private Pay	22.17%

- Utilization was 95.1% in 2013 and 94.9% in 2014. As of September 22, 2016, the facility had a current utilization of 96.7%.
- Breakeven utilization is projected at approximately 87.88% for year one.

Capability and Feasibility

There are no project costs associated with this proposal. KPRH will acquire the operating interest in the RHCF for $10,116,500 and 3617 BEH Parsons Realty LLC will acquire the real property for $56,721,197 at the above stated terms**.**

Working capital requirements are estimated at $6,331,904 based on two months of year one expenses. The members will provide $3,294,714 in equity equivalent to their ownership percentages. The remaining $3,037,190 will be provided through a working capital loan. Israel Discount Bank of New York has provided a letter of interest for a one-year line of credit with variable interest at Prime plus 1.0% (3.5% as of December 7, 2016). The applicant has been advised that line of credit term loans are generally inconsistent with Department policy and that they must provide an executed working capital loan commitment, acceptable to the Department for final PHHPC approval. BFA Attachment A is the net worth statement for the proposed operators, which shows significant resources available overall to cover the working capital equity requirements. It is noted that liquid resources may not be available in proportion to the proposed ownership interests. Executed disproportionate share affidavits have been provided stating members' willingness to contribute resources disproportionate to their membership interest in the operating entity to make up for any members' equity shortfall in contributing to the working capital needs.

BFA Attachment B is the pro-forma balance sheets of KPRH and 3617 BEH Parsons Realty LLC, which indicates that the operating entity will start with positive members' equity of $4,028,491and the realty entity will start with positive members' equity of $310,000. It is noted that operating assets include $9,245,000 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Thus, the net asset position would be a negative members' equity position of $5,216,509. The proposed owners will cover the negative net asset position.

The submitted budget indicates a net income of $5,200,755 will be achieved during Year One. The submitted budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy paper provides guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing Medicaid NH revenues through the transition period.

BFA Attachment C is The Pavilion at Queens for Rehabilitation and Nursing 2013-2015 certified financial statements and their internal financial statements as of September 30, 2016. As shown, the facility generated an average operating gain of $1,532,770 and generated an average positive net asset position and an average negative working capital position for the period 2013-2015. The facility had an operating gain of $5,385,224 and generated both positive working capital and net asset positions as of September 30, 2016. The applicant indicated that the reasons for the negative working capital and net losses for 2013-2014 were as follows: overstaffing, paying non-competitive prices for supplies and other unsound business practices, poor marketing resulting in low census, and failing to renovate the facility. In December 2014, the current members obtained establishment approval as the new operators of the facility and began to turn it around, as shown in the 2015 financial statements.

BFA Attachment E is the 2013-2015 certified and the 2016 internal financial summaries of the members' affiliated nursing homes, which show that the facilities have maintained average positive net asset, working capital and net income positions from operations for the period shown, with the exception of Throgs Neck, which had an average negative working capital position for the period shown. The negative working capital for Throgs Neck is due to outstanding related party loans.

Financial statements for the other six affiliated NYS nursing homes are not available as the facilities were recently acquired.

Conclusion

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth of Proposed Members of Kennedy Pavilion RH, LLC
BFA Attachment B	Pro-forma Balance Sheets for Kennedy Pavilion RH, LLC and 3617 BEH Parsons Realty, LLC
BFA Attachment C	2013 - 2015 certified financial statements for The Pavilion at Queens for Rehabilitation and Nursing
BFA Attachment D	Ownership interest of the proposed members' of Kennedy Pavilion RH, LLC in other New York State Nursing Homes
BFA Attachment E	2013-2015 Related Companies Financial Summaries of the proposed members' of Kennedy Pavilion RH, LLC
BFA Attachment F	Current and Proposed Owners of the Real Property

Public Health and Health Planning Council

Project # 161262-E
YGC at Woodycrest, LLC
d/b/a Highbridge Woodycrest Center

Program:	**Residential Health Care Facility**	***County:***	**Bronx**
Purpose:	**Establishment**	***Acknowledged:***	**April 15, 2016**

Executive Summary

Description

YGC at Woodycrest, LLC d/b/a Highbridge Woodycrest Center, a New York limited liability company, requests approval to be established as the new operator of The Bronx-Lebanon Highbridge Woodycrest Center (Bronx-Lebanon), an AIDS specialty certified 90-bed, voluntary not-for-profit, Article 28 Residential Health Care Facility (RHCF) located at 936 Woodycrest Avenue, Bronx (Bronx County). Bronx-Lebanon is the current operator and owner of the RHCF and the real property. Upon the change in ownership, the facility will transition to a proprietary facility. There will be no change in beds or services provided.

On February 2, 2016, Bronx-Lebanon entered into an Asset Purchase Agreement (APA) with Woodycrest Propco, LLC for the sale and acquisition of the operating and real property interest of the nursing facility, to be effectuated upon approval by the Public Health and Health Planning Council (PHHPC). The purchase price for the RHCF operations and real estate is $17,000,000. Concurrent with the APA, Woodycrest Propco, LLC entered into an Assignment and Assumption Agreement (AAA) with YGC at Woodycrest, LLC for the assignment of the operating interest of the RHCF. The transactions contemplated by the APA and AAA will close simultaneously. The applicant will lease the premises from Woodycrest Propco, LLC.

Ownership of the operations and real property before and after the requested change is as follows:

Current Operations/ Real Estate Owner
The Bronx-Lebanon Highbridge Woodycrest Center

Proposed Operations Owner	
YGC at Woodycrest, LLC	
Members	
Debbie Egert	37.5%
Usher Egert	37.5%
Joel Pashkes	20.0%
Leonardo Vicente	5.0%

Proposed Real Estate Owner	
Woodycrest Propco, LLC	
Member	
Moshe Mendolwit	100%

The Bronx-Lebanon Highbridge Woodycrest Center is a subsidiary of The Bronx-Lebanon Hospital Center. The Seller indicated that the decision to sell the nursing facility was made in the best interest of the Hospital Center and will allow them to focus on growing core hospital services. They have seen a decline in the need for AIDS beds, expect the trend to continue, and have a growing sentiment that there will be a negative change to reimbursement for AIDS residents in the near future. The decision to sell was made while there was still a market for AIDS beds. They indicated they reached out to potential buyers and selected the highest and best offer consistent with the appraised value of the facility. They know of no restrictions on the property with regard to its current use. They note that the facility is earmarked as a historical building and that upkeep for the exterior is extremely expensive. The Seller intends to distribute all proceeds from the sale to the Hospital to improve the health of residents in the community and to implement a program of population health management.

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no changes to beds at this facility. Occupancy was 94.4% in 2012, 90.8% in 2013, and 96.0% in 2014. Current occupancy, as of June 20, 2016 is 96.7%, with three vacant beds. Overall occupancy for 2016 at this facility is 97.7%.

Program Summary

The facility will continue to operate under its current name under the new operator. No negative information has been received concerning the character and competence of the proposed applicants identified as new members. No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application.

Financial Summary

There are no project costs associated with this proposal. The purchase price for the operations and realty is $17,000,000. Woodycrest Propco, LLC will acquire the RHCF's operations and real property, and through the AAA, will transfer the operating interests to YGC at Woodycrest, LLC no cost. Moshe Mendolwit will finance the purchase price with $3,400,000 cash equity and a bank loan for $13,600,000 at an interest rate of 5% for a ten-year term with a 25-year amortization. Meridian Capital Group, LLC provided a letter of interest for the loan at the stated terms. Mr. Mendolwit has provided an affidavit attesting to fund the balloon payment if acceptable terms are not available at the time of refinancing.

The projected budget is as follows:

	Current Year	Year One
Revenues	$15,838,364	$14,975,900
Expenses	$14,194,885	$14,354,179
Gain/(Loss)	$1,643,479	$621,721

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of an executed permanent mortgage for the project provided from a recognized lending institution at an interest rate acceptable to the Department of Health. Included with the submission 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 commitment, acceptable to the Department of Health. [BFA]
3. Submission of a photocopy of an executed and completed facility lease agreement, acceptable to the Department. [CSL]
4. Submission of a photocopy of the applicant's executed and completed operating agreement, which is acceptable to the Department. [CSL]
5. Submission of a photocopy of the applicant's executed and completed restated articles of organization, which is acceptable to the Department. [CSL]
6. Submission of a photocopy of the applicant's executed and completed asset purchase agreement, which is acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Leonardo Vicente remaining in the operational ownership of Highbridge Woodycrest for a period of three years from the date of closing. [LTC]

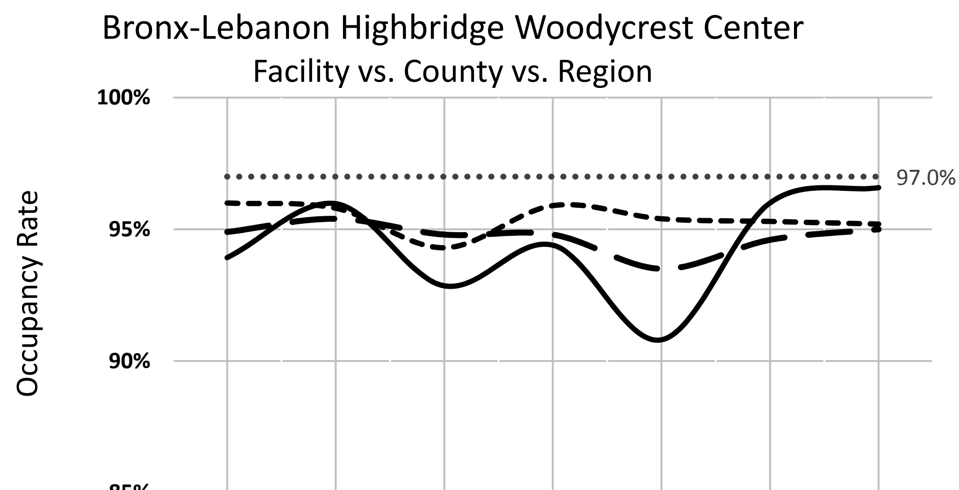
Council Action Date

February 9, 2017

Need Analysis

Analysis

While 10 NYCRR 709.3(d)(13) excludes AIDS beds from estimates of RHCF bed need, the following occupancy numbers are provided to show the continued use of the Highbridge Woodycrest facility. Occupancy was 94.4% in 2012, 90.8% in 2013, 96.0% in 2014, and 96.6% in 2015. Overall occupancy for 2016, at this facility, is 97.7%.



	2009	2010	2011	2012	2013	2014*	2015*
Facility	93.9%	96.0%	92.9%	94.4%	90.8%	96.0%	96.6%
Bronx County	96.0%	95.8%	94.3%	95.9%	95.4%	95.3%	95.2%
New York City Region	94.9%	95.4%	94.8%	94.8%	93.5%	94.6%	95.0%

Conclusion

From a need perspective, approval of this application retains a resource for the current AIDS population in Bronx County.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	The Bronx-Lebanon Highbridge Woodycrest Center	Highbridge Woodycrest Center
Address	536 Woodycrest Avenue Bronx, NY 10452	Same
RHCF Capacity	90 (AIDS RHCF)	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Voluntary Not for Profit	Proprietary
Class of Operator	Corporation	Limited Liability Company
Operator	The Bronx-Lebanon Highbridge Woodycrest Center	YGC at Woodycrest, LLC *Debbie Egert 37.5% *Usher Egert 37.5% Joel Pashkes 20.0% Leonardo Vicente 5.0% *Managing Members

Character and Competence – Background

Facilities Reviewed

Nursing Homes

HELP/PSI, Inc.	10/2008 to 1/2014
The Bronx-Lebanon Highbridge Woodycrest Center	01/2015 to present
Cranford Park Rehabilitation and Healthcare (NJ)	01/2014 to present
Homestead Rehabilitation and Healthcare (NJ)	09/2013 to present
Valley View Rehabilitation and Healthcare (NJ)	02/2016 to present

Individual Background Review

Debbie Egert is currently unemployed. Ms. Egert previously worked as a buyer for Baby Street in Brooklyn, and graduated from the Fashion Institute of Technology in Toronto, Canada. Ms. Egert discloses the following ownership health facility ownership interests:

Cranford Park Rehabilitation and Healthcare (NJ)	01/2014 to present
Homestead Rehabilitation and Healthcare (NJ)	09/2013 to present
Valley View Rehabilitation and Healthcare (NJ)	02/2016 to present

Usher Egert is the managing partner for the three nursing homes listed below, and was previously employed by Arista Care, a long term care provider in Cranford, NJ, as a program development manager. Mr. Egert has an Associates degree from Yeshiva Chaim Berlin in Brooklyn. Mr. Egert discloses the following health facility interests:

Cranford Park Rehabilitation and Healthcare (NJ)	01/2014 to present
Homestead Rehabilitation and Healthcare (NJ)	09/2013 to present
Valley View Rehabilitation and Healthcare (NJ)	02/2016 to present

Joel Pashkes is currently employed as the Director of Operations for Competent Nursing Agency, a staffing agency located in Brooklyn. Mr. Pashkes has a Talmudic degree from United Talmudic Academy and discloses the following ownership health facility ownership interest:

Cranford Park Rehabilitation and Healthcare (NJ)	03/2016 to present

Leonardo Vicente is currently employed as the Executive Director/Administrator of Record of The Bronx-Lebanon Highbridge Woodycrest Center, since 2015. Previously Mr. Vincente was Vice-President/Administrator of Record at HELP/PSI, Inc. in the Bronx from October 2008 to January 2014. Mr. Vicente is a licensed nursing home administrator with license in good standing from the States of New York and New Jersey. Mr. Vicente has a MPH from Columbia University School of Public Health and a MS from Long Island University at CW Post. Mr. Vicente discloses no health facility ownership interests.

Character and Competence - Analysis

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

A review of HELP/PSI, Inc. for the time period identified above reveals that there were no enforcements.

A review of Bronx-Lebanon Highbridge Woodycrest Center for the period identified above reveals there were no enforcements.

- The nursing home incurred a Civil Monetary Penalty of $54,600 for the period of 5/29/15 through 8/20/15.

A review of Homestead Rehabilitation and Healthcare Center and Valley View Rehabilitation and Healthcare Center reveals there were no enforcements. Information was received from the State of New Jersey attesting that there were no major deficiencies in the past 12 months, and affidavits submitted by the applicant covered the balance of time for the periods of ownership.

A review of Cranford Park Rehabilitation and Healthcare reveals there were no enforcements. An affidavit was submitted by the applicant attesting there were no enforcements during the period of ownership, further corroborated by the State of New Jersey website.

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
New Jersey			
Cranford Park Rehabilitation & Healthcare Center	*	**	***
Homestead Rehabilitation & Health Care Center	****	****	****
Valley View Rehabilitation And Healthcare Center	*****	****	*****
New York			
The Bronx-Lebanon Highbridge Woodycrest Center	*****	****	*****
Hope Center For H I V And Nursing Care**	*****	****	*****

**HELP/PSI is now known as Hope Center for HIV and Nursing Care

Project Review

All health care facilities are in substantial compliance with all rules and regulations. No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application. Mr. Pashkes has disclosed that he is associated with a staffing agency that does business with nursing homes and health facilities. However he has stated that the staffing agency in question will not do business with Highbridge Woodycrest Center.

In order to ensure sufficient management expertise regarding the operation of an AIDS nursing home, a condition of approval will require Leonardo Vicente to remain an owner for a period of three years.

Conclusion

The individual background review indicates the applicants have met the standard for approval as set forth in Public Health Law §2801-a(3).

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement (Operations and Real Property)

The applicant submitted the executed APA for the RHCF operations and real estate. The agreement will become effectuated upon PHHPC approval of this CON. The terms are summarized below:

Date:	February 2, 2016
Seller:	The Bronx-Lebanon Highbridge Woodycrest Center
Buyer:	Woodycrest Propco, LLC.
Purchased Assets (Operations):	All of the following items associated with the real property and operations of the business including: all tangible assets, telephone, fax numbers, websites domain names, manufactures' and vendors' warranties, business trade names, service/trademarks and logos, seller's rights in any agreements,, seller's book and records, seller's licenses, certificates and approvals to do business, resident funds held in trust in connection with the nursing home, Medicaid and Medicare provider numbers and all goodwill.
Purchased Assets (Real Estate):	All seller's right, title and interest in and to the real property, buildings and improvements located at 936 Woodycrest Avenue, Bronx, NY.
Excluded Assets (Operations):	All seller's cash, cash equivalents, bank deposits or similar cash items, insurance policies accounts receivable generated prior to the closing date, deposits or prepaid charges and expenses, any rights to refunds, settlements and retroactive adjustments for periods ending on or prior to the closing date, and any intellectual property/rights, personal, tangible and intangible property identified by the Seller.
Excluded Assets (Real Estate):	N/A
Liabilities Assumed:	None
Excluded Liabilities (Operations):	Any liability of seller arising from or relating to the operation of the Business at any time prior to the Closing date.
Excluded Liabilities (Real Estate):	None
Purchase Price:	$17,000,000 to be assigned to the real estate only.
Payment :	$1,700,000 deposited in escrow upon execution of the agreement $15,300,000 due at Closing

The purchase price is proposed to be satisfied as follows:

Cash Equity (Paid/Held in Escrow)	$1,700,000
Cash Equity (Due at Closing)	$1,700,000
Mortgage loan (10-year term, 25-year amortization, 5% interest)	$13,600,000
Total	$17,000,000

BFA Attachment A is the net worth statement for the sole member of Woodycrest Propco, LLC, Moshe Mendolwit, which indicates sufficient liquid resources to cover the equity requirement for the purchase.

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. The facility currently has no outstanding Medicaid audit liabilities.

Assignment and Assumption Agreement

The applicant submitted an executed AAA for the assignment of the RHCF operations, as shown below:

Date:	June 30, 2016
Assignor:	Woodycrest Propco, LLC
Assignee:	YGC at Woodycrest, LLC d/b/a Highbridge Woodycrest Center
Assets Transferred:	All of the acquired operating assets listed in the asset purchase agreement
Excluded Assets:	All of the excluded operating assets listed in the asset purchase agreement
Liabilities:	N/A

Lease Agreement

The applicant submitted a draft lease agreement; the terms are summarized below:

Date:	TBD
Premises:	A 90-bed, AIDS certified, RHCF located at 936 Woodycrest Avenue, Bronx, NY
Lessor:	Woodycrest Propco, LLC
Lessee:	YGC at Woodycrest, LLC d/b/a Highbridge Woodycrest Center
Term:	30 years
Rental:	$1,530,000 annually ($127,500 monthly) for year one with an annual $85,000 increase for years one-four and a 2.5% annual increase for remainder of term.
Provisions:	Lessee pays for all taxes, utilities, insurance and maintenance fees (Triple Net)

The applicant indicated that the lease arrangement is an arm's length lease.

Operating Budget

The following is a summary of the submitted operating budget, presented in 2016 dollars, for the Current Year and Year One subsequent to the change in ownership:

	Current Year		Year One	
	Per Diem	Total	Per Diem	Total
Revenues				
Medicaid	$478.82	$14,937,340	$452.74	$13,848,100
Medicare	$1,238.45	$886,728	$962.95	$613,400
Commercial/Private Pay	$0	$0	$798.75	$509,600
Other Revenues		14,296		$4,800
Total		$15,838,364		$14,975,900
Expenses				
Operating	$415.88	$13,271,519	$386.92	$12,327,900
Capital	$28.93	$923,366	$63.60	$2,026,279
Total	$444.81	$14,194,885	$450.51	$14,354,179
Net income/loss		$1,643,479		$621.721
Utilization (patient days)		31,912		31,862
Occupancy		97.14%		96.99%

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

- The Medicaid operating rate is based on the current rate for a proprietary facility and the Medicare operating rate is based on the RUG PPS rates effective October 1, 2014 - September 30, 2015.
- The Commercial and Private Pay operating rates are based on industry standard rates for the area.
- With the change from a voluntary to a proprietary facility, the methodology for the capital cost reimbursement rate would change in accordance with Title 10 of the NYCRR, Part 86.2. While the capital reimbursement structure for proprietary NH's does differ from voluntary NHs, we do not believe that there will be a significant change in the per diem capital reimbursement.
- Utilization by payor source for Year One is expected as follows:

Medicaid	96.0%
Medicare	2.0%
Commercial/Private Pay	2.0%

- Breakeven utilization is projected at approximately 94.61% for Year One.

Capability and Feasibility

Woodycrest Propco, LLC will acquire the RHCF's real property and operations for $17,000,000 at the above stated terms and will assign the operations to YGC at Woodycrest, LLC for $0**.** There are no project costs associated with this proposal.

The working capital requirement is estimated at $2,392,363 based on two months of Year One expenses. The proposed operating members will provide $1,200,000 in equity. The remaining $1,192,363 will be provided through a working capital loan at 5% interest for a five-year term. JP Morgan Chase & Co. has provided a letter of interest for the working capital financing. Mr. Joel Pashkes has provided an affidavit confirming willingness to contribute resources disproportionate to his ownership interest to fulfill the working capital equity requirement for the project. BFA Attachment A is the net worth statement for the proposed operating and realty owners, which shows significant resources to cover both the purchase price and the working capital equity requirements for this project.

BFA Attachment B is the pro-forma balance sheets of YGC at Woodycrest, LLC d/b/a Highbridge Woodycrest Center and Woodycrest Propco, LLC, which indicates a positive members' equity of $1,650,000 as of the first day of operations for the facility, and a member's equity of $3,401,000 as of the first day of operations for the realty entity.

The submitted budget indicates a net income of $621,721 for Year One of operations. The submitted budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing Medicaid NH revenues through the transition period.

BFA Attachment C is The Bronx-Lebanon Highbridge Woodycrest Center's 2013 -2015 certified and their internal financial statements as of September 30, 2016, which shows the facility generated an average operating income of $1,175,158 for the period 2013-2015 and $1,314,581 as of September 30, 2016. The facility also had both positive net asset and working capital positions for the period.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth of Proposed Members of YGC at Woodycrest, LLC d/b/a Highbridge Woodycrest Center (Operations) and Woodcrest Propco, LLC (Realty)
BFA Attachment B	Pro-forma Balance Sheets for YGC at Woodycrest, LLC d/b/a Highbridge Woodycrest Center and Woodycrest Propco, LLC
BFA Attachment C	2013-2015 certified and the 1/1/2016-9/30/2016 internal financial statements for The Bronx-Lebanon Highbridge Woodycrest Center

Public Health and Health Planning Council

Project # 162255-E
CLR Schenectady LLC d/b/a The Capital Living Nursing and Rehabilitation Center

Program:	**Residential Health Care Facility**	***County:***	**Schenectady**
Purpose:	**Establishment**	***Acknowledged:***	**October 7, 2016**

Executive Summary

Description

CLR Schenectady LLC d/b/a The Capital Living Nursing and Rehabilitation Center, a New York limited liability company, requests approval to be established as the new operator of The Capital Living Nursing and Rehabilitation Centre, a 240-bed, proprietary, Article 28 residential health care facility (RHCF) located at 526 Altamont Avenue, Schenectady (Schenectady County). A separate entity, Schenectady SNF Realty LLC, will acquire the real property. There will be no change in beds or services provided.

On June 16, 2015, the current RHCF operator, Schenectady Nursing and Rehabilitation Center, LLC, entered into an Asset Purchase Agreement (APA) with CLR Schenectady LLC for the sale and acquisition of the operating interests of the RHCF for $6,675,000. Subsequently, on September 21, 2016, Schenectady Nursing and Rehabilitation Center, LLC and CLR Schenectady LLC executed the First Amendment to the Asset Purchase Agreement consenting to the change in the proposed membership of CLR Schenectady LLC. Concurrently on June 16, 2015, DMN Realty Associates, LLC, the current real property owner, entered into a Real Estate Purchase Agreement (REPA) with Schenectady SNF Realty LLC for the sale and acquisition of the real property for $35,275,000 (including the assumption of the current U.S. Department of Housing and Urban Development (HUD) mortgage). The APA and REPA will close at the same time upon approval of this application by the Public Health and Health Planning Council (PHHPC). There is a relationship between CLR Schenectady LLC and Schenectady SNF Realty LLC in that Hillel Weinberger is a common member in both entities. The applicant will lease the premises from Schenectady SNF Realty LLC.

Ownership of the operations before and after the requested change is as follows:

Current Operator		
Schenectady Nursing and Rehabilitation Center, LLC		
Member		
DMN Management Services, LLC		100%
Anthony Durante	15%	
Patrick Martone	10%	
Jami Rogowski	15%	
Jodi Polsinelli	15%	
Lisa Marrello	15%	
Pamela Nichols	15%	
Mark Nichols	15%	

Proposed Operator	
CLR Schenectady LLC d/b/a The Capital Living Nursing and Rehabilitation Center	
Members	
Hillel Weinberger	50%
Amir Abramchik	50%

Concurrently under review, the applicant members of CLR Schenectady LLC and the realty members of Schenectady SNF Realty LLC are seeking approval to acquire the operating and realty interests, respectively, in the following entities: The Crossings Nursing and Rehabilitation Centre (CON 162257), The

Country Manor Nursing and Rehabilitation Centre (CON 162256), The Mountain View Nursing and Rehabilitation Centre (CON 162258), The Orchard Nursing and Rehabilitation Centre (CON 162259), The Springs Nursing and Rehabilitation Centre (CON 162260), and The Stanton Nursing and Rehabilitation Centre (CON 162261).

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services at this facility. Occupancy was 90.4% in 2012, 89.3% in 2013, and 95.3% in 2014. Current occupancy, as of October 26, 2016 was 98.1%.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

Financial Summary

There are no project costs associated with this application. CLR Schenectady LLC will acquire the RHCF's operations for $6,675,000 funded by $1,712,250 in members' equity and a ten-year loan for $4,962,750 at 5% interest, amortized over 25 years. Schenectady SNF Realty LLC will acquire the real property for $35,275,000, funded by $58,000 in members' equity, a ten-year loan for $3,816,545 at 5% interest, amortized over 25 years, and the assumption of the current HUD mortgage with an outstanding principal balance estimated at $31,400,455. Greystone Funding Corporation has provided a letter of interest to finance the acquisition of the operations and Capital Funding, LLC has provided a letter of interest to finance the acquisition of the real property. The projected budget is:

	Year One
Revenues	$26,346,275
Expenses	25,191,981
Gain/(Loss)	$1,154,294

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of an executed Consulting Services Agreement, acceptable to the Department of Health. [BFA]
2. Submission of an executed loan commitment for the purchase of the RHCF operations, acceptable to the Department of Health. [BFA]
3. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
4. Submission of an executed loan commitment for the purchase of the real property, acceptable to the Department of Health. [BFA]
5. Submission of documentation of approval by HUD and Century Health Capital, Inc. for the change in operator of the nursing home, acceptable to the Department of Health. [BFA]
6. 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)
7. Submission of a plan to continue to enhance access to Medicaid residents. At 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 to 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; and
   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. (RNR)
8. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
   a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
   b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
   c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
   d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
   e. Other factors as determined by the applicant to be pertinent. (RNR)
9. Submission of a photocopy of the applicant's amended lease agreement, acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's executed and amended Consulting Services Agreement, acceptable to the Department. [CSL]
11. Submission of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date
February 9, 2017

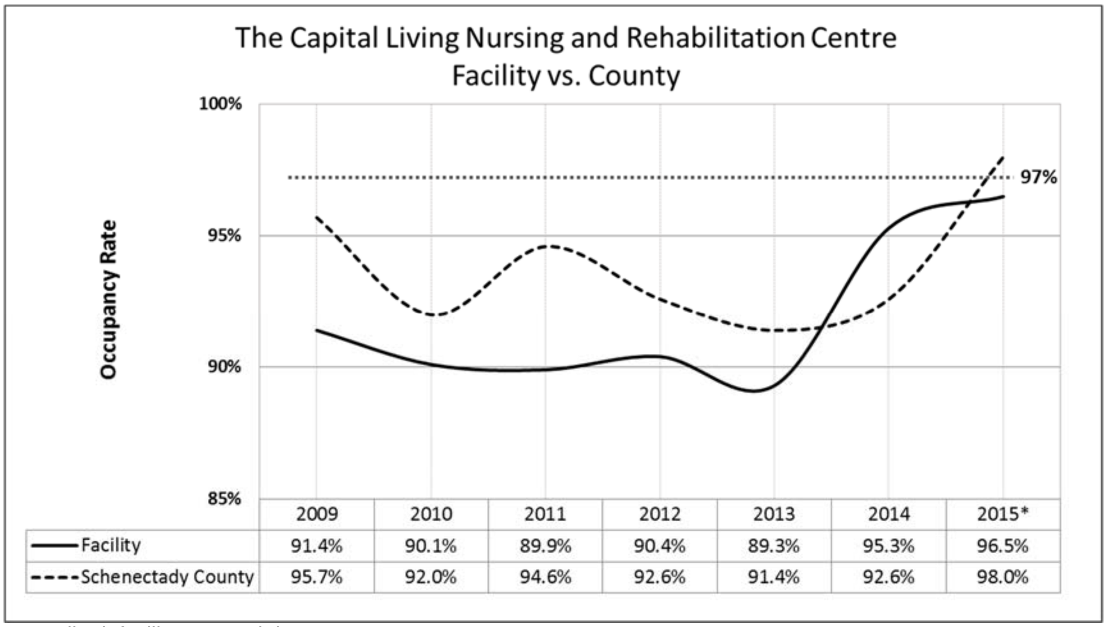
Need Analysis

Analysis

According to the current need methodology, there is a surplus of 44 beds in Schenectady County.

RHCF Need – Schenectady County

2016 Projected Need	889
Current Beds	976
Beds Under Construction	-43
Total Resources	933
Unmet Need	-44



*unaudited, facility reported data

The overall occupancy for Schenectady County is 92.4% for 2014. The Capital Living Nursing and Rehabilitation Centre's occupancy was 89.9% in 2011, 90.4% in 2012, and 89.3% in 2013. The replacement facility opened in 2013. The new, state-of-the-art facility was constructed to accommodate the downsized capacity of its previous facility, known as The Avenue Nursing and Rehabilitation Centre (The Avenue), formerly 224 beds, as well as the affiliated Dutch Manor Nursing and Rehabilitation Centre (Dutch Manor), formerly 86 beds, which closed. The merging of these two facilities resulted from the implementation of recommendations made by the Berger Commission and represented a downsizing of 70 beds. Once opened, residents from The Avenue and Dutch Manor were relocated to Capital Living.

Since its opening, the facility has experienced a significant increase in occupancy rates, compared to prior years as The Avenue. According to the facility's weekly census reports, occupancy has been near the Department's planning optimum and this is expected to continue with the new operator.

Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

The Capital Living Nursing and Rehabilitation Centre's Medicaid admissions of 8.5% in 2013 exceeded the Schenectady County 75% rate of 4.6% in 2013. The Capital Living Nursing and Rehabilitation Centre's Medicaid admissions of 9.4% in 2014 did not exceed the Schenectady County 75% rate of 12.2% in 2014.

Conclusion

Approval of this application will result in maintaining a necessary resource in Schenectady County.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	The Capital Living Nursing and Rehabilitation Centre	The Capital Living Nursing and Rehabilitation Centre
Address	526 Altamont Avenue Schenectady, NY 12303	Same
	240	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Proprietary
Operator	Schenectady Nursing & Rehabilitation Center, LLC	CLR Schenectady, LLC Amir Abramchik 50% Hillel Weinberger 50%

Character and Competence – Background

Facilities Reviewed

Nursing Homes

Chittenango Center for Rehabilitation and Health Care	05/2011 to 7/16
Rome Center for Rehabilitation and Health Care	05/2011 to 8/16
Fulton Center for Rehabilitation and Health Care	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	04/2012 to present
Corning Center for Rehabilitation and Health Care	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	11/2014 to present

Individual Background Review

Amir Abramchik is a licensed nursing home administrator in good standing in New York, New Jersey and Rhode Island. Mr. Abramchik has been employed by Centers for Specialty Care as the director of special projects since 2007. Previously he was employed as administrator of Queens Center for Rehabilitation and Health Care and Dutchess Center for Rehabilitation and Health Care. Mr. Abramchik discloses the following health facility interests with associated ownership percentages:

Fulton Center for Rehabilitation and Health Care	(10%)	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	(2%)	04/2012 to present
Corning Center for Rehabilitation and Health Care	(11%)	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	(95%)	11/2014 to present

Hillel Weinberger has been retired since 2012. He was formerly employed as the co-founder of Hillmark Capital, a financial planning business. He also has been serving as the the President of Ptach (a special needs school) for the last ten years. Mr Weinberger discloses no health facility ownership interests.

Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants identified as new members.

A review of operations of Fulton Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $52,000 pursuant to a Stipulation and Order NH-16-004 issued April 23. 2015 for surveillance findings on June 11, 2012, May 15, 2012, and November 21, 2013. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.12(i)(1) Quality of Care: Nutrition; 415.12(h)(1) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(i)(1) Quality of Care: Nutrition; 415.12(c)(2) Quality of Care: Pressure Sores; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.3(e)(2)(ii)(b) Notification of Changes; and 415.4(b)(1)(2)(3) Investigative/Report Allegations.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-12-39 issued on September 17, 2012 for surveillance findings on March 24, 2014. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores.
- A federal CMP of $975 was assessed for the June16, 2012 survey findings.
- A federal CMP of $11,895 was assessed for the May 15, 2013 survey findings.
- A federal CMP of $10,000 was assessed for the November 21, 2013 survey findings

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Fulton Center was a former County facility that had a high turnover of the facility's County employed staff after the current operators took over in April of 2012. The current operators had a period of transition after takeover where they had to hire and train new staff at the facility in order to maintain staffing levels needed.

A review of operations of Richmond Center for Rehabilitation and Specialty Healthcare for the period identified above reveals the following:

- The facility was fined $18,000 pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.
- A federal CMP of $27,528 was assessed for the April 24, 2012 survey findings.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-041 issued January 13, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.
- The facility was fined $10,000 pursuant to a Stipulation and Order issued for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Richmond Center has 300 certified beds with 72 of those beds servicing neurobehavioral residents in dedicated neurobehavioral units. This population can be difficult to serve and the initial survey findings in 2012 reflect a transition of this facility immediately after the current operators took over in April of 2012, with this initial enforcement occurring days after the official transition of ownership.

A review of operations of Ontario Center for Rehabilitation and Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $12,000 pursuant to a Stipulation and Order issued for surveillance findings on June 12, 2015. Deficiencies were found under 10 NYCRR 415.3(e)(2)(iii)-Notice of Rights and Services-Right to Refuse Treatment, Refuse to Participate in Research and the Right to Be Able to Formulate an Advance Directive; and 415.12(m)(2)- Quality of Care No Significant Medication Errors.

Since there were no other enforcements, the requirements for approval have been met as set forth in Public Health Law §2801-1(3).

A review of operations for Chittenango Center for Rehabilitation and Health Care, Rome Center for Rehabilitation and Health Care, and Corning Center for Rehabilitation and Health Care for the periods identified above, results in a conclusion of substantially consistent high level of care since there were no enforcements

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
The Grand Rehabilitation & Nursing at Chittenango	**	**	****
The Grand Rehabilitation and Nursing at Rome	*	*	***
Fulton Center for Rehabilitation and Healthcare	**	*	**
Richmond Center for Rehab and Specialty HC	****	***	**
Ontario Center for Rehabilitation and Healthcare	**	*	**
Corning Center for Rehabilitation and Healthcare	*	*	**

Project Review

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

The proposed operator intends to enter into a Consulting Services Agreement with Centers Health Care for consulting and advisory services related to administrative and operational functions.

The proposed operator was asked to explain the low star ratings. The operator has stated they have implemented initiatives to recruit and retain employees providing direct care services. They also plan on employing a combination of measures to correct deficiency issues, including in-service education, changes to policies and procedures when necessary, implementation of weekly observation and auditing of staff practices, and monthly review of the findings by the quality assurance committee.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement

The applicant has submitted an executed APA to acquire the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	June 16, 2015
Seller:	Schenectady Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Schenectady LLC
Assets Transferred:	The business and operation of the Facility; leasehold improvements, furniture, fixtures and equipment owned or leased by Seller; inventory, supplies, and other articles of personal property; transferable contracts, agreements, leases and undertakings; Resident funds held in trust; The name "The Capital Living Nursing and Rehabilitation Centre"; security deposits and prepayments; manuals and computer software; resident/patient records; Goodwill; all books and records relating to the Facility; licenses and permits; Medicare and Medicaid provider numbers; rate increases and/or lump sum or other payments, resulting from rate appeals, audits or otherwise; patient claims accounts receivable on and after Closing Date; leases; and assets of Seller relating to the Facility
Excluded Assets:	Real Estate which is the subject of the Real Estate Contract; insurance policies; union agreement and pension plans; rate increases and/or lump sum payments; tax refunds including real estate tax refunds relating to a period or periods prior to the Closing Date; amounts due from parties related to Seller; Seller's cash and cash equivalents; Prepaid expenses; claims, causes of action and legal rights for periods prior to the Closing Date; receivables from any affiliate of Seller; and payments made in connection with "Universal Appeal Settlement"
Assumed Liabilities:	Liabilities and obligations arising with respect to the operation of the Facility on and after the Closing Date; trade accounts payable for items purchased by the Seller prior to Closing (estimated at $450,000).
Purchase Price:	$6,675,000
Payment of the Purchase Price:	$58,000 upon execution; $6,617,000 at Closing

The purchase price of the operations is proposed to be satisfied as follows:

Equity from Members	$1,712,250
Loan (10-year, 25-year amortization, 5% interest)	4,962,750
Total	$6,675,000

Greystone Funding Corporation has provided a letter of interest at the stated terms

First Amendment to Asset Purchase Agreement

The applicant has submitted an executed First Amendment to the APA for acquisition of the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	September 21, 2016
Seller:	Schenectady Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Schenectady LLC
Change:	To implement the removal of Joseph Zupnik and Elisa Zupnik from ownership in the purchaser and the addition of Hillel Weinberger and Amir Abramchik as the sole owners of the purchaser.

The APA establishes a Total Purchase Price of $86,500,000 as total consideration for the assets transferred (as defined above), the real property (as defined below), and the assets of the sellers under all other APAs and REPAs related to the following entities: 1940 Hamburg Street, LLC (Realty, vacant property); MacDonald Road Corporation (Realty, Home Office); DMN Management Services, LLC (Home Office Assets); and the operating assets and real property associated with the following CONs concurrently under review:

CON 162257 - The Crossings Nursing and Rehabilitation Centre, 80 beds, Onondaga County;
CON 162256 - The Country Manor Nursing and Rehabilitation Centre, 90 beds, Jefferson County;
CON 162258 - The Mountain View Nursing and Rehabilitation Centre, 77 beds, Ulster County;
CON 162259 - The Orchard Nursing and Rehabilitation Centre, 88 beds, Washington County;
CON 162260 - The Springs Nursing and Rehabilitation Centre, 78 beds, Rensselaer County; and
CON 162261 - The Stanton Nursing and Rehabilitation Centre, 117 beds, Warren County.

Please note the above bed counts for CON 162257, CON 162258, CON 162260 and CON 162261 reflect bed reductions anticipated upon establishment.

North Broadway Office Operations LLC will acquire the operating interests of DMN Management Services (DMN), referenced above, for $258,000. The staff of DMN currently provides services including: QA/QI, billing, IT management; payroll; audit; accounts receivable; and human resources. After the change in ownership, DMN Management Services will no longer exist.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement 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. As of November 8, 2016, the facility had no outstanding Medicaid liabilities.

Purchase and Sale Agreement for the Real Property

The applicant has submitted an executed agreement to acquire the real property. The terms of the agreement are summarized below:

Date:	June 16, 2015
Asset Transferred Realty:	Real Property with an address at 526 Altamont Avenue, Schenectady, New York 12303
Seller:	DMN Realty Associates, LLC
Purchaser:	Schenectady SNF Realty LLC
Purchase Price:	$35,275,000
Payment of the Purchase Price:	$58,000 upon execution; $3,816,545 at Closing; Assumption of mortgage, balance estimated at $31,400,455

The purchase price of real property is proposed to be satisfied as follows:

Equity from Members	$58,000
Loan (10-year, 25-year amortization, 5% interest)*	$3,816,545
Assumed HUD Mortgage **	$31,400,455
	$35,275,000

* Capital Funding, LLC has provided a letter of interest at the stated terms.
** According to the certified financial statements, the mortgage payable is to Century Health Capital, Inc., insured by HUD, at 3.79% interest, beginning in March 2014 and due April 2044.

BFA Attachments A and B are the net worth summaries for the proposed members of CLR Schenectady LLC (operator) and Schenectady SNF Realty LLC (real property owner), respectively. Review of the net worth statements reveals sufficient resources overall to meet the equity requirements. It is noted that liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Schenectady LLC and Schenectady SNF Realty LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities to make up any member's equity shortfall in contributing to the purchase price and/or working capital needs.

Hillel Weinberger has provided affidavits, disproportionate to his membership interests, to fund the operating and real property loan balloon payments, should terms acceptable to the Department be unavailable at the time of refinancing.

Lease Agreement

The applicant submitted an executed lease agreement, the terms of which are summarized below:

Date:	October 31, 2016
Premises:	240-bed RHCF located at 526 Altamont Ave., Schenectady, NY 12303
Owner/Landlord:	Schenectady SNF Realty LLC
Lessee:	CLR Schenectady LLC
Term:	40 years from Commencement Date
Rent:	Estimated at $3,213,278 per annum ($267,773.17 per month)
Provisions:	Triple Net

*Rent is estimated at $2,013,278 in fixed rent (Net Rent), based on the amortization of the assumed mortgage and bank loan for the real estate purchase, plus $1,200,000 in Over Rent. In addition to the $3,213,278 rental amount, the lessee will be billed for other expenses related to the premises incurred by the landlord.

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operating entity.

Consulting Services Agreement

The applicant has provided a draft consulting services agreement, summarized below:

Contractor:	Centers for Care LLC d/b/a Centers Health Care
Facility:	CLR Schenectady LLC, d/b/a The Capital Living Nursing and Rehabilitation Center
Affiliation:	The Facility will refer to itself as "Affiliated with Centers Health Care" or "Member of Centers Health Care, limited to marketing efforts and the identification of professionals, consultants, vendors and healthcare providers and other resources that can assist the Facility in the provision of care.
Consulting and Advisory Services:	The contractor will be responsible for the operation, supervision and oversight of all functions related to A/R and A/P, including assistance and supervision of staff in interacting with families, collection of NAMI and private funds, submission of award letters, and preparation of applications for payee, maintenance of billing files, monitoring payments to the facility by all payor sources, pursuing payments for delinquent accounts and assisting the facility, at the facility's expense. The contractor will provide assistance to and supervision of staff performing and providing the following services: all billing functions for all payor sources and maintenance of all billing and posting records and establishment of payroll budgets and schedule coordination with nursing and other departments. Responsible for the preparation of health facility assessment; assist the Facility with the preparation of RHCF 4 and Medicare cost reports; and reconciliation of billing records, Maintenance of electronic resident/patient billing files, fund records and accounts, and monthly operating cash flow projections. Assist the Facility in reviewing of rate sheets and filing of necessary appeals and audit facility's monthly pharmacy bills and the implementing of formulary management.
Clinical Consulting Services:	The contractor will provide advice and assistance to the Facility with respect to the administrative functioning of the Therapy, Social Services and Nursing departments. Develop operating policies and procedures, rules and methods of operation appropriate to such departments and the training and orientation of staff.

	Recommend procedures to ensure the consistency and quality of all the Services. Assist the Facility with respect to its CMI, Medicare, and case-mix reimbursement.
Other Duties:	Develop and implement a marketing plan; furnish sufficient part-time temporary licensed skilled professional staff for the health care activities described herein
Term:	One Year with automatic one year renewals, unless terminated through mutual consent, default or by one party with 60-day written notice.
Fee:	The fees for the Services shall, to the maximum extent possible, represent the actual costs incurred by CHC in providing the Services to the Facility.

CLR Schenectady LLC retains ultimate control in all of the final decisions associated with the services.

Centers for Care LLC will also provide consulting services to the other RHCFs transferred under the terms of the APA referenced above. Amir Abramchik is the Chief Operating Officer of the consulting services provider, Centers for Care LLC, and a member of the applicant. The Centers for Care LLC is equally owned by Kenneth Rozenberg and Beth Rozenberg.

The fees are estimated at $3,000,000 for the subject facility and the six facilities being acquired concurrently, and divided amongst the facilities as follows, based on the total licensed beds.

- The Capital Living Nursing and Rehabilitation Center, 240 beds: $935,066
- The Country Manor Nursing and Rehabilitation Centre, 90 beds: $350,649
- The Crossings Nursing and Rehabilitation Centre, 80 beds: $311,688
- The Mountain View Nursing and Rehabilitation Centre, 77 beds: $300,000
- The Orchard Nursing and Rehabilitation Centre, 88 beds, $342,857
- The Springs Nursing and Rehabilitation Centre, 78 beds, $303,896
- The Stanton Nursing and Rehabilitation Centre, 117 beds, $455,844

Operating Budget

The applicant has provided the current year (2015) results and the first year operating budget subsequent to the change in ownership, in 2017 dollars, summarized as follows:

Revenues	Per Diem	Current Year	Per Diem	Year One
Commercial FFS	$350.00	$430,500	$350.00	$436,800
Medicare FFS	$519.04	$3,650,937	$526.83	$3,760,513
Medicare MC	$586.98	$3,348,123	$586.98	$3,397,440
Medicaid FFS	$249.20	$14,359,320	$226.73	$13,256,676
Medicaid MC	$250.00	$80,750	$226.73	$74,367
Private Pay	$401.85	$5,099,929	$420.91	$5,420,479
All Other		$60,084		$0
Total		$27,029,643		$26,346,275
Expenses				
Operating	$253.03	$21,407,380	$250.01	$21,463,389
Capital	$38.82	$3,284,442	$43.43	$3,728,592
Total Expenses	$291.86	$24,691,822	$293.45	$25,191,981
Net Income		$2,337,821		$1,154,294
Patient Days		84,603		85,849
Utilization %		96.58%		98.00%

The following is noted with respect to the submitted budget:

- The current year reflects the facility's 2015 revenues and expenses.
- The applicant projected their Medicaid revenue based on the facility's current 2016 Medicaid Regional Pricing rate. The projected Medicare revenue is based its facility's current Medicare rate. The Private Pay rate were based on the current operator's average rate for 2016.

- Expense and staffing assumptions were based on the current operator's model then adjusted based on the applicant's experience.
- The applicant anticipates reductions in salaries and employee benefits will be achieved based on changes in the staffing model and will not require reductions for positions not impacted by the changes to the staffing model.
  - o The applicant anticipates reductions in supplies (5.76%) based on contract negotiations and/or use of vendors in place at other facilities and a 6.27% reduction in Other Direct Expenses.
  - o It is noted that the rent is estimated by the applicant as follows: $3,213,278 net rent, based on debt service (interest and principal) on the outstanding mortgage assumed upon acquisition and $1,200,000 over rent. It is noted that additional rent (escrow) to address taxes, insurance and replacement accounts is not included in the budget as the applicant states that "Additional Rent" is not included in this Rent Schedule as there are no additional rent expenses (expenses incurred by the landlord billable to the tenant) at this time.
- The fees associated with the above referenced Consulting Services Agreement have been included in the budget.
- Utilization by payor source for the first year after the change in ownership is summarized below:

	Current Year	Year One
Commercial FFS	1.45%	1.45%
Medicare FFS	8.32%	8.32%
Medicare MC	6.74%	6.74%
Medicaid FFS	68.11%	68.11%
Medicaid MC	0.38%	0.38%
Private Pay	15.00%	15.00%

- Breakeven utilization is at 93.71% in year one.

Capability and Feasibility

CLR Schenectady LLC will acquire the RHCF's operations for $6,675,000, which will be funded via $1,712,250 in members' equity and a ten-year loan for $4,962,750 at the above state terms. Greystone Funding Corporation has provided a letter of interest. Schenectady SNF Realty LLC will acquire the real property for $35,275,000, which will be funded as follows: $58,000 in members' equity; a loan for $3,816,545 (letter of interest from Capital Funding, LLC provided); and the assumption of a HUD mortgage with an estimated principal balance of $31,400,455, at 3.79% interest, payable in monthly installments through April 2044 (mortgage payable to Century Health Capital, Inc.). There are no project costs associated with this application.

The working capital requirement is estimated at $4,198,664 based on two months of first year expenses. Funding will be as follows: $2,099,332 from member's equity with the remaining $2,099,332 satisfied through a self-amortizing 5-year loan at 5% interest rate. Harborview Capital Funding has provided a letter of interest. BFA Attachments A and B, proposed members net worth summaries for the operator and real property owner, respectively, reveal sufficient resources to meet equity requirements. As previously stated, liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Schenectady LLC and Schenectady SNF Realty LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities (covering the purchase price and working capital equity). Additionally, Hillel Weinberger has provided affidavits stating he is willing to contribute resources, disproportionate to his membership interest, for the operating and realty entity balloon payments should terms acceptable to the Department be unavailable at the time of refinancing.

The submitted budget projects net income of $1,154,294 in Year One. The applicant projects a reduction in revenue based on a decrease in the Medicaid reimbursement rates, which is partially offset by a small (approximately 1.5%) increase in utilization for each payor source. The applicant anticipates expense reductions in the following categories: $654,475 in Salaries and Employee Benefits; $124,357 in Supplies; $19,264 in Purchased Services; and $114,409 in Other Direct Expenses. These reductions are partially offset by an increases in professional fees ($968,514), depreciation and rent ($146,421), and interest expense ($297,729).

BFA Attachment D is CLR Schenectady, LLC's pro forma balance sheet, which shows the entity will start with $3,811,582 in equity. Equity includes $4,772,500 in goodwill, which is not a liquid resource nor is it recognized for Medicaid reimbursement. If goodwill is eliminated, total net assets are a negative $960,918. The budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment E is the Financial Summary of The Capital Living Nursing and Rehabilitation Centre for the period 2013 through 2015, which shows the facility had positive working capital and positive net assets for the period. Also, the facility had an average net income of $1,377,000 and an average occupancy of 93.75%. Also included as part of Attachment E is DMN Management Services and Subsidiaries 2014 and 2015 certified statement, which shows working capital and net assets to be positive with operations showing a $449,584 profit in 2015 before non-recurring expenses of $360,000.

BFA Attachment F is the Internal Financial Summary through September 30, 2016, which shows the facility had positive working capital, positive net assets and net income equaling $1,130,915. On a consolidated basis, the organization had a positive working capital, positive net assets and generated a loss.

BFA Attachment G is the Financial Summary of the proposed member's affiliated RHCFs, which shows the facilities maintained positive working capital, positive net assets, and generated positive net income.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	CLR Schenectady LLC, Proposed Members Net Worth
BFA Attachment B	Schenectady SNF Realty LLC, Proposed Members Net Worth
BFA Attachment C	Current and Proposed Owners of the Real Property
BFA Attachment D	Pro Forma Balance Sheet
BFA Attachment E	Financial Summary, The Capital Living Nursing and Rehabilitation Center, LLC and DMN Management Services LLC, 2015 certified financial statement
BFA Attachment F	Internal Financial Summary, The Capital Living Nursing and Rehabilitation Center, LLC and DMN Management Services LLC
BFA Attachment G	Financial Summary, the proposed member's affiliated RHCFs

Public Health and Health Planning Council

Project # 162256-E
CLR Carthage LLC d/b/a The Country Manor Nursing and Rehabilitation Center

Program:	**Residential Health Care Facility**	***County:***	**Jefferson**
Purpose:	**Establishment**	***Acknowledged:***	**October 11, 2016**

Executive Summary

Description

CLR Carthage LLC d/b/a The Country Manor Nursing and Rehabilitation Center, a New York limited liability company, requests approval to be established as the new operator of The Country Manor Nursing and Rehabilitation Centre, a 90-bed, proprietary, Article 28 residential health care facility (RHCF) located at 1045 West Street, Carthage (Jefferson County). A separate entity, Carthage SNF Realty LLC, will acquire the real property. There will be no change in services provided.

On June 16, 2015, the current operator, Carthage Nursing and Rehabilitation Center, LLC, entered into an Asset Purchase Agreement (APA) with CLR Carthage LLC for the sale and acquisition of the RHCF operating interests for $3,063,050. Subsequently, on September 21, 2016, Cartage Nursing and Rehabilitation Center, LLC and CLR Carthage LLC executed the First Amendment to the Asset Purchase Agreement consenting to the change in the proposed membership of CLR Carthage LLC. Concurrently on June 16, 2015, West Street Carthage, LLC, the current real property owner, entered into a Real Estate Purchase Agreement (REPA) with Carthage SNF Realty LLC for the sale and acquisition of the real property for $2,424,727. The APA and REPA will close at the same time upon approval of this application by the Public Health and Health Planning Council (PHHPC). There is a relationship between the CLR Carthage LLC and Carthage SNF Realty LLC in that Hillel Weinberger is a common member in both entities. The applicant will lease the premises from Carthage SNF Realty LLC.

Ownership of the operations before and after the requested change is as follows:

Current Operator Carthage Nursing and Rehabilitation Center, LLC		
Member		
DMN Management Service, LLC		100%
Anthony Durante	15%	
Patrick Martone	10%	
Jami Rogowski	15%	
Jodi Polsinelli	15%	
Lisa Marrello	15%	
Pamela Nichols	15%	
Mark Nichols	15%	

Proposed Operator CLR Carthage LLC	
Members	
Hillel Weinberger	50%
Amir Abramchik	50%

Concurrently under review, the applicant members of CLR Carthage LLC and the realty members of Carthage SNF Realty LLC are seeking approval to acquire the operating and realty interests, respectively, in the following: The Crossings Nursing and Rehabilitation Centre (CON 162257), The Capital Living Nursing and Rehabilitation Centre (CON 162255), The Mountain View Nursing and Rehabilitation Centre (CON 162258), The

Orchard Nursing and Rehabilitation Centre (CON 162259), The Springs Nursing and Rehabilitation Centre (CON 162260), and The Stanton Nursing and Rehabilitation Centre (CON 162261).

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no changes to beds or services at this facility. The Country Manor Nursing and Rehabilitation Centre's occupancy was 94.9% in 2012, 94.0% in 2013, and 96.5% in 2014. Current occupancy, as of October 26, 2016 is 98.9%.

Program Summary
No negative information has been received concerning the character and competence of the proposed applicants.

Financial Summary
CLR Carthage LLC will acquire the RHCF's operations for $3,063,050 funded by $809,262 in members' equity and a ten-year loan for $2,253,788 at 5% interest, amortized over 25 years. Carthage SNF Realty LLC will acquire the real property for $2,424,727, funded by $58,000 in members' equity and a ten-year loan for $2,366,727 at 5% interest, amortized over 25 years. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively. There are no project costs associated with this application.

The projected budget is as follows:

	Year One	Year Three
Revenues	$6,447,836	$6,583,347
Expenses	6,472,452	6,453,571
Gain/(Loss)	($24,616)	$129,776

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. 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 continue to enhance access to Medicaid residents. At 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 to 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; and
   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. [RNR]
3. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
   a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
   b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
   c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
   d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
   e. Other factors as determined by the applicant to be pertinent. [RNR]
4. Submission of an executed Consulting Services Agreement, acceptable to the Department of Health. [BFA]
5. Submission of an executed loan commitment for the purchase of the RHCF operations, acceptable to the Department of Health. [BFA]
6. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
7. Submission of an executed loan commitment for the purchase of the real property, acceptable to the Department of Health. [BFA]
8. Submission of a photocopy of the applicant's amended lease agreement, acceptable to the Department. [CSL]
9. Submission of a photocopy of the applicant's executed and amended Consulting Services Agreement, acceptable to the Department. [CSL]
10. Submission of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]

<u>Approval conditional upon</u>:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date
February 9, 2017

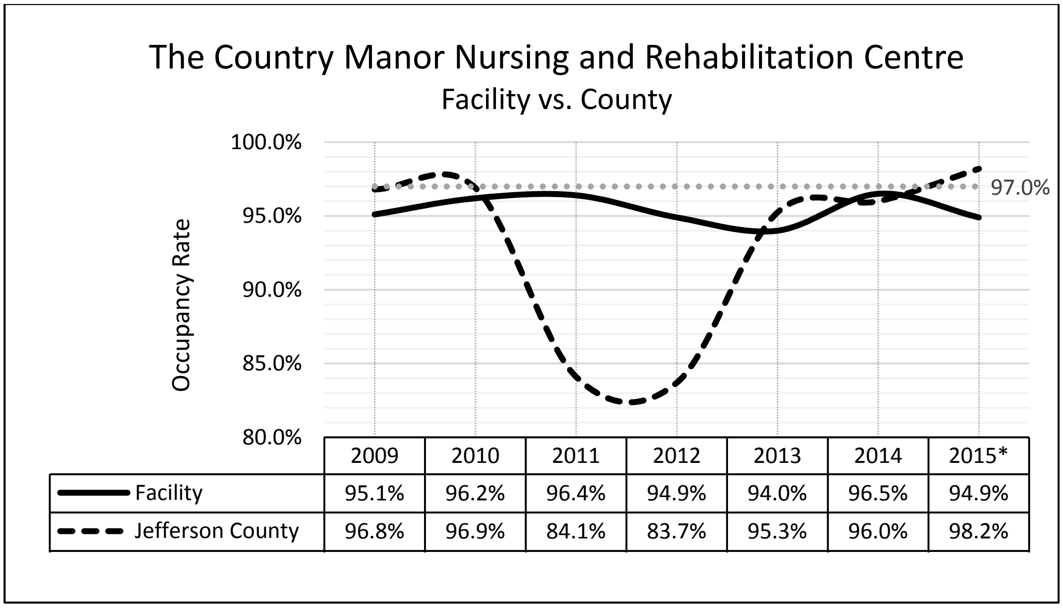
Need Analysis

Analysis

There current need methodology shows a need for 133 beds in Jefferson County.

RHCF Need – Jefferson County

2016 Projected Need	692
Current Beds	559
Beds Under Construction	0
Total Resources	559
Unmet Need	133



The overall occupancy for Jefferson County was 96.0% in 2014. The Country Manor Nursing and Rehabilitation Centre's occupancy was 94.9% in 2012, 94.0% in 2013, and 96.5% in 2014. As of August, 2016, CMI was 1.0186 for the overall facility and 1.0239 for the Medicaid population specifically. The new operator intends to implement initiatives to accept more clinically complex and difficult-to-place residents in the local health care market.

Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

The Country Manor Nursing and Rehabilitation Centre's Medicaid admissions of 40.4% in 2013 and 22.0% in 2014 exceeded the Jefferson County 75% rates of 29.0% in 2013 and 12.3% in 2014.

Conclusion
Approval of this application will result in maintaining a necessary resource in Jefferson County.

Recommendation
From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	The Country Manor Nursing and Rehabilitation Centre	Same
Address	1045 West Street Carthage, NY 13619	Same
	90	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Proprietary
Operator	Carthage Nursing and Rehabilitation Center, LLC	CLR Carthage LLC Amir Abramchik 50% Hillel Weinberger 50%

Character and Competence - Background
<u>Facilities Reviewed</u>

<u>Nursing Homes</u>

Chittenango Center for Rehabilitation and Health Care	05/2011 to 7/16
Rome Center for Rehabilitation and Health Care	05/2011 to 8/16
Fulton Center for Rehabilitation and Health Care	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	04/2012 to present
Corning Center for Rehabilitation and Health Care	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	11/2014 to present

<u>Individual Background Review</u>

Amir Abramchik is a licensed nursing home administrator in good standing in New York, New Jersey and Rhode Island. Mr. Abramchik has been employed by Centers for Specialty Care as the director of special projects since 2007. Previously he was employed as administrator of Queens Center for Rehabilitation and Health Care and Dutchess Center for Rehabilitation and Health Care. Mr. Abramchik discloses the following health facility interests with associated ownership percentages:

Fulton Center for Rehabilitation and Health Care	(10%)	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	(2%)	04/2012 to present
Corning Center for Rehabilitation and Health Care	(11%)	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	(95%)	11/2014 to present

Hillel Weinberger has been retired since 2012. He was formerly employed as the co-founder of Hillmark Capital, a financial planning business. He also has been serving as the the President of Ptach (a special needs school) for the last ten years. Mr Weinberger discloses no health facility ownership interests.

Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants identified as new members.

A review of operations of Fulton Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $52,000 pursuant to a Stipulation and Order NH-16-004 issued April 23. 2015 for surveillance findings on June 11, 2012, May 15, 2012, and November 21, 2013. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.12(i)(1) Quality of Care: Nutrition; 415.12(h)(1) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(i)(1) Quality of Care: Nutrition; 415.12(c)(2) Quality of Care: Pressure Sores; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.3(e)(2)(ii)(b) Notification of Changes; and 415.4(b)(1)(2)(3) Investigative/Report Allegations.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-12-39 issued on September 17, 2012 for surveillance findings on March 24, 2014. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores.
- A federal CMP of $975 was assessed for the June16, 2012 survey findings.
- A federal CMP of $11,895 was assessed for the May 15, 2013 survey findings.
- A federal CMP of $10,000 was assessed for the November 21, 2013 survey findings

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Fulton Center was a former County facility that had a high turnover of the facility's County employed staff after the current operators took over in April of 2012. The current operators had a period of transition after takeover where they had to hire and train new staff at the facility in order to maintain staffing levels needed.

A review of operations of Richmond Center for Rehabilitation and Specialty Healthcare for the period identified above reveals the following:

- The facility was fined $18,000 pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.
    - A federal CMP of $27,528 was assessed for the April 24, 2012 survey findings.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-041 issued January 13, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.
- The facility was fined $10,000 pursuant to a Stipulation and Order issued for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Richmond Center has 300 certified beds with 72 of those beds servicing neurobehavioral residents in dedicated neurobehavioral units. This population can be difficult to serve and the initial survey findings in 2012 reflect a transition of this facility immediately after the current operators took over in April of 2012, with this initial enforcement occurring days after the official transition of ownership.

A review of operations of Ontario Center for Rehabilitation and Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $12,000 pursuant to a Stipulation and Order issued for surveillance findings on June 12, 2015. Deficiencies were found under 10 NYCRR 415.3(e)(2)(iii)-Notice of Rights and Services-Right to Refuse Treatment, Refuse to Participate in Research and the Right to Be Able to Formulate an Advance Directive; and 415.12(m)(2)- Quality of Care No Significant Medication Errors.

Since there were no other enforcements, the requirements for approval have been met as set forth in Public Health Law §2801-1(3).

A review of operations for Chittenango Center for Rehabilitation and Health Care, Rome Center for Rehabilitation and Health Care, and Corning Center for Rehabilitation and Health Care for the periods identified above, results in a conclusion of substantially consistent high level of care since there were no enforcements

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
The Grand Rehabilitation & Nursing At Chittenango	**	**	****
The Grand Rehabilitation And Nursing At Rome	*	*	***
Fulton Center For Rehabilitation And Healthcare	**	*	**
Richmond Center For Rehab And Specialty HC	****	***	**
Ontario Center For Rehabilitation And Healthcare	**	*	**
Corning Center For Rehabilitation And Healthcare	*	*	**

Project Review

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

The proposed operator intends to enter into a Consulting Services Agreement with Centers Health Care for consulting and advisory services related to administrative and operational functions.

The proposed operator was asked to address the low star ratings. The operator has stated they have implemented initiatives to recruit and retain employees providing direct care services. They also plan on implement a combination of measures to correct deficiency issues, including in-service education, changes to policies and procedures when necessary, implementation of weekly observation and auditing of staff practices, and monthly review of the findings by the quality assurance committee.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement

The applicant has submitted an executed APA to acquire the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	June 16, 2015
Seller:	Carthage Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Carthage LLC
Assets Transferred:	The business and operation of the Facility; leasehold improvements, furniture, fixtures and equipment owned or leased by Seller; inventory, supplies, and other articles of personal property; transferable contracts, agreements, leases and undertakings; Resident funds held in trust; The name " The County Manor Nursing and Rehabilitation Centre"; security deposits and prepayments; manuals and computer software; resident/patient records; Goodwill; all books and records relating to the Facility; licenses and permits; Medicare and Medicaid provider numbers; rate increases and/or lump sum or other payments, resulting from rate appeals, audits or otherwise; patient claims accounts receivable on and after Closing Date; leases; and assets of Seller relating to the Facility
Excluded Assets:	Real Estate which is the subject of the Real Estate Contract; insurance policies; union agreement and pension plans; rate increases and/or lump sum payments; tax refunds including real estate tax refunds relating to a period or periods prior to the Closing Date; amounts due from parties related to Seller; Seller's cash and cash equivalents; Prepaid expenses; claims, causes of action and legal rights for periods prior to the Closing Date; receivables from any affiliate of Seller; and payments made in connection with "Universal Appeal Settlement"
Assumed Liabilities:	Liabilities and obligations arising with respect to the operation of the Facility on and after the Closing Date; trade accounts payable for items purchased by the Seller prior to Closing (estimated at $525,000)
Purchase Price:	$3,063,050
Payment of the Purchase Price:	$58,000 upon execution; $3,005,050 due at Closing

The purchase price of the operations is proposed to be satisfied as follows:

Equity from Members	$809,262
Loan (10-year, 25-year amortization, 5% interest)	2,253,788
Total	$3,063,050

Greystone Funding Corporation has provided a letter of interest at the stated terms.

First Amendment to Asset Purchase Agreement

The applicant has submitted an executed First Amendment to the APA for acquisition of the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	September 21, 2016
Seller:	Carthage Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Carthage LLC
Change:	To implement the removal of Joseph Zupnik and Elisa Zupnik from ownership in the purchaser and the addition of Hillel Weinberger and Amir Abramchik as the sole owners of the purchaser.

The APA establishes a Total Purchase Price of $86,500,000 as total consideration for the assets transferred (as defined above), the real property (as defined below), and the assets of the sellers under all other APAs and REPAs related to the following entities: 1940 Hamburg Street, LLC (Realty, vacant property); MacDonald Road Corporation (Realty, Home Office); DMN Management Services, LLC (Home Office Assets); and the operating assets and real property associated with the following CONs concurrently under review:

CON 162257 - The Crossings Nursing and Rehabilitation Centre, 80 beds, Onondaga County;
CON 162255 - The Capital Living Nursing and Rehabilitation Centre, 240 beds, Schenectady County;
CON 162258 - The Mountain View Nursing and Rehabilitation Centre, 77 beds, Ulster County;
CON 162259 - The Orchard Nursing and Rehabilitation Centre, 88 beds, Washington County;
CON 162260 - The Springs Nursing and Rehabilitation Centre, 78 beds, Rensselaer County; and
CON 162261 - The Stanton Nursing and Rehabilitation Centre, 117 beds, Warren County.

Please note the above bed counts for CON 162257, CON 162258, CON 162260 and CON 162261 reflect bed reductions anticipated upon establishment.

North Broadway Office Operations, LLC will acquire the operating interests of DMN Management Services (DMN), referenced above, for $258,000. The staff of DMN currently provide services including QA/QI, billing, IT management, payroll, audit, accounts receivable and human resources. After the change in ownership, DMN Management Services will no longer exist.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement 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. As of December 20, 2016 the facility had no outstanding Medicaid liabilities.

Purchase and Sale Agreement for the Real Property

The applicant has submitted an executed REPA to acquire the real property. The terms of the agreement are summarized below:

Date:	June 16, 2015
Seller:	West Street Carthage, LLC
Purchaser:	Carthage SNF Realty LLC
Asset Transferred Realty:	Real Property located at 1045 West Street, Carthage, NY 13619
Purchase Price:	$2,424,727
Payment of Purchase Price:	$58,000 upon execution; $2,366,727 at Closing

The purchase price of the real property is proposed to be satisfied as follows:

Equity from Members	$58,000
Loan (10-year, 25-year amortization, 5% interest)	2,366,727
Total	$2,424,727

Capital Funding, LLC has provided a letter of interest at the stated terms.

BFA Attachments A and B are the net worth summaries for the proposed members of CLR Carthage, LLC (operator) and Carthage SNF Realty LLC (real property owner), respectively. Review of the net worth statements reveals sufficient resources overall to meet the equity requirements. It is noted that liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Carthage LLC and Carthage SNF Realty LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities to make up any member's equity shortfall in contributing to the purchase price and/or working capital needs.

Hillel Weinberger has provided affidavits, disproportionate to his membership interests, to fund the operating and real property loan balloon payments, should terms acceptable to the Department be unavailable at the time of refinancing.

Lease Agreement

The applicant submitted an executed lease agreement, the terms of which are summarized below:

Date:	October 31, 2016
Premises:	90-bed RHCF located at 1045 West Street, Carthage, NY 13619
Owner/Landlord:	Carthage SNF Realty LLC
Lessee:	CLR Carthage LLC
Term:	40 years from Commencement Date
Rent:*	$256,028 ($21,336 per month).
Provisions:	Triple Net, plus

*Rent is estimated at $166,028 in fixed rent (Net Rent), based on the 25-year amortization of the mortgage, plus $90,000 in Over Rent. In addition to the $256,028 rental amount, the lessee will be billed for other expenses related to the premises incurred by the landlord.

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operating entity.

Consulting Services Agreement

The applicant has provided a draft consulting services agreement, summarized below:

Contractor:	Centers for Care LLC d/b/a Centers Health Care
Facility:	CLR Carthage LLC d/b/a The Country Manor Nursing and Rehabilitation Center
Affiliation:	The Facility will refer to itself as "Affiliated with Centers Health Care" or "Member of Centers Health Care" limited to marketing efforts and the identification of professionals, consultants, vendors and healthcare providers and other resources that can assist the Facility in the provision of care.
Consulting and Advisory Services:	The contractor will be responsible for the operation, supervision and oversight of all functions related to A/R and A/P, including assistance and supervision of staff in interacting with families, collection of NAMI and private funds, submission of award letters, and preparation of applications for payee, maintenance of billing files, monitoring payments to the facility by all payer sources, pursuing payments for delinquent accounts and assisting the facility, at the facility's expense. The contractor will provide assistance to and supervision of staff performing and providing the following services: all billing functions for all payer sources and maintenance of all billing and posting records and establishment of payroll budgets and schedule coordination with nursing and other departments. Responsible for the preparation of health facility assessment; assist the Facility with the preparation of RHCF 4 and Medicare cost reports; and reconciliation of billing records, Maintenance of electronic resident/patient billing files, fund records and accounts, and monthly operating cash flow projections. Assist the Facility in reviewing of rate sheets and filing of necessary appeals and audit facility's monthly pharmacy bills and the implementing of formulary management.
Clinical Consulting Services:	The contractor will provide advice and assistance to the Facility with respect to the administrative functioning of the Therapy, Social Services and Nursing departments. Develop operating policies and procedures, rules and methods of operation appropriate to such departments and the training and orientation of staff. Recommend procedures to ensure the consistency and quality of all the Services. Assist the Facility with respect to its CMI, Medicare, and case-mix reimbursement.
Other Duties:	Develop and implement a marketing plan; furnish sufficient part-time temporary licensed skilled professional staff for the health care activities described herein.

Term:	One-Year with automatic one-year renewals, unless terminated through mutual consent, default or by one party with 60-day written notice.
Fee:	The fees for the Services shall, to the maximum extent possible, represent the actual costs incurred by CHC in providing the Services to the Facility.

CLR Carthage LLC retains ultimate control in all of the final decisions associated with the services.

Centers for Care LLC will also provide consulting services to the other RHCFs transferred under the terms of the APA referenced above. Amir Abramchik is the Chief Operating Officer of the consulting services provider, Centers for Care LLC, and a member of the applicant. The Centers for Care LLC is equally owned by Kenneth Rozenberg and Beth Rozenberg.

The fees are estimated at $3,000,000 for the subject facility and the six facilities being acquired concurrently, and divided amongst the facilities as follows, based on the total licensed beds:

- The Capital Living Nursing and Rehabilitation Center, 240 beds: $935,066
- The Country Manor Nursing and Rehabilitation Centre, 90 beds: $350,649
- The Crossings Nursing and Rehabilitation Centre, 80 beds: $311,688
- The Mountain View Nursing and Rehabilitation Centre, 77 beds: $300,000
- The Orchard Nursing and Rehabilitation Centre, 88 beds, $342,857
- The Springs Nursing and Rehabilitation Centre, 78 beds, $303,896
- The Stanton Nursing and Rehabilitation Centre, 117 beds, $455,844

Operating Budget

The applicant has provided the current year (2015) results and the first and third year operating budgets subsequent to the change in ownership, in 2017 dollars, summarized as follows:

	Per Diem	Current Year	Per Diem	First Year	Per Diem	Third Year
Revenues						
Medicaid - FFS	$165.33	$3,934,394	$157.55	$3,810,662	$157.55	$3,890,855
Medicaid - MC	$165.33	35,546	$157.55	34,503	$157.55	35,134
Medicare - FFS	$496.89	768,197	$504.35	$792,334	$504.35	808,977
Medicare - MC	$274.98	123,465	$274.98	125,391	$274.98	128,141
Commercial	$350.00	31,850	$350.00	32,200	$350.00	32,900
Private Pay	341.16	1,571,373	353.00	1,652,746	353.00	1,687,340
Other Operating		22,488		0		0
Total		$6,487,313		$6,447,836		$6,583,347
Expenses						
Operating	$205.89	$6,321,769	$192.63	$6,011,471	$188.67	$6,011,471
Capital	20.68	634,958	14.77	460,981	13.88	442,100
Total Expenses	$226.57	$6,956,727	$207.40	$6,472,452	$202.55	$6,453,571
Net Income (Loss)		($469,414)		($24,616)		$129,776
RHCF Patient Days		30,704		31,207		31,863
Utilization %		93.47%		95%		97%

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

- The current year reflects the facility's 2015 revenues and expenses.
- Medicaid revenue is based on the facility's current 2015 Medicaid Regional Pricing rate. The Current Year Medicare rate is the actual daily rate experienced by the facility during 2015 and the forecasted Year One and Year Three Medicare rate is the actual daily rate experienced during 2016. The Private Pay rates were based on the current operator's average rates for 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by approximately 5% through various initiatives including renegotiating contracts.

- Projected utilization by payor source for the first and third year after the change in ownership is:

	Current Year	Years One and Three
Medicaid	78.20%	78.20%
Medicare	6.50%	6.50%
Private Pay & Commercial	15.30%	15.30%

- The breakeven utilization is projected at 95.5% for Year Three.

Capability and Feasibility

There are no project costs associated with this application. CLR Carthage LLC will acquire the RHCF's operations for $3,063,050, which will be funded via $809,262 in members' equity and a ten-year loan for $2,253,788 at the above stated terms. Carthage SNF Realty LLC will acquire the real property for $2,424,727 funded by $58,000 in members' equity and a ten-year loan for $2,366,727 at above stated terms. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively.

The working capital requirement is estimated at $1,078,742 based on two months of first year expenses. Funding will be as follows: $539,371 from the members' equity with the remaining $539,371 satisfied through a five-year loan at 5% interest rate. Harborview Capital Funding has provided a letter of interest. Review of BFA Attachments A and B, proposed members net worth summaries for the operator and real property owner, respectively, reveals sufficient resources to meet equity requirements. As previously stated, liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Carthage LLC and Carthage SNF Realty LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities (covering the purchase price and working capital equity). Additionally, Hillel Weinberger has provided affidavits stating he is willing to contribute resources, disproportionate to his membership interests, for the operating and realty entity balloon payments should terms acceptable to the Department be unavailable at the time of refinancing.

The submitted budget projects a $24,616 loss in the first year and a $129,776 profit by the third year. Revenues are estimated to decline by approximately $39,477. Overall expenses are expected to decline by $484,275 coming from a $310,298 reduction in operating expense and a $173,977 reduction in capital expenses ($287,137 reduction in leases & rent expenses, partially offset by an $113,160 increase in interest expense). The decline in operating expenses comes primarily from a $303,324 decrease in salary and wages coming mainly from a six FTE reduction (a change in the staffing model). The budget was created taking into consideration the proposed new owners' experience in operating a similar sized facilities.

BFA Attachment D is CLR Carthage LLC's pro forma balance sheet, which shows the entity will start with $1,373,249 in equity (which includes first year's loss). Equity includes $2,304,283 in goodwill which is not a liquid resource nor is it recognized for Medicaid reimbursement. If goodwill is eliminated, total net assets are a negative $931,034. The budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment E is a Financial Summary of Carthage Nursing and Rehabilitation Center, LLC d/b/a The Country Manor Nursing and Rehabilitation Centre for 2013 through December 31, 2015. For the 2013 through 2015 period, the RHCF had negative working capital, negative net assets and had losses that averaged $404,471 and experienced an average occupancy of 94.67%. The applicant stated that the operating losses were the results of a combination of facility's small size and expenditures exceeding reimbursement rates and revenue projections by payor. The losses accumulated over time resulting in negative positions. To reverse the trend, the applicant intends to reduce expenses by renegotiating vendor contracts, analyzing staffing expenses along with reworking staff schedules to keep overtime expenses down, and reduce bad debt expenses through an accounts receivable collection plan. Also included as part of Attachment E is DMN Management Services and Subsidiaries 2014 and 2015 certified statement, which shows working capital and net assets to be positive with operations showing a $449,584 profit in 2015 before non-recurring expenses of $360,000.

BFA Attachment F is the Internal Financial Summary through September 30, 2016, which shows the facility had positive working capital, positive net assets and had a loss after allocation of home office overhead. On a consolidated basis, the organization had a positive working capital, positive net assets and generated a loss.

BFA Attachment G is the Financial Summary of the proposed member's affiliated RHCFs, which shows the facilities maintained positive working capital, positive net assets, and generated positive net income.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	CLR Carthage LLC, Proposed Members Net Worth
BFA Attachment B	Carthage SNF Realty LLC, Proposed Members Net Worth
BFA Attachment C	Current and Proposed Owners of the Real Property
BFA Attachment D	Pro Forma Balance Sheet
BFA Attachment E	Financial Summary, Carthage Nursing and Rehabilitation Center, LLC and DMN Management Services LLC, 2014 & 2015 certified financial statements
BFA Attachment F	Internal Financial Summary, Carthage Nursing and Rehabilitation Center, LLC and DMN Management Services LLC,
BFA Attachment G	Proposed members ownership interest in Affiliated RHCFs and their Financial Summary

Public Health and Health Planning Council

Project # 162257-E
CLR Minoa LLC d/b/a The Crossings Nursing and Rehabilitation Center

Program:	**Residential Health Care Facility**	***County:***	**Onondaga**
Purpose:	**Establishment**	***Acknowledged:***	**October 11, 2016**

Executive Summary

Description

CLR Minoa LLC d/b/a The Crossings Nursing and Rehabilitation Center (The Crossings), a New York limited liability company, requests approval to be established as the new operator of The Crossings Nursing and Rehabilitation Centre, an 82-bed, proprietary, Article 28 residential health care facility (RHCF) located at 217 East Avenue, Minoa (Onondaga County). As a part of this application, the certified bed capacity will be reduced by two beds, bringing the total certified bed count to 80. A separate entity, Minoa SNF Realty LLC, will acquire the real property. There will be no change in services provided.

On June 16, 2015, the current operator, Minoa Nursing and Rehabilitation Center, LLC, entered into an Asset Purchase Agreement (APA) with CLR Minoa LLC for the sale and acquisition of the RHCF operating interests for $3,062,446. Subsequently, on September 21, 2016, Minoa Nursing and Rehabilitation Center, LLC and CLR Minoa, LLC executed the First Amendment to the Asset Purchase Agreement consenting to the change in the proposed membership of CLR Minoa LLC. Concurrently, on June 16, 2015, 217 East Avenue, LLC, the current realty owner, entered into a Real Estate Purchase Agreement (REPA) with Minoa SNF Realty LLC for the sale and acquisition of the real property for $3,054,015. The APA and REPA will close at the same time upon approval of this application by the Public Health and Health Planning Council (PHHPC). There is a relationship between CLR Minoa LLC and Minoa SNF Realty LLC in that Hillel Weinberger is a common member in both entities. The applicant will lease the premises from Minoa SNF Realty LLC.

Ownership of the operations before and after the requested change is as follows:

Current Operator Minoa Nursing and Rehabilitation Center, LLC		
Member		
DMN Management Services, LLC		100%
Anthony Durante	15%	
Patrick Martone	10%	
Jami Rogowski	15%	
Jodi Polsinelli	15%	
Lisa Marrello	15%	
Pamela Nichols	15%	
Mark Nichols	15%	

Proposed Operator CLR Minoa LLC d/b/a The Crossings Nursing and Rehabilitation Center	
Members	
Amir Abramchik	50%
Hillel Weinberger	50%

Concurrently under review, the applicant members of CLR Minoa, LLC and the realty members of Minoa SNF Realty LLC are seeking approval to acquire the operating and realty interests, respectively, in the following: The Capital Living Nursing and Rehabilitation Centre (CON 162255), The Country Manor Nursing and Rehabilitation Centre (CON 162256),The Mountain View Nursing and Rehabilitation Centre (CON 162258), The Orchard Nursing and Rehabilitation Centre (CON 162259), The Springs Nursing and Rehabilitation Centre (CON 162260), and The Stanton Nursing and Rehabilitation Centre (CON 162261).

OPCHSM Recommendation

Contingent Approval

Need Summary

The Crossings Nursing and Rehabilitation Centre will decertify two, bringing the total to 80 RHCF beds. This will help reduce excess bed resources in Onondaga County. The Crossings Nursing and Rehabilitation occupancy was 88.2% in 2012, 89.9% in 2013, 88.2% in 2014, and 82.8% in 2015. Current occupancy, as of December 07, 2016 is 80.5%.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

Financial Summary

There are no project costs associated with this application. CLR Minoa LLC will acquire the RHCF operations for $ 3,062,446 funded by $809,111 in members' equity and a ten-year loan for $2,253,335 at a 5% interest, amortized over 25 years. Minoa SNF Realty LLC will purchase the real property for $3,054,015 funded by $58,000 in members' equity and a ten-year loan for $2,996,015 at 5% interest, amortized over 25 years. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively. The projected budget is as follows:

	Year One
Revenues	$8,113,531
Expenses	7,020,990
Net Income	$1,092,541

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. 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 continue to enhance access to Medicaid residents. At 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 to 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; and
   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. [RNR]
3. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
   a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
   b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
   c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
   d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
   e. Other factors as determined by the applicant to be pertinent. [RNR]
4. Submission of an executed Consulting Services Agreement, acceptable to the Department of Health. [BFA]
5. Submission of an executed loan commitment for the purchase of the RHCF operations, acceptable to the Department of Health. [BFA]
6. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
7. Submission of an executed loan commitment for the purchase of the real property, acceptable to the Department of Health. [BFA]
8. Submission of a floor plan showing the two (2) beds to be decertified and the surrounding nursing unit(s), which is acceptable to the Department of Health. [LTC]
9. Submission of a photocopy of the applicant's amended lease agreement, acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's executed and amended Consulting Services Agreement, acceptable to the Department. [CSL]
11. Submission of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]

<u>Approval conditional upon</u>:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date

February 9, 2017

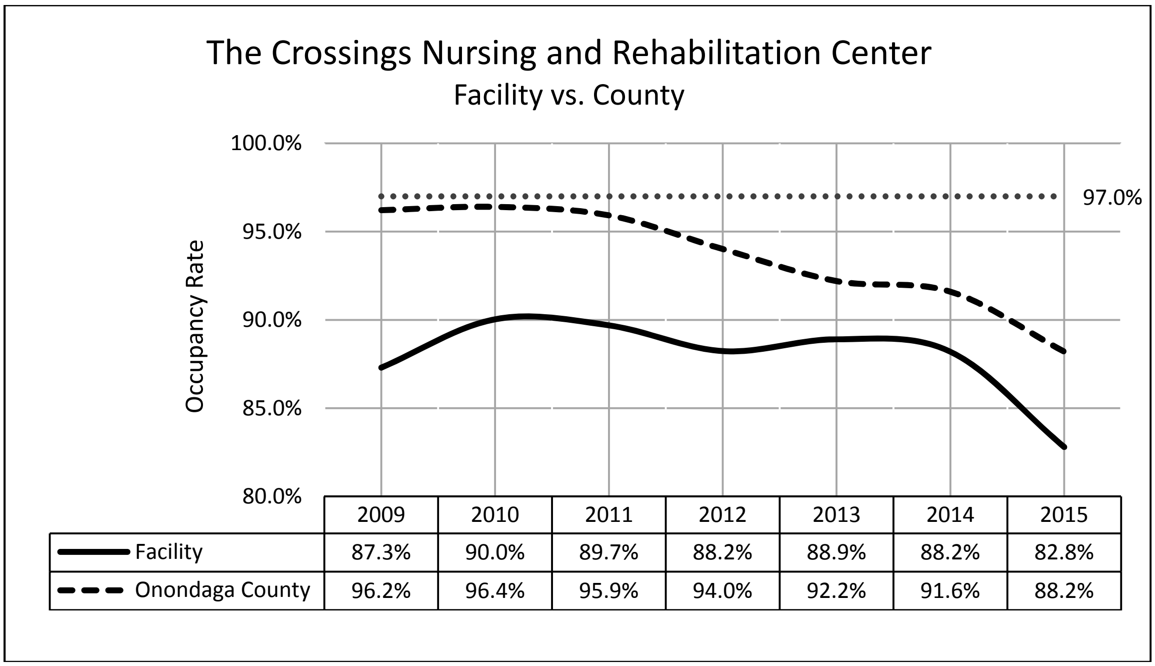
Need Analysis

Analysis

According to the current need methodology, there is a surplus of 484 beds in Onondaga County.

RHCF Need – Onondaga County

2016 Need	2,416
Current Beds	2,900
Beds Under Construction	0
Total Resources	2,900
Unmet Need	-484



	2009	2010	2011	2012	2013	2014	2015
Facility	87.3%	90.0%	89.7%	88.2%	88.9%	88.2%	82.8%
Onondaga County	96.2%	96.4%	95.9%	94.0%	92.2%	91.6%	88.2%

The overall occupancy for Onondaga County is 88.5% for 2015. The applicant recognizes that The Crossings is experiencing challenges with utilization. However, it is the applicant's position that the lower occupancy rates are not indicative of an absence of need, but rather, are attributable to correctable, operational deficiencies within the facility, primarily the restriction on admissions which has been in effect for an extended period of time as well as difficulty in retaining and recruiting staff. The current operator's decision to limit admissions to lower acuity patients has directly resulted in the sustained decline in occupancy. However, the applicant contends this trend can be readily reversed, resulting in significant improvement in a relatively short period of time, by the recruitment of staff capable of providing care for higher acuity residents.

The staffing challenges have largely been attributable to the impending change of ownership. The interim period prior to transition, which has been quite protracted, has been fraught with uncertainty, causing instability among staff as they attempt to assess the impact of the transition and seek alternative employment opportunities. Additionally, recruitment efforts have been impeded by the facility's ability to provide clear direction regarding the timing of thetransition in ownership and the impact it will have on facility operations.

Going forward, the applicant has provided the following plan for increasing and sustaining optimal occupancy rates:

- Plan to Accept More Clinically Complex Residents: The Crossings has had difficulty recruiting and retaining staff with the clinical expertise necessary to care for high acuity patients. As a result of this challenge, the Administration of The Crossings has consciously restricted admissions to low acuity patients. While the facility consistently receives referrals for high acuity patients, many of these patients are not accepted because the Administration does not want to jeopardize the safety and welfare of its patients. While accepting high acuity patients would significantly improve the facility's occupancy, the administration is unwilling to place its patients at risk. The applicant intends to address the facility's current clinical staff deficiencies by: (i) provide clinical expertise and training to existing staff; and (ii) implement staff recruiting measures. Additionally, the new operator will build on its existing strong relationships with local hospitals, including Crouse and SUNY Upstate hospitals and implement a specific initiative to accept more clinically complex and difficult to place residents in the local and Syracuse health care market. With a current CMI of 1.0280, the new operator sees this as an opportunity to better serve the skilled care needs of the surrounding community.
- Marketing and Community Outreach: The new operator will implement a marketing team, including a full-time marketer working in the field, and designated employee working within the facility that is focused on marketing efforts and community outreach. This dedication of resources will ensure availability of facility staff to meet with potential residents and families and answer questions at any time. In addition, the new operator will engage in targeted community outreach such as monthly open houses and town-hall style meetings allowing staff, local healthcare providers, residents and potential residents to visit the facility, and meet and discuss the needs and desires of the community. The local long term care ombudsman will also be invited to participate in these meetings.
- Plan and Provider Outreach: The new operator will develop and implement a program for improved collaboration with local health plans, including managed long term care plans, hospital discharge planners, local assisted living facilities, home care providers and other local health care providers and agencies, including the Onondaga County Department of Social Services and Onondaga County Office for Aging. Enhanced provider relationships and familiarity with the facility and its staff will result in better care for residents upon transfer to the facility as well as increased demand for the facility's services. In addition, the new operator will seek to partner with the local DSRIP Performing Provider System, Central New York Care Collaborative.
- Staff Training, Development and Support: The new operator will seek to retain all existing staff, and implement new management and staff training and leadership programs that will encourage interaction and collaboration of staff across the seven (7) commonly owned nursing homes. In order to encourage staff retention and development, staff will also be provided with career-pathing opportunities among all facilities. The new operator will seek to employ as many full time employees as possible, offering a competitive wage and compensation package. In addition, the new owner has also recently contracted with a staffing company to facilitate locating and hiring qualified staff, when needed, at all of its facilities.
- Contracts with MLTCPs: The Crossings has contracts with the following MLTCPs: VNA Home Care Options, VNSNY Choice, HAMASPIK, Wellcare and Fidelis.
- Optuum Evercare Program: The Crossing has signed a contract and expects to implement this program by the end of 2016. The Optuum Evercare Program manages long term dual eligible patients with increased monitoring and services to avoid hospitalizations through a waiver with CMS.
- Landmark Program: This program will result in an increase in direct admissions and hospital diversions as Landmark physicians will be managing patients in the community with the goal of avoiding unnecessary hospitalizations. Landmark has contracted only with the Capital Living facilities. As noted in the attached letter, "Landmark Health chose Capital Living as a clinical community partner due to Capital Living's reputation for high quality of care that closely aligns with Landmark's standards for superior clinical care."
- Food Service Improvements: The new operator will hire an executive chef and institute a fine dining program which will result in significant improvement in quality of resident daily life as well as the reputation of the facility.

The cumulative effect of the foregoing factors will allow the facility to significantly improve occupancy rates, meeting and sustaining occupancy rates at or above the Department's planning optimum.

Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

The Crossings Nursing and Rehabilitation's Medicaid admissions of 6.6% in 2014 did not exceed the Onondaga County 75% rate of 12.7% in 2014. The Crossings Nursing and Rehabilitation's Medicaid admissions of 3.5% in 2015 did not exceed the Onondaga County 75% rate of 15.6%.

Conclusion

Approval of this application will result in maintaining a necessary resource in Onondaga County, while addressing the facility's suboptimal utilization.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	The Crossings Nursing and Rehabilitation Centre	Same
Address	217 East Avenue Minoa, NY 13116	Same
	82	80
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Proprietary
Operator	Minoa Nursing and Rehabilitation Center, LLC	CLR Minoa, LLC Amir Abramchik 50% Hillel Weinberger 50%

Character and Competence - Background

<u>Facilities Reviewed</u>

<u>Nursing Homes</u>

Chittenango Center for Rehabilitation and Health Care	05/2011 to 7/16
Rome Center for Rehabilitation and Health Care	05/2011 to 8/16
Fulton Center for Rehabilitation and Health Care	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	04/2012 to present
Corning Center for Rehabilitation and Health Care	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	11/2014 to present

Individual Background Review

Amir Abramchik is a licensed nursing home administrator in good standing in New York, New Jersey and Rhode Island. Mr. Abramchik has been employed by Centers for Specialty Care as the director of special projects since 2007. Previously he was employed as administrator of Queens Center for Rehabilitation and Health Care and Dutchess Center for Rehabilitation and Health Care. Mr. Abramchik discloses the following health facility interests with associated ownership percentages:

Fulton Center for Rehabilitation and Health Care	(10%)	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	(2%)	04/2012 to present
Corning Center for Rehabilitation and Health Care	(11%)	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	(95%)	11/2014 to present

Hillel Weinberger has been retired since 2012. He was formerly employed as the co-founder of Hillmark Capital, a financial planning business. He also has been serving as the the President of Ptach (a special needs school) for the last ten years. Mr Weinberger discloses no health facility ownership interests.

Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants identified as new members.

A review of operations of Fulton Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $52,000 pursuant to a Stipulation and Order NH-16-004 issued April 23. 2015 for surveillance findings on June 11, 2012, May 15, 2012, and November 21, 2013. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.12(i)(1) Quality of Care: Nutrition; 415.12(h)(1) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(i)(1) Quality of Care: Nutrition; 415.12(c)(2) Quality of Care: Pressure Sores; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.3(e)(2)(ii)(b) Notification of Changes; and 415.4(b)(1)(2)(3) Investigative/Report Allegations.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-12-39 issued on September 17, 2012 for surveillance findings on March 24, 2014. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores.
- A federal CMP of $975 was assessed for the June16, 2012 survey findings.
- A federal CMP of $11,895 was assessed for the May 15, 2013 survey findings.
- A federal CMP of $10,000 was assessed for the November 21, 2013 survey findings

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Fulton Center was a former County facility that had a high turnover of the facility's County employed staff after the current operators took over in April of 2012. The current operators had a period of transition after takeover where they had to hire and train new staff at the facility in order to maintain staffing levels needed.

A review of operations of Richmond Center for Rehabilitation and Specialty Healthcare for the period identified above reveals the following:

- The facility was fined $18,000 pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.
- A federal CMP of $27,528 was assessed for the April 24, 2012 survey findings.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-041 issued January 13, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.

- The facility was fined $10,000 pursuant to a Stipulation and Order issued for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Richmond Center has 300 certified beds with 72 of those beds servicing neurobehavioral residents in dedicated neurobehavioral units. This population can be difficult to serve and the initial survey findings in 2012 reflect a transition of this facility immediately after the current operators took over in April of 2012, with this initial enforcement occurring days after the official transition of ownership.

A review of operations of Ontario Center for Rehabilitation and Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $12,000 pursuant to a Stipulation and Order issued for surveillance findings on June 12, 2015. Deficiencies were found under 10 NYCRR 415.3(e)(2)(iii)- Notice of Rights and Services-Right to Refuse Treatment, Refuse to Participate in Research and the Right to Be Able to Formulate an Advance Directive; and 415.12(m)(2)- Quality of Care No Significant Medication Errors.

Since there were no other enforcements, the requirements for approval have been met as set forth in Public Health Law §2801-1(3).

A review of operations for Chittenango Center for Rehabilitation and Health Care, Rome Center for Rehabilitation and Health Care, and Corning Center for Rehabilitation and Health Care for the periods identified above, results in a conclusion of substantially consistent high level of care since there were no enforcements

Quality Review

Provider Name	**Overall**	**Health Inspection**	**Quality Measures**
The Grand Rehabilitation & Nursing At Chittenango	**	**	****
The Grand Rehabilitation And Nursing At Rome	*	*	***
Fulton Center For Rehabilitation And Healthcare	**	*	**
Richmond Center For Rehab And Specialty HC	****	***	**
Ontario Center For Rehabilitation And Healthcare	**	*	**
Corning Center For Rehabilitation And Healthcare	*	*	**

Project Review

This application proposes a reduction of two RHCF beds. The applicant has not provided plans showing the specific rooms and to be decertified and affected nursing units, which results in the addition of a contingency to this project. No other changes in the program or physical environment are proposed in this application.

The proposed operator intends to enter into a Consulting Services Agreement with Centers Health Care for consulting and advisory services related to administrative and operational functions.

The proposed operator was asked to explain the low star ratings. The operator has stated they have implemented initiatives to recruit and retain employees providing direct care services. They also plan on employing a combination of measures to correct deficiency issues, including in-service education, changes to policies and procedures when necessary, implementation of weekly observation and auditing of staff practices, and monthly review of the findings by the quality assurance committee.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Asset Purchase Agreement

The applicant has submitted an executed APA to acquire the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	June 16, 2015
Seller:	Minoa Nursing and Rehabilitation Center, LLC
Buyer:	CLR Minoa LLC
Asset Acquired:	The business and operation of the facility; leasehold improvements, furniture, fixtures and equipment owned or leases by seller; inventory, supplies, and other articles of personal property; transferable contracts, agreements, leases and undertakings; resident funds in trust; the name " The Crossings Nursing and Rehabilitation Center"; security deposits and prepayments; manuals and computer software; resident/patient records; goodwill; all books and records relating to the facility; licenses and permits; Medicare and Medicaid provider numbers; rate increases and/or lump sum or other payments, resulting from rate appeals, audits or otherwise; patient claims, accounts receivable on and after closing date; leases and assets of seller relating to the facility.
Excluded Assets:	Real Estate which is the subject of the real estate contract; insurance policies; union agreement and pension plans; rate increases and/or lump sum payments; tax refunds including real estate tax refunds relating to a period or periods prior to the closing date; amounts due from parties related to seller; seller's cash and cash equivalents; prepaid expenses; claims, causes of action and legal rights for periods prior to the closing date; receivables from any affiliated of seller; and payments made in connections with "Universal Appeal Settlement".
Assumed Liabilities:	Liabilities and obligations arising with respect to the operation of the Facility on and after the Closing Date; trade accounts payable for items purchased by the Seller prior to Closing (estimated at $525,000)
Purchase Price:	$3,062,446
Payment of Purchase Price:	$58,000 upon execution $3,004,446 due at closing.

The purchase price of the operations is proposed to be satisfied as follows:

Equity - CLR Minoa LLC Members	$809,111
Loan (10-year, 25-year amortization, 5% interest)	2,253,335
Total	$3,062,446

Greystone Funding Corporation has provided a letter of interest at the stated terms.

First Amendment to Asset Purchase Agreement

The applicant has submitted an executed First Amendment to the APA for the acquisition of the RHCF's operating interest, which will become effective upon the PHHPC approval. The terms are summarized below

Date:	September 21, 2016
Seller:	Minoa Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Minoa LLC
Change:	To implement the removal of Joseph Zupnik and Elisa Zupnik from ownership in the purchaser and the addition of Hillel Weinberger and Amir Abramchik as the sole owners of the purchaser.

The APA establishes a Total Purchase Price of $86,500,000 as total consideration for the assets transferred (as defined above), the real property (as defined below), and the assets of the sellers under all other APAs and REPAs related to the following entities: 1940 Hamburg Street, LLC (Realty, vacant property); MacDonald Road Corporation (Realty, Home Office); DMN Management Services, LLC (Home Office Assets); and the operating assets and real property associated with the following CONs concurrently under review:

CON 162256 **-** The Country Manor Nursing and Rehabilitation Centre, 90 beds, Jefferson County;
CON 162255 **-** The Capital Living Nursing and Rehabilitation Centre, 240 beds, Schenectady County;
CON 162258 **-** The Mountain View Nursing and Rehabilitation Centre, 77 beds, Ulster County;
CON 162259 **-** The Orchard Nursing and Rehabilitation Centre, 88 beds, Washington County;
CON 162260 **-** The Springs Nursing and Rehabilitation Centre, 78 beds, Rensselaer County; and
CON 162261 **-** The Stanton Nursing and Rehabilitation Centre, 117 beds, Warren County.

Please note the above bed counts for CON 162258, CON 162260 and CON 162261 reflect bed reductions anticipated upon establishment.

North Broadway Office Operations, LLC will acquire the operating interests of DMN Management Services (DMN), referenced above, for $258,000. The staff of DMN currently provide services including QA/QI, billing, IT management, payroll, audit, accounts receivable and human resources. After the change in ownership, DMN Management Services will no longer exist.

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. As of November 14, 2016, the facility had outstanding Medicaid liabilities of $11,087.40.

Purchase and Sale Agreement for the Real Property

The applicant has submitted an executed REPA to acquire the real property. The terms of the agreement are summarized below:

Date:	June 16, 2015
Seller:	217 East Avenue, LLC
Buyer:	Minoa SNF Realty LLC
Asset Transferred:	Real Property located at 217 East Avenue, Minoa, NY
Purchase Price:	$3,054,015
Payment of Purchase Price	$58,000 upon execution: $2,996,015 at closing

The purchase price of the real property is proposed to be satisfied as follows:

Equity - Minoa SNF Realty LLC Members	$58,000
Loan (10-year, 25-year amortization, 5% interest)	2,996,015
Total	$3,054,015

Capital Funding, LLC has provided a letter of interest at the stated terms.

BFA Attachments A and B are the net worth summaries for the proposed members of CLR Minoa LLC (operator) and Minoa SNF Realty LLC (real property owner), respectively. Review of the net worth statements reveals sufficient resources to meet the equity requirements. It is noted that liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger**,** a member of CLR Minoa LLC and Minoa SNF Realty LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities to make up any members' equity shortfall in contributing to the purchase price and/or working capital needs.

Hillel Weinberger has provided affidavits, disproportionate to his membership interests, to fund the operating and real property loan balloon payments, should terms acceptable to the Department be unavailable at the time of refinancing.

Lease Agreement

The applicant submitted an executed lease agreement, the terms of which are summarized below:

Date:	October 31, 2016
Premises:	82-bed RHCF located at 217 East Avenue, Minoa, NY 13116
Landlord:	Minoa SNF Realty LLC
Lessee:	CLR Minoa LLC
Term:	40 years from Commencement Date
Rent:*	$292,173 ($24,348 per month).
Provisions:	Triple Net, plus

*Rent is estimated at $210,173 in fixed rent (Net Rent) based on the 25-year amortization of the mortgage, plus $ 82,000 in Over Rent. In addition to the total $292,173 rental amount, the lessee will be billed for other expenses related to the premises incurred by the landlord.

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operating entity.

Consulting Services Agreement

The applicant has provided a draft consulting services agreement, summarized below:

Contractor:	Centers for Care LLC d/b/a Centers Health Care
Facility:	CLR Minoa LLC, d/b/a The Crossings Nursing and Rehabilitation Center
Affiliation:	The Facility will refer to itself as "Affiliated with Centers Health Care" or "Member of Centers Health Care, limited to marketing efforts and the identification of professionals, consultants, vendors and healthcare providers and other resources that can assist the Facility in the provision of care.
Consulting and Advisory Services:	The contractor will be responsible for the operation, supervision and oversight of all functions related to A/R and A/P, including assistance and supervision of staff in interacting with families, collection of NAMI and private funds, submission of award letters, and preparation of applications for payee, maintenance of billing files, monitoring payments to the facility by all payer sources, pursuing payments for delinquent accounts and assisting the facility, at the facility's expense. The contractor will provide assistance to and supervision of staff performing and providing the following services: all billing functions for all payer sources and maintenance of all billing and posting records and establishment of payroll budgets and schedule coordination with nursing and other departments. Responsible for the

	preparation of health facility assessment; assist the Facility with the preparation of RHCF 4 and Medicare cost reports; and reconciliation of billing records, Maintenance of electronic resident/patient billing files, fund records and accounts, and monthly operating cash flow projections. Assist the Facility in reviewing of rate sheets and filing of necessary appeals and audit facility's monthly pharmacy bills and the implementing of formulary management.
Clinical Consulting Services:	The contractor will provide advice and assistance to the Facility with respect to the administrative functioning of the Therapy, Social Services and Nursing departments. Develop operating policies and procedures, rules and methods of operation appropriate to such departments and the training and orientation of staff. Recommend procedures to ensure the consistency and quality of all the Services. Assist the Facility with respect to its CMI, Medicare, and case-mix reimbursement.
Other Duties:	Develop and implement a marketing plan; furnish sufficient part-time temporary licensed skilled professional staff for the health care activities described herein
Term:	One Year with automatic one year renewals, unless terminated through mutual consent, default or by one party with 60-day written notice.
Fee:	The fees for the Services shall, to the maximum extent possible, represent the actual costs incurred by CHC in providing the Services to the Facility.

CLR Minoa LLC retains ultimate control in all of the final decisions associated with the services.

Centers for Care LLC will also provide consulting services to the other RHCFs transferred under the terms of the APA referenced above. Amir Abramchik is the Chief Operating Officer of the consulting services provider, Centers for Care LLC, and a member of the applicant. The Centers for Care LLC is equally owned by Kenneth Rozenberg and Beth Rozenberg.

The fees are estimated at $3,000,000 for the subject facility and the six facilities being acquired concurrently, and divided amongst the facilities as follows, based on the total licensed beds:

- The Capital Living Nursing and Rehabilitation Center, 240 beds: $935,066
- The Country Manor Nursing and Rehabilitation Centre, 90 beds: $350,649
- The Crossings Nursing and Rehabilitation Centre, 80 beds: $311,688
- The Mountain View Nursing and Rehabilitation Centre, 77 beds: $300,000
- The Orchard Nursing and Rehabilitation Centre, 88 beds, $342,857
- The Springs Nursing and Rehabilitation Centre, 78 beds, $303,896
- The Stanton Nursing and Rehabilitation Centre, 117 beds, $455,844

Operating Budget

The applicant has provided the current year (2015) results and the first year operating budget subsequent to the change in ownership, in 2017 dollars, summarized as follows:

	Current Year		Year One	
	Per Diem	82 Beds	Per Diem	80 Beds
Revenue				
Medicaid-FFS	$209.63	$3,291,221	$211.07	$3,709,766
Medicaid-MC	$209.63	$21,802	$211.07	$24,484
Medicare-FFS	$489.49	$1,314,766	$496.83	$1,493,968
Medicare-MC	$466.72	$511,994	$466.72	$573,132
Commercial-FFS	$350.00	$239,750	$350.00	$268,450
Private Pay	$393.23	$1,772,269	$405.02	$2,043,731
Other Income		9552		0
Total Revenue		$7,161,354		$8,113,531
Expenses				
Operating	$269.26	$7,167,484	$217.76	$6,512,532
Capital	$17.81	$473,994	$17.00	$508,458
Total Expenses		$7,641,478		$7,020,990

Net Income	($480,012)	$1,092,541
RHCF Patient Days	24,779	27,740
Utilization %	83%	95%

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

- The Current Year reflects the facility's 2015 revenues and expenses based on 82 beds.
- Medicaid revenue is based on the facility's current 2016 Medicaid Regional Pricing rate. The Current Year Medicare rate is the actual daily rate experienced by the facility during 2015 and the forecasted Year One and Year Three Medicare rate is the actual daily rate experienced during 2016. The Private Pay rate is based upon the current average rates during 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by approximately 9.1% through various initiatives including renegotiating contracts.
- Utilization by payer source for the first year after the change in ownership is summarized below:

	Current Year 82 Beds	Year One 80 Beds
Medicaid-FFS	63.36%	63.36%
Medicaid-MC	0.42%	0.42%
Medicare-FFS	10.84%	10.84%
Medicare-MC	4.43%	4.43%
Commercial-FFS	2.76%	2.76%
Private Pay	18.19%	18.19%
Total	100%	100%

- The breakeven utilization is projected at 82.21% for the first year.

Capability and Feasibility

There are no project costs associated with this application. CLR Minoa LLC will acquire the RHCF's operations for $3,062,446, which will be funded via $809,111 in members' equity and a ten-year loan for $2,253,335 at the above stated terms. Minoa SNF Realty LLC will acquire the real property for $3,054,015 funded by $58,000 in members' equity and a ten-year loan for $2,996,015 at above stated terms. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively.

The working capital requirement is estimated at $1,170,166 based on two months of first year expenses. Funding will be as follows: $585,083 from the members' equity with the remaining $585,083 satisfied through a five-year loan at 5% interest rate. Harborview Capital Funding has provided a letter of interest. Review of BFA Attachments A and B, proposed members net worth summaries for the operator and real property owner, respectively, reveals sufficient resources to meet equity requirements. As previously stated, liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Minoa LLC and Minoa SNF Realty, LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entitles (covering the purchase price and working capital equity). Additionally, Hillel Weinberger has provided affidavits stating he is willing to contribute resources, disproportionate to his membership interests, for the operating and realty entity balloon payments should terms acceptable to the Department be unavailable at the time of refinancing.

The submitted budget projects $1,092,541 of net income in Year One after the change in ownership. Revenues are estimated to increase by approximately $952,177 or approximately 13% based on an increase in occupancy (going from 83% to 95%). Overall expenses are expected to decline by $620,488, coming from a $654,952 reduction in operating expense, partially offset by a $34,464 increase in capital items. The decline in operating expenses comes primarily from the following: a $326,394 decrease in fringe benefits cost, a $138,716 decrease in salary and wages due to a change in the staffing model. The balance or $189,842 in expense reduction comes from various other items. The budget was created taking into consideration the proposed new owners' experience in operating similar sized facilities.

BFA Attachment D is CLR Minoa, LLC's pro forma balance sheet, which shows the entity will start with $1,394,195 in member's equity. Equity includes $2,099,458 in goodwill, which is not a liquid resource nor is it recognized for Medicaid Reimbursement. If goodwill is eliminated, total net assets are a negative $705,263.

DOH staff note that, through August 31, 2016, utilization was approximately 89% (adjusted for 80 beds), which is less than the first year's projections by approximately 6%. BFA Attachment H is a budget sensitivity analysis that incorporates actual patient days as of August 31, 2016, and then annualized for 80 beds while using the applicant's projected payer mix and expenses for the first year. Based upon this scenario, net profits would decline by $536,171 to $556,370. For comparison, the internal financial summary for the eight months ending September 30, 2016, showed a surplus of $422,871 before allocation of Home Office Overhead (HO) and net income of $90,185 after HO. The budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing Medicaid NH revenues through the transition period.

BFA Attachment E is the Financial Summary of Minoa Nursing and Rehabilitation Center, LLC d/b/a The Crossings Nursing and Rehabilitation Centre for 2013 through 2015. As shown, the RHCF had an average positive working capital position of $2,040,062, average positive net assets of $2,246,325, and an average positive income of $17,097 for the period. Also included as part of Attachment E is DMN Management Services and Subsidiaries' 2015 certified financial statement, which shows working capital and net assets to be positive with operations showing a $449,584 profit in 2015 before non-recurring expenses of $360,000.

BFA Attachment F is the internal financial statements for The Crossings Nursing & Rehabilitation Center as of September 30, 2016, which shows positive working capital, positive net assets and the net income of $90,185 after allocation of Home Office overhead. On a consolidated basis, the organization had a positive working capital, positive net assets and generated a loss.

BFA Attachment G is a Financial Summary of the proposed member's affiliated nursing homes. The affiliated RHCFs show positive working capital, positive net assets and average positive net income.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth of Proposed Members of CLR Minoa LLC
BFA Attachment B	Net Worth of Proposed Realty Members of Minoa SNF Realty, LLC
BFA Attachment C	Current and Proposed Owners of the Real Property
BFA Attachment D	Pro Forma Balance Sheet
BFA Attachment E	Financial Summary of The Crossings Nursing and Rehabilitation Centre LLC and DMN Management Services LLC, 2015 certified financial statement
BFA Attachment F	Internal Financial Statement of The Crossings Nursing & Rehab Centre and Capital Living & Rehab Centre and DMN Management Services LLC
BFA Attachment G	Financial Summary of Proposed Member's Affiliated RHCFs
BFA Attachment H	Budget Sensitivity Analysis

Public Health and Health Planning Council

Project # 162258-E
CLR New Paltz LLC d/b/a The Mountain View Nursing and Rehabilitation Center

Program:	**Residential Health Care Facility**	***County:***	**Ulster**
Purpose:	**Establishment**	***Acknowledged:***	**October 7, 2016**

Executive Summary

Description

CLR New Paltz LLC d/b/a The Mountain View Nursing and Rehabilitation Center, a New York limited liability company, requests approval to be established as the new operator of The Mountain View Nursing and Rehabilitation Centre, a 79-bed, proprietary, Article 28 residential health care facility (RHCF) located at 1 Jansen Road, New Paltz (Ulster County). As a part of this application, the certified bed capacity will be reduced by two beds, bringing the total certified bed count to 77. A separate entity, New Paltz SNF Realty LLC will acquire the real property. There will be no change in services provided.

On June 16, 2015, the current operator, Jansen Road Nursing and Rehabilitation Center, LLC, entered into an Asset Purchase Agreement (APA) with CLR New Paltz LLC for the sale and acquisition of the RHCF operating interests for $2,802,844. Subsequently, on September 21, 2016, Jansen Road Nursing and Rehabilitation Center, LLC and CLR New Paltz, LLC executed the First Amendment to the Asset Purchase Agreement consenting to the change in the proposed membership of CLR New Paltz LLC. Concurrently on June 16, 2015, MacDonald Road Corporation, the current real property owner, entered into a Real Estate Purchase Agreement (REPA) with New Paltz SNF Realty LLC for the sale and acquisition of the real property for $3,354,904. The APA and REPA will close at the same time upon approval of this application by the Public Health and Health Planning Council (PHHPC). There is a relationship between CLR New Paltz LLC and New Paltz SNF Realty LLC in that Hillel Weinberger is a common member in both entities. The applicant will lease the premises from New Paltz SNF Realty LLC.

Ownership of the operations before and after the requested change is as follows:

Current Operator Jansen Road Nursing and Rehabilitation Center, LLC		
Member		
DMN Management Service, LLC		100%
Anthony Durante	15%	
Patrick Martone	10%	
Jami Rogowski	15%	
Jodi Polsinelli	15%	
Lisa Marrello	15%	
Pamela Nichols	15%	
Mark Nichols	15%	

Proposed Operator CLR New Paltz, LLC d/b/a The Mountain View Nursing and Rehab Center	
Members	
Amir Abramchik (Manager)	50%
Hillel Weinberger	50%

Concurrently under review, the applicant members of CLR New Paltz LLC and the realty members of New Paltz SNF Realty LLC are seeking approval to acquire the operating and realty interests, respectively, in the following: The Crossings Nursing and Rehabilitation Centre (CON 162257), The Capital Living Nursing and Rehabilitation Centre (CON

162255), The Country Manor Nursing and Rehabilitation Centre (CON 162256), The Orchard Nursing and Rehabilitation Centre (CON 162259), The Springs Nursing and Rehabilitation Centre (CON 162260), and The Stanton Nursing and Rehabilitation Centre (CON 162261).

OPCHSM Recommendation
Contingent Approval

Need Summary
This proposal will decrease the number of RHCF beds at the facility from 79 to 77. The Mountain View Nursing and Rehabilitation Centre's occupancy was 87.2% in 2013, 87.0% in 2014, and 84.0% in 2015. Current occupancy, as of December 7, 2016, is 83.5%.

Program Summary
No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

Financial Summary
There are no project costs associated with this application. CLR New Paltz LLC will acquire the RHCF's operations for $2,802,844 funded by $744,211 in members' equity and a ten-year loan for $2,058,633 at 5% interest, amortized over 25 years. New Paltz SNF Realty LLC will acquire the real property for $3,354,904, funded by $58,000 in members' equity and a ten-year loan for $3,296,904 at 5% interest, amortized over 25 years. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively. The projected budget is as follows:

	Year One
Revenues	$7,496,385
Expenses	$6,955,491
Net Income	$540,894

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. 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 continue to enhance access to Medicaid residents. At 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 to 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; and
    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. [RNR]
3. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
    a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
    b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
    c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
    d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
    e. Other factors as determined by the applicant to be pertinent. [RNR]
4. Submission of an executed Consulting Services Agreement, acceptable to the Department of Health. [BFA]
5. Submission of an executed loan commitment for the purchase of RHCF operations, acceptable to the Department of Health. [BFA]
6. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
7. Submission of an executed loan commitment for the purchase of the RHCF's real property, acceptable to the Department of Health. [BFA]
8. Submission of a floor plan showing the two (2) beds to be decertified and the surrounding nursing unit(s), which is acceptable to the Department of Health. [LTC]
9. Submission of a photocopy of the applicant's amended lease agreement, acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's executed and amended Consulting Services Agreement, acceptable to the Department. [CSL]
11. Submission of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]

<u>Approval conditional upon</u>:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date
February 9, 2017

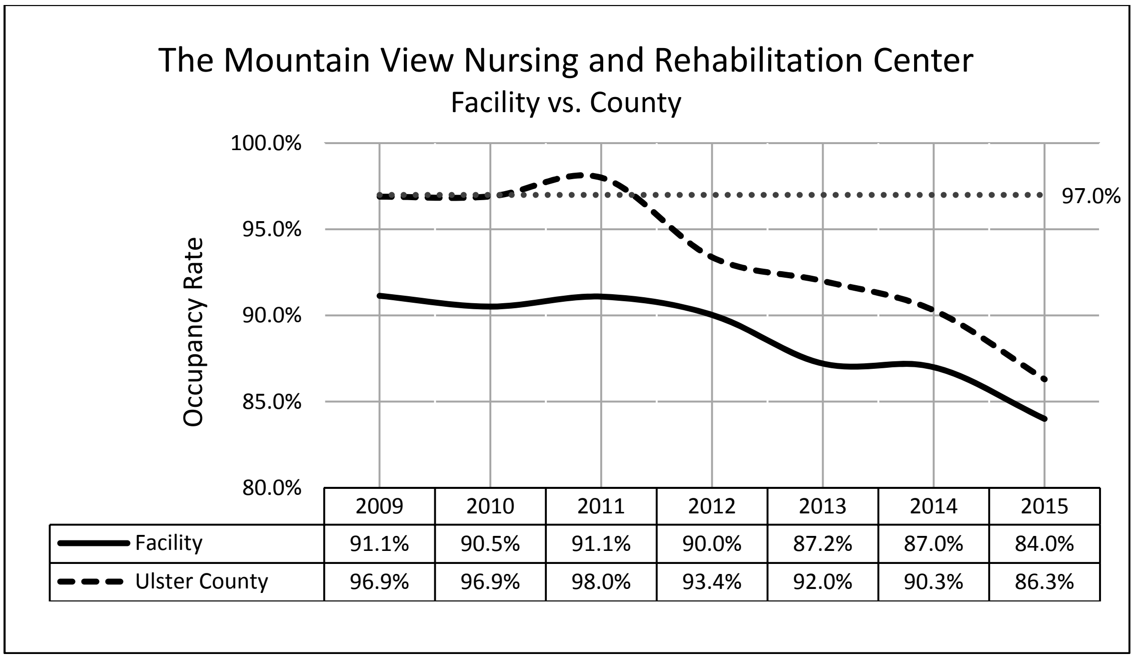
Need Analysis

Analysis

The current need methodology shows a need for 89 beds in Ulster County.

RHCF Need - Ulster County

2016 Projected Need	1,078
Current Beds	989
Beds Under Construction	0
Total Resources	989
Unmet Need	89



The overall occupancy for Ulster County was 92.0% for 2013 but decreased to 86.3% in 2015. The Mountain View Nursing and Rehabilitation Centre's occupancy was 87.2% in 2013, 87.0% in 2014, and 84.0% in 2015. Current occupancy, as of December 7, 2016 is 83.5%.

According to the applicant, the low occupancy rates are likely the result of underutilized short-term rehab services as well as the lack of properly marketing the facility. Current CMI at this facility is 1.05. The applicant noted the following plans to increase occupancy to the Department's planning optimum:

- Development of a Short-Term Rehabilitation Program: while these services currently exist at the facility, they are not well marketed or utilized. The applicant will implement a program aimed at attracting residents in need of short-term rehabilitation;
- Marketing and Community Outreach: implement a marketing team, including a full-time marketer working in the field and a designated employee working within the facility;
- Plan and Provider Outreach: develop and implement a program for improved collaboration with local health plans, hospital discharge planners, local assisted living facilities, home care providers, and other local health care providers and agencies to enhance provider relationships and familiarity with the facility and its staff;
- Staff Training, Development, and Support: implement new management and staff training and leadership programs that will encourage interaction and collaboration of staff across all commonly-owned nursing homes;
- Food Service Improvements: institute a fine-dining program and hire an executive chef; and

- Environmental Improvements: implement various cosmetic improvements to make the facility more updated and attractive.

Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

The Mountain View Nursing and Rehabilitation Centre's Medicaid admissions of 17.9% did not exceed the Ulster County 75% rate of 22.4% in 2014. The Mountain View Nursing and Rehabilitation Centre's Medicaid admissions of 16.5% did not exceed the Ulster County 75% rate of 19.1% in 2015.

Conclusion

Approval of this application will result in maintaining a necessary resource in Ulster County, while addressing the facility's suboptimal utilization.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	The Mountain View Nursing and Rehabilitation Centre	Same
Address	1 Jansen Road PO Box 909 New Paltz, NY 12561	Same
	79	77
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Proprietary
Operator	Jansen Road Nursing and Rehabilitation Center, LLC	CLR New Paltz, LLC Amir Abramchik 50% Hillel Weinberger 50%

Character and Competence - Background

<u>Facilities Reviewed</u>

<u>Nursing Homes</u>

Chittenango Center for Rehabilitation and Health Care	05/2011 to 7/16
Rome Center for Rehabilitation and Health Care	05/2011 to 8/16
Fulton Center for Rehabilitation and Health Care	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	04/2012 to present
Corning Center for Rehabilitation and Health Care	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	11/2014 to present

Individual Background Review

Amir Abramchik is a licensed nursing home administrator in good standing in New York, New Jersey and Rhode Island. Mr. Abramchik has been employed by Centers for Specialty Care as the director of special projects since 2007. Previously he was employed as administrator of Queens Center for Rehabilitation and Health Care and Dutchess Center for Rehabilitation and Health Care. Mr. Abramchik discloses the following health facility interests with associated ownership percentages:

Fulton Center for Rehabilitation and Health Care	(10%)	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	(2%)	04/2012 to present
Corning Center for Rehabilitation and Health Care	(11%)	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	(95%)	11/2014 to present

Hillel Weinberger has been retired since 2012. He was formerly employed as the co-founder of Hillmark Capital, a financial planning business. He also has been serving as the the President of Ptach (a special needs school) for the last ten years. Mr Weinberger discloses no health facility ownership interests.

Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants identified as new members.

A review of operations of Fulton Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $52,000 pursuant to a Stipulation and Order NH-16-004 issued April 23. 2015 for surveillance findings on June 11, 2012, May 15, 2012, and November 21, 2013. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.12(i)(1) Quality of Care: Nutrition; 415.12(h)(1) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(i)(1) Quality of Care: Nutrition; 415.12(c)(2) Quality of Care: Pressure Sores; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.3(e)(2)(ii)(b) Notification of Changes; and 415.4(b)(1)(2)(3) Investigative/Report Allegations.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-12-39 issued on September 17, 2012 for surveillance findings on March 24, 2014. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores.
- A federal CMP of $975 was assessed for the June16, 2012 survey findings.
- A federal CMP of $11,895 was assessed for the May 15, 2013 survey findings.
- A federal CMP of $10,000 was assessed for the November 21, 2013 survey findings

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Fulton Center was a former County facility that had a high turnover of the facility's County employed staff after the current operators took over in April of 2012. The current operators had a period of transition after takeover where they had to hire and train new staff at the facility in order to maintain staffing levels needed.

A review of operations of Richmond Center for Rehabilitation and Specialty Healthcare for the period identified above reveals the following:

- The facility was fined $18,000 pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.
- A federal CMP of $27,528 was assessed for the April 24, 2012 survey findings.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-041 issued January 13, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.

- The facility was fined $10,000 pursuant to a Stipulation and Order issued for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Richmond Center has 300 certified beds with 72 of those beds servicing neurobehavioral residents in dedicated neurobehavioral units. This population can be difficult to serve and the initial survey findings in 2012 reflect a transition of this facility immediately after the current operators took over in April of 2012, with this initial enforcement occurring days after the official transition of ownership.

A review of operations of Ontario Center for Rehabilitation and Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $12,000 pursuant to a Stipulation and Order issued for surveillance findings on June 12, 2015. Deficiencies were found under 10 NYCRR 415.3(e)(2)(iii)-Notice of Rights and Services-Right to Refuse Treatment, Refuse to Participate in Research and the Right to Be Able to Formulate an Advance Directive; and 415.12(m)(2)- Quality of Care No Significant Medication Errors.

Since there were no other enforcements, the requirements for approval have been met as set forth in Public Health Law §2801-1(3).

A review of operations for Chittenango Center for Rehabilitation and Health Care, Rome Center for Rehabilitation and Health Care, and Corning Center for Rehabilitation and Health Care for the periods identified above, results in a conclusion of substantially consistent high level of care since there were no enforcements

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
The Grand Rehabilitation & Nursing At Chittenango	**	**	****
The Grand Rehabilitation And Nursing At Rome	*	*	***
Fulton Center For Rehabilitation And Healthcare	**	*	**
Richmond Center For Rehab And Specialty H C	****	***	**
Ontario Center For Rehabilitation And Healthcare	**	*	**
Corning Center For Rehabilitation And Healthcare	*	*	**

Project Review

This application proposes a reduction of two RHCF beds. The applicant has not provided plans showing the specific rooms and to be decertified and affected nursing units, which results in the addition of a contingency to this project. No other changes in the program or physical environment are proposed in this application.

The proposed operator intends to enter into a Consulting Services Agreement with Centers Health Care for consulting and advisory services related to administrative and operational functions.

The proposed operator was asked to explain the low star ratings. The operator has stated they have implemented initiatives to recruit and retain employees providing direct care services. They also plan on employing a combination of measures to correct deficiency issues, including in-service education, changes to policies and procedures when necessary, implementation of weekly observation and auditing of staff practices, and monthly review of the findings by the quality assurance committee.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Asset Purchase Agreement

The applicant has submitted an executed APA to acquire the RHCF's operating interests, which will be become effective upon PHHPC approval. The terms are summarized below:

Date:	June 16, 2015
Seller:	Jansen Road Nursing & Rehabilitation Center, LLC
Buyer:	CLR New Paltz LLC
Asset Acquired:	The business and operation of the facility; leasehold improvements, furniture, fixtures and equipment owned or leases by seller; inventory, supplies, and other articles of personal property; transferable contracts, agreements, leases and undertakings; resident funds in trust; the name " The Mountain View Nursing and Rehabilitation Center"; security deposits and prepayments; manuals and computer software; resident/patient records; goodwill; all books and records relating to the facility; licenses and permits; Medicare and Medicaid provider numbers; rate increases and/or lump sum or other payments, resulting from rate appeals, audits or otherwise; patient claims, accounts receivable on and after closing date; leases and assets of seller relating to the facility.
Excluded Assets:	Real Estate which is the subject of the real estate contract; insurance policies; union agreement and pension plans; rate increases and/or lump sum payments; tax refunds including real estate tax refunds relating to a period or periods prior to the closing date; amounts due from parties related to seller; seller's cash and cash equivalents; prepaid expenses; claims, causes of action and legal rights for periods prior to the closing date; receivables from any affiliated of seller; and payments made in connections with "Universal Appeal Settlement".
Assumption of Liabilities:	Liabilities and obligations arising with respect to the operation of the facility and the basic assets on and after the Closing Date; trade accounts payable for items purchased by the Seller prior to Closing (estimated at $575,000)
Purchase Price:	$2,802,844
Payment of Purchase Price:	$58,000 upon execution; $2,744,844 due at closing.

The purchase price of the operations is proposed to be satisfied as follows:

Equity – CLR New Paltz, LLC Members	$744,211
Loan (10-year, 25-year amortization, 5% interest)	2,058,633
Total	$2,802,844

Greystone Funding Corporation has provided a letter of interest at the stated terms.

First Amendment to Asset Purchase Agreement

The applicant has submitted an executed First Amendment to the APA for acquisition of the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized as follows:

Date:	September 21, 2016
Seller:	Jansen Rd Nursing and Rehabilitation Center, LLC
Purchaser:	CLR New Paltz LLC
Change:	To implement the removal of Joseph Zupnik and Elisa Zupnik from ownership in the purchaser and the addition of Hillel Weinberger and Amir Abramchik as the sole owners of the purchaser.

The APA establishes a Total Purchase Price of $86,500,000 as total consideration for the assets transferred (as defined above), the real property (as defined below), and the assets of the sellers under all other APAs and REPAs related to the following entities: 1940 Hamburg Street, LLC (Realty, vacant property); MacDonald Road Corporation (Realty, Home Office); DMN Management Services, LLC (Home Office Assets); and the operating assets and real property associated with the following CONs concurrently under review:

CON 162256 **-** The Country Manor Nursing and Rehabilitation Centre, 90 beds, Jefferson County;
CON 162255 **-** The Capital Living Nursing and Rehabilitation Centre, 240 beds, Schenectady County;
CON 162257 - The Crossings Nursing and Rehabilitation Centre, 80 beds, Onondaga County;
CON 162259 **-** The Orchard Nursing and Rehabilitation Centre, 88 beds, Washington County;
CON 162260 - The Springs Nursing and Rehabilitation Centre, 78 beds, Rensselaer County; and
CON 162261 **-** The Stanton Nursing and Rehabilitation Centre, 117 beds, Warren County.

Please note the above bed counts for CON 162257, CON 162260 and CON 162261 reflect bed reductions anticipated upon establishment

North Broadway Office Operations, LLC will acquire the operating interests of DMN Management Services (DMN), referenced above, for $258,000. The staff of DMN currently provide services including QA/QI, billing, IT management, payroll, audit, accounts receivable and human resources. After the change in ownership, DMN Management Services will no longer exist.

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. The facility has no outstanding Medicaid liabilities.

Purchase and Sale Agreement for the Real Property

The applicant has submitted an executed REPA to acquire the real property. The agreement close concurrent with the APA upon PHHPC approval of this CON. The terms of the agreement are summarized below**:**

Date:	June 16, 2015
Seller:	MacDonald Road Corporation
Buyer:	New Paltz SNF Realty LLC
Assets Transferred:	Real Property located at 1 Jansen Rd, New Paltz, NY
Purchase Price:	$3,354,904
Payment of Purchase Price:	$58,000 upon execution; $3,296,904 due at Closing.

The purchase price of real property is proposed to be satisfied as follows:

Equity - New Paltz SNF Realty LLC Members	$58,000
Loan (10-year, 25-year amortization, 5% interest)	3,296,904
Total	$3,354,904

Capital Funding, LLC has provided a letter of interest at the stated terms.

BFA Attachments A and B are the net worth summaries for the proposed members of CLR New Paltz LLC (operator) and New Paltz SNF Realty LLC (real property owner), respectively. Review of the net worth statements reveals sufficient resources overall to meet the equity requirements. It is noted that liquid resources may not be available in proportion to the proposed ownership interests for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR New Paltz LLC and New Paltz SNF Realty LLC, has provided affidavits stating that he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities to make up any members' equity shortfall in contributing to the purchase price and/or working capital needs.

Hillel Weinberger has provided affidavits, disproportionate to his membership interests, to fund the operating and real property loan balloon payments, should terms acceptable to the Department be unavailable at the time of refinancing.

Lease Agreement

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

Date	October 31, 2016
Premises:	79-bed RHCF located at 1 Jansen Road, New Paltz, NY 12561
Landlord:	New Paltz SNF Realty LLC
Lessee:	CLR New Paltz LLC
Term:	40 years from Commencement Date
Rent:*	$310,280 ($25,857 per month)
Provisions:	Triple Net, plus

*Rent is estimated at $231,280 in fixed rent (Net Rent), based on the 25-year amortization of the mortgage, plus $79,000 in Over Rent. In addition to the $310,280 rental amount, the lessee will be billed for other expenses related to the premises incurred by the landlord.

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operating entity.

Consulting Services Agreement

The applicant has provided a draft consulting services agreement, with terms summarized below:

Contractor:	Centers for Care LLC d/b/a Centers Health Care
Facility:	CLR New Paltz, LLC, d/b/a The Mountain View Nursing and Rehabilitation Center
Affiliation:	The Facility will refer to itself as "Affiliated with Centers Health Care" or "Member of Centers Health Care, limited to marketing efforts and the identification of professionals, consultants, vendors and healthcare providers and other resources that can assist the Facility in the provision of care.
Consulting and Advisory Services:	The contractor will be responsible for the operation, supervision and oversight of all functions related to A/R and A/P, including assistance and supervision of staff in interacting with families, collection of NAMI and private funds, submission of award letters, and preparation of applications for payee, maintenance of billing files, monitoring payments to the facility by all payor sources, pursuing payments for delinquent accounts and assisting the facility, at the facility's expense. The contractor will provide assistance to and supervision of staff performing and providing the following services: all billing functions for all payor sources and maintenance of all billing and posting records and establishment of payroll budgets

	and schedule coordination with nursing and other departments. Responsible for the preparation of health facility assessment; assist the Facility with the preparation of RHCF 4 and Medicare cost reports; and reconciliation of billing records, Maintenance of electronic resident/patient billing files, fund records and accounts, and monthly operating cash flow projections. Assist the Facility in reviewing of rate sheets and filing of necessary appeals and audit facility's monthly pharmacy bills and the implementing of formulary management.
Clinical Consulting Services:	The contractor will provide advice and assistance to the Facility with respect to the administrative functioning of the Therapy, Social Services and Nursing departments. Develop operating policies and procedures, rules and methods of operation appropriate to such departments and the training and orientation of staff. Recommend procedures to ensure the consistency and quality of all the Services. Assist the Facility with respect to its CMI, Medicare, and case-mix reimbursement.
Other Duties:	Develop and implement a marketing plan; furnish sufficient part-time temporary licensed skilled professional staff for the health care activities described herein
Term:	One Year with automatic one year renewals, unless terminated through mutual consent, default or by one party with 60-day written notice.
Fee:	The fees for the Services shall, to the maximum extent possible, represent the actual costs incurred by CHC in providing the Services to the Facility.

CLR New Paltz LLC retains ultimate control in all of the final decisions associated with the services. Center for Care LLC will also provide consulting services to the other RHCFs transferred under the terms of the APA referenced above. Amir Abramchik is the Chief Operating Officer of the Consulting services provider, Center for Care LLC, and a member of the applicant. The Centers for Care LLC is equally owned by Kenneth Rozenberg and Beth Rozenberg.

The fees are estimated at $3,000,000 for the subject facility and the six facilities being acquired concurrently, and divided amongst the facilities as follows, based on the total licensed beds:

- The Capital Living Nursing and Rehabilitation Center, 240 beds: $935,066
- The Country Manor Nursing and Rehabilitation Centre, 90 beds: $350,649
- The Crossings Nursing and Rehabilitation Centre, 80 beds: $311,688
- The Mountain View Nursing and Rehabilitation Centre, 77 beds: $300,000
- The Orchard Nursing and Rehabilitation Centre, 88 beds, $342,857
- The Springs Nursing and Rehabilitation Centre, 78 beds, $303,896
- The Stanton Nursing and Rehabilitation Centre, 117 beds, $455,844

Operating Budget

The applicant has provided the current year (2015) results and the first year operating budget subsequent to the change in ownership, in 2017 dollars, summarized as follows:

	Current year		Year One	
Revenue	Per Diem	79 Beds	Per Diem	77 Beds
Medicaid-FFS	$217.05	$3,406,333	$211.75	$3,664,334
Medicaid-MC	$217.00	$173,166	$211.75	$186,340
Medicare-FFS	$448.12	$1,566,185	$454.84	$1,752,953
Medicare-MC	$520.78	$604,110	$520.78	$666,078
Commercial-FFS	$350.00	$99,050	$350.00	$109,200
Private Pay	$425.88	$1,185,651	$364.00	$1,117,480
Other Income		11,155		0
Total Revenue		$7,045,650		$7,496,385
Expenses				
Operating	$300.95	$7,287,104	$242.17	$6,466,030
Capital	$22.59	$546,956	$18.33	$489,461
Total Expenses		$7,834,060		$6,955,491
Net Income		($788,410)		$540,894

Utilization (Patient Days)	24,214	26,700
Occupancy	84%	95%

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

- The Current Year reflects the facility's 2015 revenues and expenses based on 79 beds.
- Medicaid revenue is based on the facility's current 2016 Medicaid Regional Pricing rate. The Current Year Medicare rate is the actual daily rate experienced by the facility during 2015 and the forecasted Year One and Year Three Medicare rate is the actual daily rate experienced during 2016. The Private Pay rate reflects the current average rate experienced during 2016.
- Expense and staffing assumptions are based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by approximately 11.2% through various initiatives including renegotiating contracts
- Projected utilization by payer source for the first year after the change in ownership is:

	Current Year 79 Beds	Year One 77 Beds
Medicaid-FFS	64.8%	64.8%
Medicaid-MC	3.3%	3.3%
Medicare-FFS	14.4%	14.4%
Medicare-MC	4.8%	4.8%
Commercial-FFS	1.2%	1.2%
Private Pay	11.5%	11.5%
Total	100.0%	100.0%

- The breakeven utilization is projected at 88.14% for the first year.

Capability and Feasibility

There are no project costs associated with this application. CLR New Paltz LLC will acquire the RHCF's operations for $2,802,844, which will be funded via $744,211 in members' equity, and a ten-year loan for $2,058,633 at the above stated terms. New Paltz SNF Realty LLC will purchase the real property for $3,354,904 funded by $58,000 in members' equity and a ten-year loan for $3,296,904 at the above stated term. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively.

The working capital requirement is estimated at $1,159,250 based on two months of year one expenses. Funding will be as follows: $579,625 from the members' equity with the remaining $579,625 satisfied through a five-year term loan at 5% interest rate. Harborview Capital Funding has provided a letter of interest. Review of BFA Attachments A and B, proposed members net worth summaries for the operator and real property owner, respectively, reveals sufficient resources to meet equity requirements. As previously stated, liquid resources may not be available in proportion to the proposed ownership interests for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR New Paltz, LLC and New Paltz SNF Realty, LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities (covering the purchase price and working capital equity). Additionally, Hillel Weinberger has provided affidavits stating he is willing to contribute resources, disproportionate to his membership interests, for the operating and realty entity balloon payments should terms acceptable to the Department be unavailable at the time of refinancing.

The submitted budget projects $540,894 of net income in Year One after the change in ownership. Revenues are estimated to increase by approximately $450,735 or 6.4% based on the increase in occupancy (going from 84% to 95%). Overall expenses are expected to decline by $878,569, coming from an $821,074 reduction in operating expenses and $57,495 reduction in capital expenses. The decline in operating expenses comes primarily from the following: a $253,348 decrease in the salaries and wages, a $257,863 decrease in employee benefits, and a $200,103 decrease in professional fees. The balance of $109,760 in expense reduction comes from various items. The budget was created taking into consideration the proposed new owners' experience in operating similar sized facilities.

BFA Attachment D is CLR New Paltz LLC's pro forma balance sheet, which shows the entity will start with $1,323,836 in member's equity. Equity includes $2,022,648 in goodwill, which is not a liquid resource nor is it recognized for Medicaid reimbursement. If goodwill is eliminated, total net assets are a negative $698,812.

DOH staff note that, through August 31, 2016, utilization was approximately 92.25% (adjusted for 77 beds), which is less than the first year's projections for proposed 77 beds by approximately 3%. BFA Attachment H is a budget sensitivity analysis that incorporates actual patient days as of August 31, 2016, and then adjusted and annualized for 77 beds while using the applicant's projected payer mix and expenses for the first year. Based upon this scenario, net profits would decline by $115,343 to $425,551. For comparison, the internal financial summary for the eight months ending September 30, 2016, showed a net loss of $210,060 before allocation of Home Office Overhead (HO) and a $530,574 loss after HO. The budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing Medicaid NH revenues through the transition period.

BFA Attachment E is a Financial Summary of The Mountain View Nursing & Rehabilitation Centre for 2013 through 2015. As shown, the RHCF had an average negative working capital position of $5,054,316, average negative net assets of $4,866,218, and an average negative income of $968,191 for the period. The applicant indicated that the reason for the negative performance was due to low occupancy. During this period, the facility's average occupancy was 86.07%. The applicant plans to increase occupancy by accepting more clinically complex residents and implementing the above stated measures. Additionally, the applicant intends to reduce expenses by renegotiating vendor contracts. Also included as part of Attachment E is DMN Management Services and Subsidiaries' 2015 certified financial statement, which shows working capital and net assets to be positive with operations showing a $449,584 profit in 2015 before non-recurring expenses of $360,000.

BFA Attachment F is the internal financial statements for The Mountain View Nursing & Rehabilitation Centre as of September 30, 2016, which shows negative working capital, negative net assets and the operating loss $530,574 after allocation of Home Office overhead. On a consolidated basis, the organization had a positive working capital, positive net assets and generated a loss.

BFA Attachment G is a Financial Summary of the proposed member's affiliated nursing homes. The affiliated RHCFs show positive working capital, positive net assets and average positive net income.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth of Proposed Members, CLR New Paltz LLC
BFA Attachment B	Net Worth of Proposed Realty Members, New Paltz SNF Realty LLC.
BFA Attachment C	Current and proposed Realty Members, New Paltz SNF Realty LLC
BFA Attachment D	Pro Forma Balance Sheet
BFA Attachment E	Financial Summary of The Mountain View Nursing & Rehabilitation Centre and DMN Management Services LLC, 2015 Certified Financial Statement
BFA Attachment F	Internal Financial Statement of The Mountain View Nursing & Rehab Centre and Capital Living & Rehab Centre and DMN Management Services LLC
BFA Attachment G	Financial Summary of Proposed Member's Affiliated RHCFs
BFA Attachment H	Budget Sensitivity Analysis

Public Health and Health Planning Council

Project # 162259-E
CLR Granville LLC d/b/a The Orchard Nursing and Rehabilitation Center

Program:	**Residential Health Care Facility**	***County:***	**Washington**
Purpose:	**Establishment**	***Acknowledged:***	**October 11, 2016**

Executive Summary

Description

CLR Granville LLC d/b/a The Orchard Nursing and Rehabilitation Center, a New York limited liability company, requests approval to be established as the new operator of The Orchard Nursing and Rehabilitation Centre, an 88-bed Article 28 residential health care facility (RHCF) located at 10421 State Route 40, Granville (Washington County). A separate entity, Granville SNF Realty LLC, will acquire the real property. There will be no change in beds or services provided.

On June 16, 2015, the current RHCF operator, Granville Nursing and Rehabilitation Center, LLC, entered into an Asset Purchase Agreement (APA) with CLR Granville LLC for the sale and acquisition of the RHCF operating interests for $3,306,649. Subsequently, on September 21, 2016, Granville Nursing and Rehabilitation Center, LLC and CLR Granville LLC executed the First Amendment to the Asset Purchase Agreement consenting to the change in the proposed membership of CLR Granville, LLC. Concurrently on June 16, 2015, RD #1 Granville, LLC, the current real property owner, entered into a Real Estate Purchase Agreement (REPA) with Granville SNF Realty LLC for the sale and acquisition of the facility's real property for $3,321,463. The APA and REPA will close at the same time upon approval of this application by the Public Health and Health Planning Council (PHHPC). There is a relationship between CLR Granville LLC and Granville SNF Realty LLC in that Hillel Weinberger is a common member in both entities. The applicant will lease the premises from Granville SNF Realty LLC.

Ownership of the operations before and after the requested change is as follows:

Current Operator Granville Nursing and Rehabilitation Center, LLC		
Member		
DMN Management Services, LLC		100%
Anthony Durante	15%	
Patrick Martone	10%	
Jami Rogowski	15%	
Jodi Polsinelli	15%	
Lisa Marrello	15%	
Pamela Nichols	15%	
Mark Nichols	15%	

Proposed Operator CLR Granville LLC	
Members	
Hillel Weinberger	50%
Amir Abramchik (manager)	50%

Concurrently under review, the applicant members of CLR Granville LLC and the realty members of Granville SNF Realty LLC are seeking approval to acquire the operating and realty interests, respectively, in the following: The Crossings Nursing and Rehabilitation Centre (CON 162257), The Capital Living Nursing and Rehabilitation Centre (CON 162255), The Country Manor Nursing and Rehabilitation Centre (CON 162256), The

Mountain View Nursing and Rehabilitation Centre (CON 162258), The Springs Nursing and Rehabilitation Centre (CON 162260), and The Stanton Nursing and Rehabilitation Centre (CON 162261).

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no changes to beds or services at this facility. The Orchard Nursing and Rehabilitation Centre's occupancy was 93.8% in 2012, 94.4% in 2013, 90.6% in 2014 and 93.0% in 2015. Current occupancy, as of December 7, 2016 is 93.2%.

Program Summary
No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

Financial Summary
There are no project costs associated with this application. CLR Granville LLC will acquire the RHCF's operations for $3,306,649 funded by $870,162 in members' equity and a ten-year loan for $2,436,487 at 5% interest, amortized over 25 years. Granville SNF Realty LLC will acquire the real property for $3,321,463, funded by $58,000 in members' equity and a ten-year loan for $3,263,463 at 5% interest, amortized over 25 years. Greystone Funding Corporation has provided a letter of interest to finance the acquisition of the operations and Capital Funding, LLC has provided a letter of interest for the realty loan at the stated terms.

The projected budget is as follows:

	Year One	Year Three
Revenues	$7,241,987	$7,470,647
Expenses	7,177,869	7,130,535
Gain/(Loss)	$64,118	$340,112

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. 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 continue to enhance access to Medicaid residents. At 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 to 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; and
   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. [RNR]
3. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
   a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
   b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
   c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
   d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
   e. Other factors as determined by the applicant to be pertinent. [RNR]
4. Submission of an executed Consulting Services Agreement, acceptable to the Department of Health. [BFA]
5. Submission of an executed loan commitment for the purchase of the RHCF operations, acceptable to the Department of Health. [BFA]
6. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
7. Submission of an executed loan commitment for the purchase of the real property, acceptable to the Department of Health. [BFA]
8. Submission of a photocopy of the applicant's amended lease agreement, acceptable to the Department. [CSL]
9. Submission of a photocopy of the applicant's executed and amended Consulting Services Agreement, acceptable to the Department. [CSL]
10. Submission of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date
February 9, 2017

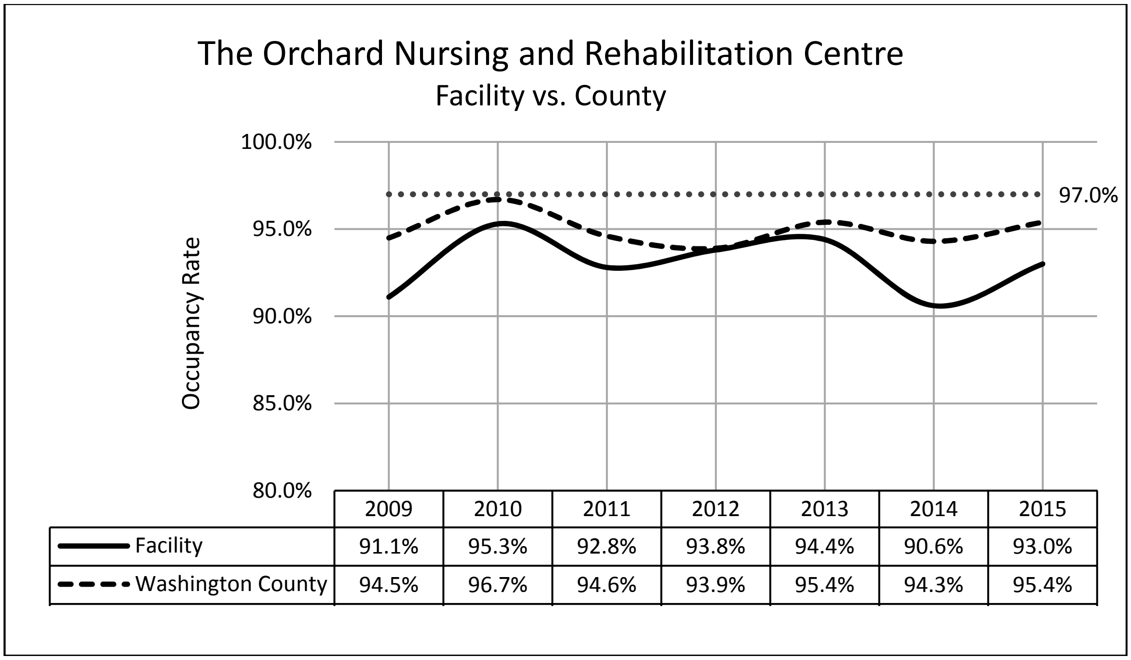
Need Analysis

Analysis

According to the current need methodology there is unmet need of 24 beds in Washington County.

RHCF Need - Washington County

2016 Projected Need	552
Current Beds	528
Beds Under Construction	0
Total Resources	528
Unmet Need	24



The overall occupancy for Washington County is 95.4% for 2015. The Orchard Nursing and Rehabilitation Centre's occupancy was 93.8% in 2012, 94.4% in 2013, 90.6% in 2014 and 93.0% in 2015. According to the applicant, decline in occupancy is attributable to staff turn-over, survey issues, and a high demand for short-term rehabilitation services which negatively impacts utilization due to high turn-over.

The applicant's plans to increase occupancy to the Department's planning optimum include:

- Accept more clinically complex residents: with the hiring of a new Administrator, occupancy rates are expected to rebound from the recent dip;
- Marketing and Community Outreach: implement a marketing team, including a full-time marketer working in the field and a designated employee working within the facility.
- Plan and Provider Outreach: develop and implement a program for improved collaboration with local health plans, hospital discharge planners, local assisted living facilities, home care providers, and other local health care providers and agencies to enhance provider relationships and familiarity with the facility and its staff;
- Staff Training, Development, and Support: implement new management and staff training and leadership programs that will encourage interaction and collaboration of staff across all commonly-owned nursing homes;
- Food Service Improvements: institute a fine-dining program and hire an executive chef; and
- Environmental Improvements: implement various cosmetic improvements to make the facility more updated and attractive.

Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

The Orchard Nursing and Rehabilitation Centre's Medicaid admissions of 36.4% in 2014 exceeded the Washington County 75% rate of 10.4%; however, the Centre's 2015 Medicaid admissions rate of 9.8% did not exceed the Washington County 75% rate of 17.8%, and the facility will need to follow the contingency plan as noted below.

Conclusion

Contingent Approval of this application will result in maintaining a necessary resource in Washington County.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	The Orchard Nursing and Rehabilitation Centre	Same
Address	10421 State Route 40 Granville, NY 12832	Same
	88	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Proprietary
Operator	Granville Nursing and Rehabilitation Center, LLC	CLR Granville, LLC Amir Abramchik Hillel Weinberger

Character and Competence - Background

Facilities Reviewed

Nursing Homes

Chittenango Center for Rehabilitation and Health Care	05/2011 to 7/16
Rome Center for Rehabilitation and Health Care	05/2011 to 8/16
Fulton Center for Rehabilitation and Health Care	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	04/2012 to present
Corning Center for Rehabilitation and Health Care	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	11/2014 to present

Individual Background Review

Amir Abramchik is a licensed nursing home administrator in good standing in New York, New Jersey and Rhode Island. Mr. Abramchik has been employed by Centers for Specialty Care as the director of special projects since 2007. Previously he was employed as administrator of Queens Center for Rehabilitation and Health Care and Dutchess Center for Rehabilitation and Health Care. Mr. Abramchik discloses the following health facility interests with associated ownership percentages:

Fulton Center for Rehabilitation and Health Care	(10%)	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	(2%)	04/2012 to present
Corning Center for Rehabilitation and Health Care	(11%)	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	(95%)	11/2014 to present

Hillel Weinberger has been retired since 2012. He was formerly employed as the co-founder of Hillmark Capital, a financial planning business. He also has been serving as the the President of Ptach (a special needs school) for the last ten years. Mr Weinberger discloses no health facility ownership interests.

Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants identified as new members.

A review of operations of Fulton Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $52,000 pursuant to a Stipulation and Order NH-16-004 issued April 23. 2015 for surveillance findings on June 11, 2012, May 15, 2012, and November 21, 2013. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.12(i)(1) Quality of Care: Nutrition; 415.12(h)(1) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(i)(1) Quality of Care: Nutrition; 415.12(c)(2) Quality of Care: Pressure Sores; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.3(e)(2)(ii)(b) Notification of Changes; and 415.4(b)(1)(2)(3) Investigative/Report Allegations.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-12-39 issued on September 17, 2012 for surveillance findings on March 24, 2014. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores.
- A federal CMP of $975 was assessed for the June16, 2012 survey findings.
- A federal CMP of $11,895 was assessed for the May 15, 2013 survey findings.
- A federal CMP of $10,000 was assessed for the November 21, 2013 survey findings

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Fulton Center was a former County facility that had a high turnover of the facility's County employed staff after the current operators took over in April of 2012. The current operators had a period of transition after takeover where they had to hire and train new staff at the facility in order to maintain staffing levels needed.

A review of operations of Richmond Center for Rehabilitation and Specialty Healthcare for the period identified above reveals the following:

- The facility was fined $18,000 pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.
- A federal CMP of $27,528 was assessed for the April 24, 2012 survey findings.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-041 issued January 13, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.

- The facility was fined $10,000 pursuant to a Stipulation and Order issued for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Richmond Center has 300 certified beds with 72 of those beds servicing neurobehavioral residents in dedicated neurobehavioral units. This population can be difficult to serve and the initial survey findings in 2012 reflect a transition of this facility immediately after the current operators took over in April of 2012, with this initial enforcement occurring days after the official transition of ownership.

A review of operations of Ontario Center for Rehabilitation and Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $12,000 pursuant to a Stipulation and Order issued for surveillance findings on June 12, 2015. Deficiencies were found under 10 NYCRR 415.3(e)(2)(iii)-Notice of Rights and Services-Right to Refuse Treatment, Refuse to Participate in Research and the Right to Be Able to Formulate an Advance Directive; and 415.12(m)(2)- Quality of Care No Significant Medication Errors.

Since there were no other enforcements, the requirements for approval have been met as set forth in Public Health Law §2801-1(3).

A review of operations for Chittenango Center for Rehabilitation and Health Care, Rome Center for Rehabilitation and Health Care, and Corning Center for Rehabilitation and Health Care for the periods identified above, results in a conclusion of substantially consistent high level of care since there were no enforcements

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
The Grand Rehabilitation & Nursing At Chittenango	**	**	****
The Grand Rehabilitation And Nursing At Rome	*	*	***
Fulton Center For Rehabilitation And Healthcare	**	*	**
Richmond Center For Rehab And Specialty H C	****	***	**
Ontario Center For Rehabilitation And Healthcare	**	*	**
Corning Center For Rehabilitation And Healthcare	*	*	**

Project Review

No changes in the program or physical environment are proposed in this application. The proposed operator intends to enter into a Consulting Services Agreement with Centers Health Care for consulting and advisory services related to administrative and operational functions.

The proposed operator was asked to explain the low star ratings. The operator has stated they have implemented initiatives to recruit and retain employees providing direct care services. They also plan on employing a combination of measures to correct deficiency issues, including in-service education, changes to policies and procedures when necessary, implementation of weekly observation and auditing of staff practices, and monthly review of the findings by the quality assurance committee.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement

The applicant has submitted an executed APA to acquire the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	June 16, 2015
Seller:	Granville Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Granville LLC
Asset Transferred:	The business and operation of the Facility; leasehold improvements, furniture, fixtures and equipment owned or leased by Seller; inventory, supplies, and other articles of personal property; transferable contracts, agreements, leases and undertakings; Resident funds held in trust; The name "The Orchard Nursing and Rehabilitation Centre"; security deposits and prepayments; manuals and computer software; resident/patient records; Goodwill; all books and records relating to the Facility; licenses and permits; Medicare and Medicaid provider numbers; rate increases and/or lump sum or other payments, resulting from rate appeals, audits or otherwise; patient claims accounts receivable on and after Closing Date; leases; and assets of Seller relating to the Facility
Excluded Assets:	Real Estate which is the subject of the Real Estate Contract; insurance policies; union agreement and pension plans; rate increases and/or lump sum payments; tax refunds including real estate tax refunds relating to a period or periods prior to the Closing Date; amounts due from parties related to Seller; Seller's cash and cash equivalents; Prepaid expenses; claims, causes of action and legal rights for periods prior to the Closing Date; receivables from any affiliate of Seller; and payments made in connection with "Universal Appeal Settlement"
Assumed Liabilities:	Liabilities and obligations arising with respect to the operation of the Facility on and after the Closing Date; trade accounts payable for items purchased by the Seller prior to Closing (estimated at $825,000)
Purchase Price:	$3,306,649
Payment of the Purchase Price:	$58,000 upon execution; $3,248,649 at Closing.

The purchase price for the operations is proposed to be satisfied as follows:

Equity from Members	$870,162
Loan (10 years, 25-year amortization, 5% interest)	2,436,487
Total	$3,306,649

Greystone Funding Corporation has provided a letter of interest at the stated terms.

First Amendment to Asset Purchase Agreement

The applicant has submitted an executed First Amendment to the APA for acquisition of the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	September 21, 2016
Seller:	Granville Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Granville LLC
Change:	To implement the removal of Joseph Zupnik and Elisa Zupnik from ownership in the purchaser and the addition of Hillel Weinberger and Amir Abramchik as the sole owners of the purchaser.

The APA establishes a Total Purchase Price of $86,500,000 as total consideration for the assets transferred (as defined above), the real property (as defined below), and the assets of the sellers under all other APAs and REPAs related to the following entities: 1940 Hamburg Street, LLC (Realty, vacant property); MacDonald Road Corporation (Realty, Home Office); DMN Management Services, LLC (Home Office Assets); and the operating assets and real property associated with the following CONs concurrently under review:

CON 162257 - The Crossings Nursing and Rehabilitation Centre, 80 beds, Onondaga County;
CON 162255 - The Capital Living Nursing and Rehabilitation Centre, 240 beds, Schenectady County;
CON 162256 - The Country Manor Nursing and Rehabilitation Center, 90 beds, Jefferson County;
CON 162258 - The Mountain View Nursing and Rehabilitation Centre, 77 beds, Ulster County;
CON 162260 - The Springs Nursing and Rehabilitation Centre, 78 beds, Rensselaer County; and
CON 162261 - The Stanton Nursing and Rehabilitation Centre, 117 beds, Warren County.

Please note the above bed counts for CON 162257, CON 162258, CON 162260 and CON 162261 reflect bed reductions anticipated upon establishment.

North Broadway Office Operations, LLC will acquire the operating interests of DMN Management Services (DMN), referenced above, for $258,000. The staff of DMN currently provide services including QA/QI, billing, IT management, payroll, audit, accounts receivable and human resources. After the change in ownership, DMN Management Services will no longer exist.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement 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. As of November 9, 2016, the applicant had no Medicaid liabilities.

Purchase and Sale Agreement for the Real Property

The applicant has submitted an executed REPA to acquire the real property. The terms of the agreement are summarized below:

Date:	June 16, 2015
Seller:	RD #1 Granville, LLC
Purchaser:	Granville SNF Realty LLC
Asset Transferred Realty:	Real Property located at 10421 State Route 40, Granville, NY 12832
Purchase Price:	$3,321,463
Payment of the Purchase Price:	$58,000 upon execution; $3,263,463 at Closing.

The purchase price of real property is proposed to be satisfied as follows:

Equity from Members	$58,000
Loan (10-year, 25-year amortization, 5% interest)	3,263,463
Total	$3,321,463

Capital Funding, LLC has provided a letter of interest at the stated terms.

BFA Attachments A and B are the net worth summaries for the proposed members of CLR Granville LLC (operator) and Granville SNF Realty LLC (real property owner), respectively. Review of the net worth statements reveals sufficient resources overall to meet the equity requirements. It is noted that liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Granville LLC and Granville SNF Realty, LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities to make up any member's equity shortfall in contributing to the purchase price and/or working capital needs.

Hillel Weinberger has provided affidavits, disproportionate to his membership interests, to fund the operating and real property loan balloon payments, should terms acceptable to the Department be unavailable at the time of refinancing.

Lease Agreement

The applicant submitted an executed lease agreement, the terms of which are summarized below:

Date:	October 31, 2016
Premises:	88-bed RHCF located at 10421 State Route 40, Granville, NY 12832
Owner/Landlord:	Granville SNF Realty LLC
Lessee:	CLR Granville LLC
Term:	40 years from Commencement Date
Rent:	$316,935 ($26,411 per month)
Provisions:	Triple Net, plus

*Rent is estimated at $228,935 in fixed rent (Net Rent), based on the 25-year amortization of the mortgage, plus $88,000 in Over Rent. In addition to the $316,935 rental amount, the lessee will be billed for other expenses related to the premises incurred by the landlord.

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operating entity.

Consulting Services Agreement

The applicant has provided a draft consulting services agreement, summarized below:

Contractor:	Centers for Care LLC d/b/a Centers Health Care
Facility:	CLR Granville LLC d/b/a The Orchard Nursing and Rehabilitation Center
Affiliation:	The Facility will refer to itself as "Affiliated with Centers Health Care" or "Member of Centers Health Care, limited to marketing efforts and the identification of professionals, consultants, vendors and healthcare providers and other resources that can assist the Facility in the provision of care.
Consulting and Advisory Services:	The contractor will be responsible for the operation, supervision and oversight of all functions related to A/R and A/P, including assistance and supervision of staff assisting and supervising the staff in interacting with families, collection of NAMI and private funds, submission of award letters, and preparation of applications for payee, maintenance of billing files, monitoring payments to the facility by all payor sources, pursuing payments for delinquent accounts and assisting the facility, at the facility's expense. The contractor will provide assistance to and supervision of staff performing and providing the following services: all billing functions for all payor sources and maintenance of all billing and posting records and establishment of payroll budgets and schedule coordination with nursing and other departments. Responsible for the preparation of health facility assessment; assist the Facility with the preparation of RHCF 4 and Medicare cost reports; and reconciliation of billing records, Maintenance of electronic resident/patient billing files, fund records and accounts, and monthly operating cash flow projections. Assist the Facility in reviewing of rate sheets and filing of necessary appeals and audit facility's monthly pharmacy bills and the implementing of formulary management.
Clinical Consulting Services:	The contractor will provide advice and assistance to the Facility with respect to the administrative functioning of the Therapy, Social Services and Nursing departments. Develop operating policies and procedures, rules and methods of operation appropriate to such departments and the training and orientation of staff. Recommend procedures to ensure the consistency and quality of all the Services. Assist the Facility with respect to its CMI, Medicare, and case-mix reimbursement.

Other Duties:	Develop and implement a marketing plan; furnish sufficient part-time temporary licensed skilled professional staff for the health care activities described herein
Term:	One Year with automatic one year renewals, unless terminated through mutual consent, default or by one party with 60-day written notice.
Fee:	The fees for the Services shall, to the maximum extent possible, represent the actual costs incurred by CHC in providing the Services to the Facility.

Centers for Care LLC will also provide consulting services to the other RHCFs transferred under the terms of the APA referenced above. Amir Abramchik is the Chief Operating Officer of the consulting services provider, Centers for Care LLC, and a member of the applicant. The Centers for Care LLC is equally owned by Kenneth Rozenberg and Beth Rozenberg.

The fees are estimated at $3,000,000 for the subject facility and the six facilities being acquired concurrently, and divided amongst the facilities as follows, based on the total licensed beds:

- The Capital Living Nursing and Rehabilitation Center, 240 beds: $935,066
- The Country Manor Nursing and Rehabilitation Centre, 90 beds: $350,649
- The Crossings Nursing and Rehabilitation Centre, 80 beds: $311,688
- The Mountain View Nursing and Rehabilitation Centre, 77 beds: $300,000
- The Orchard Nursing and Rehabilitation Centre, 88 beds, $342,857
- The Springs Nursing and Rehabilitation Centre, 78 beds, $303,896
- The Stanton Nursing and Rehabilitation Centre, 117 beds, $455,844

Operating Budget

The applicant has provided the current year (2015) results and the first and third year operating budgets subsequent to the change in ownership, in 2017 dollars, summarized as follows:

Revenues	Per Diem	Current Year	Per Diem	First Year	Per Diem	Third Year
Commercial FFS	$350.00	$19,250	$350.00	$19,600	$350.00	$20,300
Medicare FFS	$457.73	$977,706	$464.59	$1,013,735	$464.59	$1,045,792
Medicare MC	$408.95	$518,548	$408.95	$529,181	$408.95	$545,948
Medicaid FFS	$185.51	$3,954,696	$182.45	$3,972,301	$182.45	$4,097,645
Medicaid MC	$185.50	$2,226	$182.43	$2,554	$182.43	$2,554
Private Pay	$342.37	$1,742,000	$328.00	$1,704,616	$328.00	$1,758,408
All Other		$9,809		$0		$0
Total		$7,224,235		$7,241,987		$7,470,647
Expenses						
Operating	$239.50	$7,155,622	$216.23	$6,598,367	$209.62	$6,598,367
Capital	$21.51	$642,631	$18.99	$579,502	$16.91	$532,168
Total Expenses	$261.01	$7,798,253	$235.22	$7,177,869	$226.52	$7,130,535
Net Income		($574,018)		$64,118		$340,112
Patient Days		29,877		30,515		31,478
Utilization %		93.02%		95.00%		98.00%

The following is noted with respect to the submitted budget:

- The Current Year reflects the facility's 2015 revenues and expenses.
- Medicaid revenue is based on the facility's current 2015 Medicaid Regional Pricing rate. The Current Year Medicare rate is the actual daily rate experienced by the facility during 2015 and the forecasted Year One and Year Three Medicare rate is based on the daily rate experienced during 2016. The Private Pay rate reflects increases implemented by the facility during 2016.
- Staffing assumptions were based on the current operator's staffing model and then adjusted based on the applicant's experience. The applicant expects to reduce expenses by 7.96% in the first year through implementation of their staffing model and the renegotiation of various contracts.

- It is noted that in the first three years the operator will have the option of deferring up to $88,000 per year in rent, equal to the Over Rent. It is further noted that additional rent (escrow) to address taxes, insurance and replacement accounts is not included in the budget as the applicant states that there are no additional rent expenses (expenses incurred by the landlord billable to the tenant) at this time.
- The fees associated with the above referenced Consulting Services Agreement have been included in the budget.
- Utilization by payor source for the first year after the change in ownership is summarized below

	Current Year	Year One	Year Three
Commercial FFS	0.18%	0.18%	0.18%
Medicare FFS	7.15%	7.15%	7.15%
Medicare MC	4.24%	4.24%	4.24%
Medicaid FFS	71.35%	71.35%	71.35%
Medicaid MC	0.05%	0.05%	0.05%
Private Pay	17.03%	17.03%	17.03%

- Breakeven utilization is 94.16% in year one.

Capability and Feasibility

CLR Granville LLC has agreed to acquire the RHCFs operations for $3,306,649, which will be funded via $870,162 in member equity and a ten-year loan for $2,436,487 at the above stated terms. Granville SNF Realty, LLC, the applicant's landlord, is purchasing the real property for $3,321,463 funded by $58,000 members' equity and a ten-year loan for $3,263,463 at the above stated terms. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively. There are no project costs associated with this application.

The working capital requirement is estimated at $1,196,312 based on two months of first year expenses. Funding will be follows: $598,156 from members' equity with the remaining $598,156 satisfied through a five-year, self-amortizing loan at 5% interest rate. Harborview Capital Funding has provided a letter of interest for the working capital loan. Review of BFA Attachments A and B, proposed members net worth summaries for the operator and real property owner, respectively, reveals sufficient resources to meet equity requirements. As previously stated, liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Granville LLC and Granville SNF Realty, LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities (covering the purchase price and working capital equity). Additionally, Hillel Weinberger has provided affidavits stating he is willing to contribute resources, disproportionate to his membership interests, for the operating and realty entity balloon payments should terms acceptable to the Department be unavailable at the time of refinancing.

The submitted budget projects a net income of $64,118 in the first year and $340,112 in the third year. The budgeted revenues are expected to increase by $17,752 and $246,412 in the first and third years, respectively. The increased revenue is due to an increase of 638 patient days and 1,601 patient days in the first and third year, respectively, offset by projected reductions in Medicaid and Private Pay reimbursement. The applicant projects a $620,384 reduction in expenses ($557,255 from operations and $63,129 from capital expenses). The reduction in operating expenses is primarily derived from a $306,681 reduction in wages and employee benefits to be achieved through changes in the staffing mix. The balance of the operating expense reductions come primarily from supplies and other direct costs. The applicant intends to achieved saving through vendor negotiations or the use of vendors currently utilized at their other facilities.

BFA Attachment D is CLR Granville, LLC's pro forma balance sheet, which shows the entity will start with $1,468,318 in equity. Equity includes $2,253,076 in goodwill, which is not a liquid resource nor is it recognized for Medicaid reimbursement. If goodwill is eliminated, the total net assets are a negative $784,758. The budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy, as described in the "Transition of Nursing

Home Benefit and Population into Managed Care Policy Paper," provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment E is a Financial Summary of The Orchard Nursing and Rehabilitation Centre for 2013 through 2015. For the 2014 and 2015, the RHCF had negative working capital and negative net assets. For the period shown, the facility had losses that averaged $398,838 and experienced an average occupancy of 92.67%. The applicant stated that the operating losses were the result of a combination of the facility's small size and expenditures exceeding reimbursement rates and revenue projections by payor. The losses accumulated over time resulting in negative positions. To reverse the trend, the applicant intends to reduce expenses by renegotiating vendor contracts, analyzing staffing expenses along with reworking staff schedules to keep overtime expenses down, and reduce bad debt expenses through an accounts receivable collection plan. Also included as part of Attachment E is DMN Management Services and Subsidiaries 2014 and 2015 certified statement, which shows working capital and net assets to be positive with operations showing a $449,584 profit in 2015 before non-recurring expenses of $360,000.

BFA Attachment F is the Internal Financial Summary through September 30, 2016, which shows the facility had positive working capital, positive net assets and had a loss after allocation of home office overhead. On a consolidated basis, the organization had a positive working capital, positive net assets and generated a loss.

BFA Attachment G is the Financial Summary of the proposed member's affiliated RHCFs, which shows the facilities maintained positive working capital, positive net assets, and generated positive net income.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	CLR Granville LLC, Proposed Members Net Worth
BFA Attachment B	Granville SNF Realty LLC, Proposed Members Net Worth
BFA Attachment C	Current and Proposed Owners of the Real Property
BFA Attachment D	Pro Forma Balance Sheet
BFA Attachment E	Financial Summary, The Orchard Nursing and Rehabilitation Centre and DMN Management Services LLC, 2015 certified financial statement
BFA Attachment F	Internal Financial Summary, The Orchard Nursing and Rehabilitation Centre and DMN Management Services LLC
BFA Attachment G	Financial Summary, the proposed members affiliated RHCFs

NEW YORK STATE OF OPPORTUNITY. Department of Health

Public Health and Health Planning Council

Project # 162260-E
CLR Troy LLC d/b/a The Springs Nursing and Rehabilitation Center

Program:	**Residential Health Care Facility**	***County:***	**Rensselaer**
Purpose:	**Establishment**	***Acknowledged:***	**October 7, 2016**

Executive Summary

Description

CLR Troy LLC d/b/a The Springs Nursing and Rehabilitation Center, a New York limited liability company, requests approval to be established as the new operator of The Springs Nursing and Rehabilitation Centre, an 80-bed, proprietary, Article 28 residential health care facility (RHCF) located at 49 Marvin Avenue, Troy (Rensselaer County). As a part of this application, the certified bed capacity will be reduced by two beds, bringing the total certified bed count to 78. A separate entity, Troy SNF Realty LLC, will acquire the real property. There will be no change in services provided.

On June 16, 2015, the current operator, Troy Nursing and Rehabilitation Center, LLC, entered into an Asset Purchase Agreement (APA) with CLR Troy LLC for the sale and acquisition of the RHCF operating interests for $3,081,045. Subsequently, on September 21, 2016 Troy Nursing and Rehabilitation Center, LLC and CLR Troy, LLC executed the First Amendment to the Asset Purchase Agreement consenting to the change in the proposed membership of CLR Troy, LLC. Concurrently on June 16, 2015, 49 Marvin Avenue, LLC, the current real property owner, entered into a Real Estate Purchase Agreement (REPA) with Troy SNF Realty LLC for the sale and acquisition of the facility's real property for $2,873,095. The APA and REPA will close at the same time upon approval of this application by the Public Health and Health Planning Council (PHHPC). There is a relationship between CLR Troy LLC and Troy SNF Realty LLC in that Hillel Weinberger is a common member in both entities. The applicant will lease the premises from Troy SNF Realty LLC.

Ownership of the operations before and after the requested change is as follows:

Current Operator		
Troy Nursing and Rehabilitation Center, LLC		
Member		
DMN Management Service, LLC		100%
Anthony Durante	15%	
Patrick Martone	10%	
Jami Rogowski	15%	
Jodi Polsinelli	15%	
Lisa Marrello	15%	
Pamela Nichols	15%	
Mark Nichols	15%	

Proposed Owner	
CLR Troy, LLC d/b/a The Springs Nursing and Rehabilitation Center	
Members	
Amir Abramchik (Manager)	50%
Hillel Weinberger	50%

Concurrently under review, the applicant members of CLR Troy LLC and the realty members of Troy SNF Realty LLC are seeking approval to acquire the operating and realty interests, respectively, in the following: The Crossings Nursing and Rehabilitation Centre (CON 162257), The Capital Living Nursing and Rehabilitation Centre (CON 162255), The Country Manor Nursing and Rehabilitation Centre (CON 162256),The Mountain View

Nursing and Rehabilitation Centre (CON 162258), The Orchard Nursing and Rehabilitation Centre (CON 162259), and The Stanton Nursing and Rehabilitation Centre (CON 162261).

OPCHSM Recommendation

Contingent Approval

Need Summary

This proposal will decrease the number of RHCF beds at this facility from 80 to 78. The Springs Nursing and Rehabilitation Centre's occupancy was 85.4% in 2012, 85.0% in 2013, 85.1% in 2014 and 86.4% in 2015. Current occupancy, as of December 21, 2016 is 87.5%.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

Financial Summary

There are no project costs associated with this application. CLR Troy LLC will acquire the RHCF's operating assets for $3,081,045 funded by $813,761 in members' equity and a ten-year loan for $2,267,284 at 5% interest, amortized over 25 years. Troy SNF Realty LLC will purchase the real property for $2,873,095, funded by $58,000 in members' equity and a ten-year loan for $2,815,095 at 5% interest, amortized over 25 years. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively.

The projected budget is as follows:

	Year One
Revenues	$7,659,829
Expenses	7,180,455
Net Income	$479,374

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. 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 continue to enhance access to Medicaid residents. At 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 to 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; and
    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. [RNR]
3. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
    a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
    b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
    c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
    d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
    e. Other factors as determined by the applicant to be pertinent. [RNR]
4. Submission of an executed Consulting Services Agreement, acceptable to the Department of Health. [BFA]
5. Submission of an executed loan commitment for the purchase of the RHCF operations, acceptable to the Department of Health. [BFA]
6. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
7. Submission of an executed loan commitment for the purchase of the RHCF's real property, acceptable to the Department of Health. [BFA]
8. Submission of a floor plan showing the two (2) beds to be decertified and the surrounding nursing unit(s), which is acceptable to the Department of Health. [LTC]
9. Submission of a photocopy of the applicant's amended lease agreement, acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's executed and amended Consulting Services Agreement, acceptable to the Department. [CSL]
11. Submission of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]

<u>Approval conditional upon</u>:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date
February 9, 2017

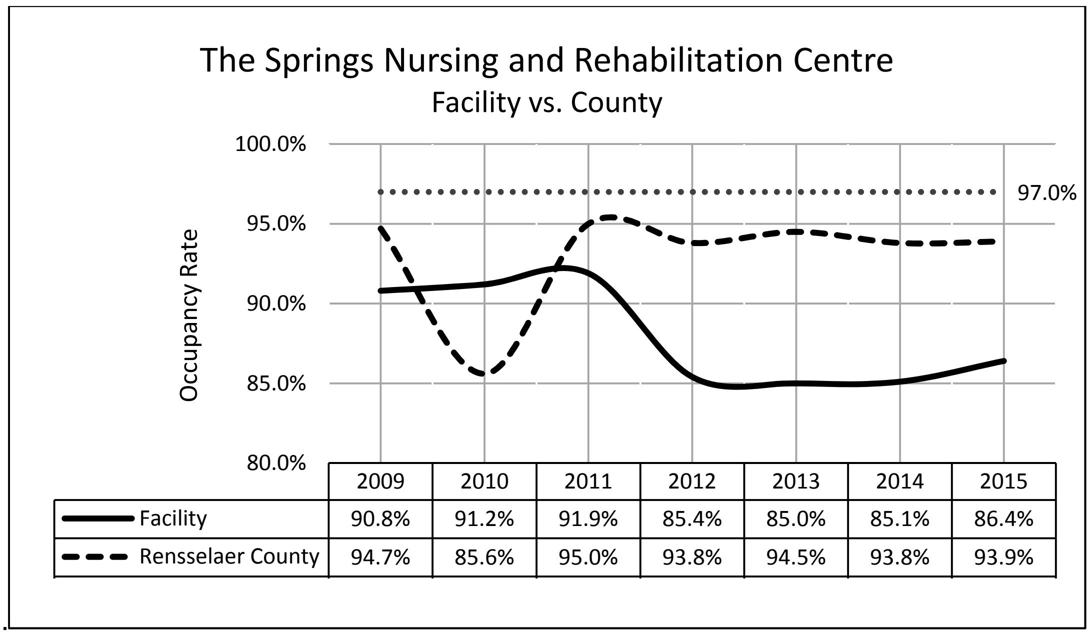
Need Analysis

Analysis

According to the current need methodology, there is no unmet need for beds in Rensselaer County.

RHCF Need – Rensselaer County

2016 Projected Need	1,025
Current Beds	1,244
Beds Under Construction	0
Total Resources	1,244
Unmet Need	0



	2009	2010	2011	2012	2013	2014	2015
Facility	90.8%	91.2%	91.9%	85.4%	85.0%	85.1%	86.4%
Rensselaer County	94.7%	85.6%	95.0%	93.8%	94.5%	93.8%	93.9%

The overall occupancy for Rensselaer County was 93.9% for 2015. The Springs Nursing and Rehabilitation Centre's occupancy was 85.4% in 2012, 85.0% in 2013, 85.1% in 2014 and 86.4% in 2015. The applicant acknowledges that the facility is experiencing utilization challenges, and attributes the utilization shortcomings to low staffing, high staff turnover, and the inconsistent ability of the facility to accept new admissions. The applicant has a plan to improve utilization, most notably by entering into a Consulting Agreement with Centers Health Care. According to the applicant, further plans to increase occupancy to the Department's planning optimum include:

- Development of Short-Term Rehabilitation Program: the new operator will implement a program to attract residents in need of short-term rehabilitation;
- Marketing and Community Outreach: implement a marketing team, including a full-time marketer working in the field and a designated employee working within the facility;
- Plan and Provider Outreach: develop and implement a program for improved collaboration with local health plans, hospital discharge planners, local assisted living facilities, home care providers, and other local health care providers and agencies to enhance provider relationships and familiarity with the facility and its staff;
- Staff Training, Development, and Support: implement new management and staff training and leadership programs that will encourage interaction and collaboration of staff across all commonly-owned nursing homes;
- Contracts with Managed Long-Term Care Plans: The Springs has contracts with VNA Home Care Options, VNSNY Choice, HAMASPIK, and Wellcare and Fidelis;
- Optuum Evercare Program: the Springs has signed a contract and hopes to implement this program as soon as possible;

- Food Service Improvements: institute a fine-dining program and hire an executive chef; and
- Environmental Improvements: implement various cosmetic improvements to make the facility more updated and attractive.

Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

The Springs Nursing and Rehabilitation Centre's Medicaid admissions of 25.8% and 23.0% in 2014 and 2015, respectively, exceeded the Rensselaer County 75% rates of 13.3% and 19.4% in 2014 and 2015. The applicant will be required to maintain these Medicaid admissions rates above the County 75% threshold, as detailed in the related contingency and condition of approval.

Conclusion

Contingent Approval of this application will result in maintaining a necessary resource in Rensselaer County, while addressing the facility's sub-optimal utilization.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	The Springs View Nursing and Rehabilitation Centre	Same
Address	49 Marvin Avenue Troy, NY 12180	Same
	80	78
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Proprietary
Operator	Troy Nursing and Rehabilitation Center, LLC	CLR Troy, LLC Amir Abramchik 50% Hillel Weinberger 50%

Character and Competence - Background

Facilities Reviewed

Nursing Homes

Chittenango Center for Rehabilitation and Health Care	05/2011 to 7/16
Rome Center for Rehabilitation and Health Care	05/2011 to 8/16
Fulton Center for Rehabilitation and Health Care	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	04/2012 to present
Corning Center for Rehabilitation and Health Care	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	11/2014 to present

Individual Background Review

Amir Abramchik is a licensed nursing home administrator in good standing in New York, New Jersey and Rhode Island. Mr. Abramchik has been employed by Centers for Specialty Care as the director of special projects since 2007. Previously he was employed as administrator of Queens Center for Rehabilitation and Health Care and Dutchess Center for Rehabilitation and Health Care. Mr. Abramchik discloses the following health facility interests with associated ownership percentages:

Fulton Center for Rehabilitation and Health Care	(10%)	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	(2%)	04/2012 to present
Corning Center for Rehabilitation and Health Care	(11%)	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	(95%)	11/2014 to present

Hillel Weinberger has been retired since 2012. He was formerly employed as the co-founder of Hillmark Capital, a financial planning business. He also has been serving as the the President of Ptach (a special needs school) for the last ten years. Mr Weinberger discloses no health facility ownership interests.

Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants identified as new members.

A review of operations of Fulton Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $52,000 pursuant to a Stipulation and Order NH-16-004 issued April 23. 2015 for surveillance findings on June 11, 2012, May 15, 2012, and November 21, 2013. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.12(i)(1) Quality of Care: Nutrition; 415.12(h)(1) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(i)(1) Quality of Care: Nutrition; 415.12(c)(2) Quality of Care: Pressure Sores; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.3(e)(2)(ii)(b) Notification of Changes; and 415.4(b)(1)(2)(3) Investigative/Report Allegations.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-12-39 issued on September 17, 2012 for surveillance findings on March 24, 2014. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores.
- A federal CMP of $975 was assessed for the June16, 2012 survey findings.
- A federal CMP of $11,895 was assessed for the May 15, 2013 survey findings.
- A federal CMP of $10,000 was assessed for the November 21, 2013 survey findings

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Fulton Center was a former County facility that had a high turnover of the facility's County employed staff after the current operators took over in April of 2012. The current operators had a period of transition after takeover where they had to hire and train new staff at the facility in order to maintain staffing levels needed.

A review of operations of Richmond Center for Rehabilitation and Specialty Healthcare for the period identified above reveals the following:

- The facility was fined $18,000 pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.
- A federal CMP of $27,528 was assessed for the April 24, 2012 survey findings.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-041 issued January 13, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.
- The facility was fined $10,000 pursuant to a Stipulation and Order issued for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Richmond Center has 300 certified beds with 72 of those beds servicing neurobehavioral residents in dedicated neurobehavioral units. This population can be difficult to serve and the initial survey findings in 2012 reflect a transition of this facility immediately after the current operators took over in April of 2012, with this initial enforcement occurring days after the official transition of ownership.

A review of operations of Ontario Center for Rehabilitation and Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $12,000 pursuant to a Stipulation and Order issued for surveillance findings on June 12, 2015. Deficiencies were found under 10 NYCRR 415.3(e)(2)(iii)- Notice of Rights and Services-Right to Refuse Treatment, Refuse to Participate in Research and the Right to Be Able to Formulate an Advance Directive; and 415.12(m)(2)- Quality of Care No Significant Medication Errors.

Since there were no other enforcements, the requirements for approval have been met as set forth in Public Health Law §2801-1(3).

A review of operations for Chittenango Center for Rehabilitation and Health Care, Rome Center for Rehabilitation and Health Care, and Corning Center for Rehabilitation and Health Care for the periods identified above, results in a conclusion of substantially consistent high level of care since there were no enforcements

Quality Review

Provider Name	**Overall**	**Health Inspection**	**Quality Measures**
The Grand Rehabilitation & Nursing At Chittenango	**	**	****
The Grand Rehabilitation And Nursing At Rome	*	*	***
Fulton Center For Rehabilitation And Healthcare	**	*	**
Richmond Center For Rehab And Specialty H C	****	***	**
Ontario Center For Rehabilitation And Healthcare	**	*	**
Corning Center For Rehabilitation And Healthcare	*	*	**

Project Review

This application proposes a reduction of two RHCF beds. The applicant has not provided plans showing the specific rooms and to be decertified and affected nursing units, which results in the addition of a contingency to this project. No other changes in the program or physical environment are proposed in this application.

The proposed operator intends to enter into a Consulting Services Agreement with Centers Health Care for consulting and advisory services related to administrative and operational functions.

The proposed operator was asked to explain the low star ratings. The operator has stated they have implemented initiatives to recruit and retain employees providing direct care services. They also plan on employing a combination of measures to correct deficiency issues, including in-service education, changes to policies and procedures when necessary, implementation of weekly observation and auditing of staff practices, and monthly review of the findings by the quality assurance committee.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Asset Purchase Agreement

The applicant has submitted an executed APA to acquire the RHCF's operating interest, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	June 16, 2015
Seller:	Troy Nursing and Rehabilitation Center, LLC
Buyer:	CLR Troy LLC
Asset Acquired:	The business and operation of the facility; leasehold improvements, furniture, fixtures and equipment owned or leases by seller; inventory, supplies, and other articles of personal property; transferable contracts, agreements, leases and undertakings; resident funds in trust; the name "The Springs Nursing and Rehabilitation Center"; security deposits and prepayments; manuals and computer software; resident/patient records; goodwill; all books and records relating to the facility; licenses and permits; Medicare and Medicaid provider numbers; rate increases and/or lump sum or other payments, resulting from rate appeals, audits or otherwise; patient claims, accounts receivable on and after closing date; leases and assets of seller relating to the facility
Excluded Assets:	Real Estate which is the subject of the real estate contract; insurance policies; union agreement and pension plans; rate increases and/or lump sum payments; tax refunds including real estate tax refunds relating to a period or periods prior to the closing date; amounts due from parties related to seller; seller's cash and cash equivalents; prepaid expenses; claims, causes of action and legal rights for periods prior to the closing date; receivables from any affiliated of seller; and payments made in connections with "Universal Appeal Settlement"
Assumption of Liabilities:	Liabilities and obligations arising with respect to the operation of the facility and the basic assets on and after the Closing Date; trade accounts payable for items purchased by the Seller prior to Closing (estimated at $825,000)
Purchase Price:	$3,081,045
Payment of Purchase Price:	$58,000 upon execution; $3,023,045 due at Closing

The purchase price of the operation is proposed to be satisfied as follows:

Equity – CLR Troy LLC Members	$813,761
Loan (10-year, 25-year amortization, 5% interest)	2,267,284
Total	$3,081,045

Greystone Funding Corporation has provided a letter of interest at the stated terms.

First Amendment to Asset Purchase Agreement

The applicant has submitted an executed First Amendment to the APA for the acquisition of the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	September 21, 2016
Seller:	Troy Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Troy, LLC
Change:	To implement the removal of Joseph Zupnik and Elisa Zupnik from ownership in the purchaser and the addition of Hillel Weinberger and Amir Abramchik as the sole owners of the purchaser.

The APA establishes a Total Purchase Price of $86,500,000 as total consideration for the assets transferred (as defined above), the real property (as defined below), and the assets of the sellers under all other APAs and REPAs related to the following entities: 1940 Hamburg Street, LLC (Realty, vacant property); MacDonald Road Corporation (Realty, Home Office); DMN Management Services, LLC (Home Office Assets); and the operating assets and real property associated with the following CONs concurrently under review:

CON 162256 - The Country Manor Nursing and Rehabilitation Centre, 90 beds, Jefferson County;
CON 162255 - The Capital Living Nursing and Rehabilitation Centre, 240 beds, Schenectady County;
CON 162258 - The Mountain View Nursing and Rehabilitation Centre, 77 beds, Ulster County;
CON 162259 - The Orchard Nursing and Rehabilitation Centre, 88 beds, Washington County;
CON 162257 - The Crossings Nursing and Rehabilitation Centre, 80 beds, Onondaga County; and
CON 162261 - The Stanton Nursing and Rehabilitation Centre, 117 beds, Warren County.

Please note the above bed counts for CON 162258, CON 162257 and CON 162261 reflect bed reductions anticipated upon establishment

North Broadway Office Operations, LLC will acquire the operating interests of DMN Management Services (DMN), referenced above, for $258,000. The staff of DMN currently provide services including QA/QI, billing, IT management, payroll, audit, accounts receivable and human resources. After the change in ownership, DMN Management Services will no longer exist.

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. As of November 14, 2016, the facility has outstanding Medicaid liabilities of $33,708.89.

Purchase and Sale Agreement for the Real Property

The applicant has submitted an executed REPA to acquire the real property. The agreement close, concurrent with the APA upon PHHPC approval of this CON. The terms are summarized below**:**

Date:	June 16, 2015
Seller:	49 Marvin Avenue, LLC
Buyer:	Troy SNF Realty LLC
Purchase Price:	$2,873,095
Asset Transferred:	Real Property located at 49 Marvin Avenue, Troy, NY
Payment of Purchase Price:	$58,000 upon execution; $2,815,095 due at Closing.

The purchase price of the real property is proposed to be satisfied as follows:

Equity – Troy SNF Realty LLC Members	$58,000
Loan (10-year, 25-year amortization, 5% interest)	2,815,095
Total	$2,873,095

Capital Funding, LLC has provided a letter of interest at the stated terms.

BFA Attachments A and B are the net worth summaries of the proposed members of CLR Troy LLC (operator) and Troy SNF Realty LLC (real property owner), respectively. Review of the net worth statements reveals sufficient resources overall to meet the equity requirements. It is noted that liquid resources may not be available in proportion to the proposed ownership interests for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Troy LLC and Troy SNF Realty LLC, has provided affidavits stating that he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities to make up any members' equity shortfall in contributing to the purchase price and/or working capital needs.

Hillel Weinberger has provided affidavits, disproportionate to his membership interests, to fund the operating and real property loan balloon payments, should terms acceptable to the Department be unavailable at the time of refinancing.

Lease Agreement

The applicant has submitted an executed lease agreement. The terms of which are summarized below:

Date:	October 31, 2016
Premises:	80-bed RHCF located at 49 Marvin Avenue, Troy, NY
Landlord:	Troy SNF Realty LLC
Lessee:	CLR Troy LLC
Term:	40 years from Commencement Date
Rent*:	$277,481 ($23,123 per month).
Provisions:	Triple Net, plus

* Rent is estimated at $197,481 in fixed rent (Net Rent), based on the 25-year amortization of the mortgage, plus $80,000 in Over Rent. In addition to the $277,481 rental amount, the lessee will be billed for other expenses related to the premises incurred by the landlord.

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operating entity.

Consulting Services Agreement

The applicant has provided a draft consulting services agreement, with terms summarized below:

Contractor:	Centers for Care LLC d/b/a Centers Health Care
Facility:	CLR Troy, LLC, d/b/a The Springs Nursing and Rehabilitation Center
Affiliation:	The Facility will refer to itself as "Affiliated with Centers Health Care" or "Member of Centers Health Care, limited to marketing efforts and the identification of professionals, consultants, vendors and healthcare providers and other resources that can assist the Facility in the provision of care.
Consulting and Advisory Services:	The contractor will be responsible for the operation, supervision and oversight of all functions related to A/R and A/P, including assistance and supervision of staff in interacting with families, collection of NAMI and private funds, submission of award letters, and preparation of applications for payee, maintenance of billing files, monitoring payments to the facility by all payer sources, pursuing payments for delinquent accounts and assisting the facility, at the facility's expense. The contractor will provide assistance to and supervision of staff performing and providing the following services: all billing functions for all payer sources and maintenance of all billing and posting records and establishment of payroll budgets and schedule coordination with nursing and other departments. Responsible for the preparation of health facility assessment; assist the Facility with the preparation of RHCF 4 and Medicare cost reports; and reconciliation of billing records, Maintenance of electronic resident/patient billing files, fund records and accounts, and monthly operating cash flow projections. Assist the Facility in reviewing of rate sheets and filing of necessary appeals and audit facility's monthly pharmacy bills and the implementing of formulary management.
Clinical Consulting Services:	The contractor will provide advice and assistance to the Facility with respect to the administrative functioning of the Therapy, Social Services and Nursing departments. Develop operating policies and procedures, rules and methods of operation appropriate to such departments and the training and orientation of staff. Recommend procedures to ensure the consistency and quality of all the Services. Assist the Facility with respect to its CMI, Medicare, and case-mix reimbursement.
Other Duties:	Develop and implement a marketing plan; furnish sufficient part-time temporary licensed skilled professional staff for the health care activities described herein
Term:	One Year with automatic one year renewals, unless terminated through mutual consent, default or by one party with 60-day written notice.
Fee:	The fees for the Services shall, to the maximum extent possible, represent the actual costs incurred by CHC in providing the Services to the Facility.

CLR Troy LLC retains ultimate control in all of the final decisions associated with the services.

Centers for Care LLC will also provide consulting services to the other RHCFs transferred under the terms of the APA referenced above. Amir Abramchik is the Chief Operating Officer of the Consulting services provider, Center for Care LLC, and a member of the applicant. The Centers for Care LLC is equally owned by Kenneth Rozenberg and Beth Rozenberg.

The fees are estimated at $3,000,000 for the subject facility and the six facilities being acquired concurrently, and divided amongst the facilities as follows, based on the total licensed beds:

- The Capital Living Nursing and Rehabilitation Center, 240 beds: $935,066
- The Country Manor Nursing and Rehabilitation Centre, 90 beds: $350,649
- The Crossings Nursing and Rehabilitation Centre, 80 beds: $311,688
- The Mountain View Nursing and Rehabilitation Centre, 77 beds: $300,000
- The Orchard Nursing and Rehabilitation Centre, 88 beds, $342,857
- The Springs Nursing and Rehabilitation Centre, 78 beds, $303,896
- The Stanton Nursing and Rehabilitation Centre, 117 beds, $455,844

Operating Budget

The applicant has provided the current year (2015) results and the first year operating budget subsequent to the change in ownership in 2017 dollars, summarized as follows:

	Current Year		Year One	
Revenue	Per Diem	80 Beds	Per Diem	78 Beds
Medicaid-FFS	$211.07	$3,755,754	$217.76	$4,151,594
Medicaid-MC	$211.00	$158,672	$217.76	$175,515
Medicare-FFS	$482.04	$1,056,624	$489.27	$1,149,295
Medicare-MC	$545.13	$847,138	$545.13	$907,641
Commercial-FFS	$350.00	$202,300	$350.00	$216,650
Private Pay	$345.21	$819,177	$416.49	$1,059,134
Other Income		11,084		0
Total Revenue		$6,850,749		$7,659,829
Expenses				
Operating	$272.43	$6,876,961	$247.58	$6,696,402
Capital	$12.53	$316,280	$17.90	$484,053
Total Expenses		$7,193,241		$7,180,455
Net Income		($342,492)		$479,374
Utilization (Patient Days)		25,243		27,047
Occupancy		86.45%		95%

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

- The Current Year reflects the facility's 2015 revenues and expenses based on 80 beds.
- Medicaid revenue is based on the facility's current 2016 Medicaid Regional Pricing rate. The Current Year Medicare rate is the actual daily rate experienced by the facility during 2015 and the forecasted Year One and Year Three Medicare rate is the actual daily rate experienced during 2016. The Private Pay rate reflects current average rate experienced during 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by approximately 2.6% through various initiatives including renegotiating contracts.
- Utilization by payer source for the first year after the change in ownership is summarized below:

	Current Year	Year One
Medicaid-FFS	70.49%	70.49%
Medicaid-MC	2.98%	2.98%
Medicare-FFS	8.68%	8.68%
Medicare-MC	6.16%	6.16%
Commercial-FFS	2.29%	2.29%
Private Pay	9.40%	9.40%
Total	100.0%	100.0%

- The breakeven utilization is projected at 89.06% for the first year.

Capability and Feasibility

There are no project costs associated with this application. CLR Troy LLC will acquire the RHCF's operations for $3,081,045, which will be funded via $813,761 in members' equity and a ten-year loan for $2,267,284 at the above stated terms. Troy SNF Realty LLC will purchase the real property for $2,873,095 funded by $58,000 in members' equity and a ten-year loan for $2,815,095 at the above stated term. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively.

The working capital requirement is estimated at $1,197,742 based on two months of Year One expenses. Funding will be as follows: $598,371 from the members' equity with the remaining $598,371 satisfied through a five-year loan at 5% interest rate. Harborview Capital Funding has provided a letter of interest. Review of BFA Attachments A and B, proposed members net worth summaries for the operator and real property owner, respectively, reveals sufficient resources to meet equity requirements. As previously stated, liquid resources may not be available in proportion to the proposed ownership interests for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Troy LLC and Troy SNF Realty, LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities (covering the purchase price and working capital equity). Additionally, Hillel Weinberger has provided affidavits stating he is willing to contribute resources, disproportionate to his membership interests, for the operating and realty entity balloon payments should terms acceptable to the Department be unavailable at the time of refinancing.

The submitted budget projects $479,374 of net income in Year One after the change in ownership. Revenues are estimated to increase by approximately $809,080 or 11.8% based on the increase in occupancy (going from 86.45% to 95%). Overall expenses are expected to decrease by $12,786, coming from a $180,559 reduction in operating expenses, partially offset by a $167,773 increase in capital expenses. The change in operating expenses comes primarily from the following: a $105,670 increase in the salaries and wages; a $131,339 increase in employee benefits; a $226,502 decrease in professional fees; with the remaining reduction of $191,066 reduction coming from various items The budget was created taking into consideration the proposed new owners' experience in operating similar sized facilities.

BFA Attachment D is CLR Troy LLC's pro forma balance sheet, which shows the entity will start with $1,412,132 in members' equity. Equity includes $2,048,251 in goodwill, which is not a liquid resource nor is it recognized for Medicaid Reimbursement. If goodwill is eliminated, total net assets are a negative $636,119.

DOH staff note that, through August 31, 2016, utilization was approximately 89.66% (adjusted for 78 beds), which is less than the first year's projections for the proposed 78 beds by approximately 5%. BFA Attachment H is a budget sensitivity analysis that incorporates actual patient days as of August 31, 2016, and then adjusted and annualized for 78 beds while using the applicant's projected payer mix and expenses for the first year. Based upon this scenario, net profits would decline by $413,762 to $65,612. For comparison, the internal financial summary for the eight months ending September 30, 2016, showed a net loss of $160,692 before allocation of Home Office Overhead (HO) and a $485,263 loss after HO. The budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing Medicaid NH revenues through the transition period.

BFA Attachment E is the Financial Summary of The Springs Nursing and Rehabilitation Centre for 2013 through 2015. As shown, the RHCF had an average negative working capital position of $4,246,827, average negative net assets of $4,062,035, and an average net loss of $192,928 for the period. The applicant indicated that the reason for the negative performance was due to low occupancy.
During this period, the facility's average occupancy was 85.53%. The applicant plans to increase occupancy by accepting more clinically complex residents and implementing the above stated measures. Additionally, the applicant intends to reduce expenses by renegotiating vendor contracts. Also included as part of Attachment E is DMN Management Services and Subsidiaries' 2015 certified financial statement, which shows working capital and net assets to be positive with operations showing a $449,584 profit in 2015 before non-recurring expenses of $360,000.

BFA Attachment F is the internal financial statements for The Springs Nursing & Rehabilitation Centre as of September 30, 2016, which shows negative working capital, negative net assets and the operating loss $485,263 after allocation of Home Office overhead. On a consolidated basis, the organization had a positive working capital, positive net assets and generated a loss

BFA Attachment G is a Financial Summary of the proposed member's affiliated nursing homes. The affiliated RHCFs show positive working capital, positive net assets and average positive net income.

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth of Proposed Members, CLR Troy, LLC.
BFA Attachment B	Net Worth of Proposed Realty Members, Troy SNF Realty, LLC.
BFA Attachment C	Current and proposed Realty Members, Troy SNF Realty, LLC
BFA Attachment D	Pro Forma Balance Sheet
BFA Attachment E	Financial Summary of The Springs Nursing & Rehabilitation Centre and DMN Management Services, LLC, 2015 Certified Financial Statement
BFA Attachment F	Internal Financial Statement of The Springs Nursing & Rehab Centre and Capital Living & Rehab Centre and DMN Management Services LLC
BFA Attachment G	Financial Summary of Proposed Member's Affiliated RHCFs.
BFA Attachment H	Budget Sensitivity Analysis

Public Health and Health Planning Council

Project # 162261-E
CLR Glens Falls LLC d/b/a The Stanton Nursing and Rehabilitation Center

Program:	**Residential Health Care Facility**	***County:***	**Warren**
Purpose:	**Establishment**	***Acknowledged:***	**October 7, 2016**

Executive Summary

Description

CLR Glens Falls LLC d/b/a The Stanton Nursing and Rehabilitation Center, a New York limited liability company, requests approval to be established as the new operator of The Stanton Nursing and Rehabilitation Centre, a 120-bed, proprietary, Article 28 residential health care facility (RHCF) located at 152 Sherman Avenue, Glens Falls (Warren County). As part of this application, the certified bed capacity will be reduced by three beds, bringing the total certified bed count to 117. A separate entity, Glens Falls SNF Realty LLC, will acquire the real property. There will be no change in services provided.

On June 16, 2015, the current operator, Glens Falls Nursing and Rehabilitation Center, LLC, entered into an Asset Purchase Agreement (APA) with CLR Glens Falls LLC for the sale and acquisition of the RHCF operating interests for $4,434,067. Subsequently, on September 21, 2016, Glens Falls Nursing and Rehabilitation Center, LLC and CLR Glens Falls LLC executed the First Amendment to the Asset Purchase Agreement consenting to the change in the proposed membership of CLR Glens Falls, LLC. Concurrently on June 16, 2015, 152 Sherman Avenue, LLC, the current real property owner, entered into a Real Estate Purchase Agreement (REPA) with Glens Falls SNF Realty LLC for the sale and acquisition of the real property for $7,991,963. The APA and REPA will close at the same time upon approval of this application by the Public Health and Health Planning Council (PHHPC). There is a relationship between the CLR Glen Falls LLC and Glen Falls SNF Realty LLC in that Hillel Weinberger is a common member in both entities. The applicant will lease the premises from Glen Falls SNF Realty LLC.

Ownership of the operations before and after the requested change is as follows:

Current Operator		
Glens Falls Nursing and Rehabilitation Center, LLC		
Member		
DMN Management Service, LLC		100%
Anthony Durante	15%	
Patrick Martone	10%	
Jami Rogowski	15%	
Jodi Polsinelli	15%	
Lisa Marrello	15%	
Pamela Nichols	15%	
Mark Nichols	15%	

Proposed Operator	
CLR Glens Falls LLC	
Members	
Hillel Weinberger	50%
Amir Abramchik	50%

Concurrently under review, the applicant members of CLR Glens Falls LLC and the realty members of Glens Falls SNF Realty LLC are seeking approval to acquire the operating and realty interests, respectively, in the following: The Crossings Nursing and Rehabilitation Centre (CON 162257), The Capital Living Nursing and Rehabilitation Centre (CON

162255), The Country Manor Nursing and Rehabilitation Centre (CON 162256), The Mountain View Nursing and Rehabilitation Centre (CON 162258), The Orchard Nursing and Rehabilitation Centre (CON 162259), and The Springs Nursing and Rehabilitation Centre (CON 162261).

OPCHSM Recommendation
Contingent Approval

Need Summary
This proposal will decrease the number of RHCF beds at this facility from 120 to 117. The Stanton Nursing and Rehabilitation Centre's occupancy was 94.5% in 2012, 92.9% in 2013, 90.7% in 2014 and 88.4% in 2015. Current occupancy, as of December 21, 2016 is 90.0%.

Program Summary
No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

Financial Summary
There are no project costs associated with this application. CLR Glens Falls LLC will acquire the RHCF's operations for $4,434,067 funded by $1,152,017 in members' equity and a ten-year loan for $3,282,050 at 5% interest, amortized over 25 years. Glens Falls SNF Realty LLC will acquire the real property for $7,991,963, funded by $58,000 in members' equity and a ten-year loan for $7,933,963 at 5% interest, amortized over 25 years. Greystone Funding Corporation and Capital Funding, LLC have provided letters of interest for the operating and realty loans, respectively. The projected budget is as follows:

	Year One	Year Three
Revenues	$10,593,486	$10,817,144
Expenses	9,941,270	9,906,120
Gain/(Loss)	$652,216	$911,024

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of an executed Consulting Services Agreement, acceptable to the Department of Health. [BFA]
2. Submission of an executed loan commitment for the purchase of the RHCF operations, acceptable to the Department of Health. [BFA]
3. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
4. Submission of an executed loan commitment for the purchase of the real property, acceptable to the Department of Health. [BFA]
5. 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]
6. Submission of a plan to continue to enhance access to Medicaid residents. At 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 to 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; and
    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. [RNR]
7. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
    a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
    b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
    c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
    d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
    e. Other factors as determined by the applicant to be pertinent. [RNR]
8. Submission of a floor plan showing the three beds to be decertified and the surrounding nursing unit(s), which is acceptable to the Department of Health. [LTC]
9. Submission of a photocopy of the applicant's amended lease agreement, acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's executed and amended Consulting Services Agreement, acceptable to the Department. [CSL]
11. Submission of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]

<u>Approval conditional upon</u>:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date
February 9, 2017

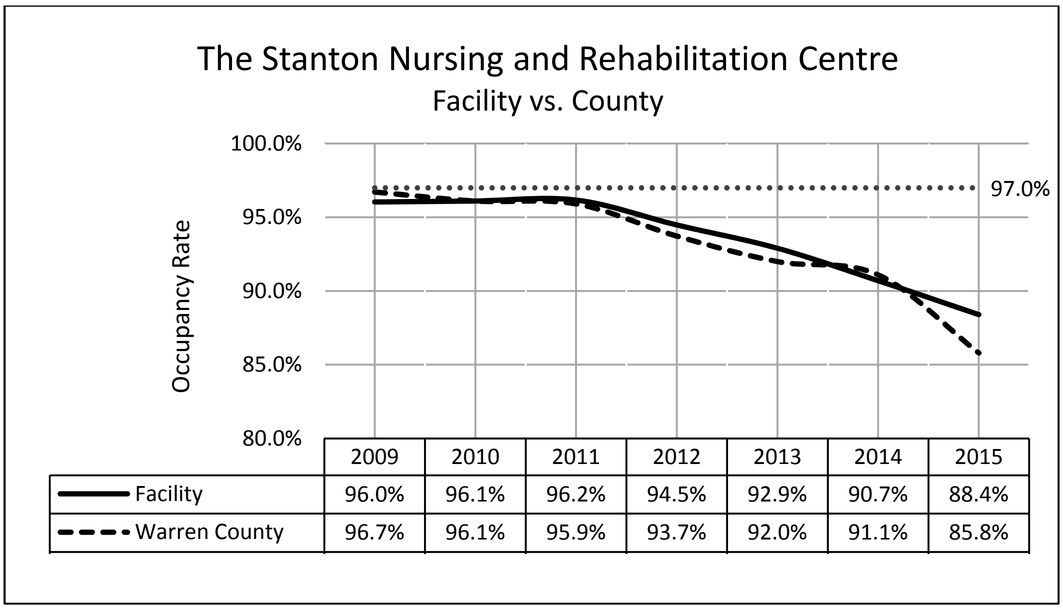
Need Analysis

Analysis

According to the current need methodology, there is unmet need of 15 beds in Warren County.

RHCF Need – Warren County

2016 Projected Need	417
Current Beds	402
Beds Under Construction	0
Total Resources	402
Unmet Need	15



The overall occupancy for Warren County is 85.8% for 2015. The Stanton Nursing and Rehabilitation Centre's occupancy was 94.5% in 2012, 92.9% in 2013, 90.7% in 2014 and 88.4% in 2015. The applicant acknowledges that the facility is experiencing utilization challenges, and attributes the utilization shortcomings to inadequate staffing and high staff turnover, and the inconsistent ability of the facility to accept new admissions.

According to the applicant, plans to increase occupancy to meet or exceed the Department's planning optimum include:

- Plan to Accept More Clinically Complex Residents: the Stanton has had difficulty recruiting and retaining staff who are capable of caring for high-acuity residents, and therefore has been unable to accept new high-acuity cases. The applicant intends to improve recruiting and training of staff to enable the admission of high-acuity residents;
- Marketing and Community Outreach: implement a marketing team, including a full-time marketer working in the field and a designated employee working within the facility;
- Plan and Provider Outreach: develop and implement a program for improved collaboration with local health plans, hospital discharge planners, local assisted living facilities, home care providers, and other local health care providers and agencies to enhance provider relationships and familiarity with the facility and its staff;

- Staff Training, Development, and Support: implement new management and staff training and leadership programs that will encourage interaction and collaboration of staff across all commonly-owned nursing homes;
- Contracts with Managed Long-Term Care Plans: The Stanton has contracts with VNA Home Care Options, VNSNY Choice, HAMASPIK, and WEllcare and Fidelis;
- Landmark Program: a new association with Landmark Health will result in increased direct admissions;
- Food Service Improvements: institute a fine-dining program and hire an executive chef; and
- Environmental Improvements: implement various cosmetic improvements to make the facility more updated and attractive.

Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

The Stanton Nursing and Rehabilitation's Medicaid admissions of 9.0% in 2014 did not exceed the Warren County 75% rate of 10.4% in 2014. The Stanton Nursing and Rehabilitation's Medicaid admissions of 8.4% in 2015 did not exceed the Warren County 75% rate of 17.7%. The applicant will have to submit a plan to improve Medicaid admission, per the relevant contingency and condition below.

Conclusion

Contingent Approval of this application will result in maintaining a necessary resource in Warren County, while addressing the facility's suboptimal utilization.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	The Stanton Nursing and Rehabilitation Centre	The Stanton Nursing and Rehabilitation Centre
Address	152 Sherman Avenue Glens Falls, NY	Same
	120	117
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Proprietary
Operator	Glens Falls Nursing & Rehabilitation Center, LLC	CLR Glens Falls, LLC Amir Abramchik 50% Hillel Weinberger 50%

Character and Competence - Background

Facilities Reviewed

Nursing Homes

Chittenango Center for Rehabilitation and Health Care	05/2011 to 7/16
Rome Center for Rehabilitation and Health Care	05/2011 to 8/16
Fulton Center for Rehabilitation and Health Care	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	04/2012 to present
Corning Center for Rehabilitation and Health Care	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	11/2014 to present

Individual Background Review

Amir Abramchik is a licensed nursing home administrator in good standing in New York, New Jersey and Rhode Island. Mr. Abramchik has been employed by Centers for Specialty Care as the director of special projects since 2007. Previously he was employed as administrator of Queens Center for Rehabilitation and Health Care and Dutchess Center for Rehabilitation and Health Care. Mr. Abramchik discloses the following health facility interests with associated ownership percentages:

Fulton Center for Rehabilitation and Health Care	(10%)	04/2012 to present
Richmond Center for Rehab and Specialty Health Care	(2%)	04/2012 to present
Corning Center for Rehabilitation and Health Care	(11%)	06/2013 to present
Ontario Center for Rehabilitation and Healthcare	(95%)	11/2014 to present

Hillel Weinberger has been retired since 2012. He was formerly employed as the co-founder of Hillmark Capital, a financial planning business. He also has been serving as the the President of Ptach (a special needs school) for the last ten years. Mr Weinberger discloses no health facility ownership interests.

Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants identified as new members.

A review of operations of Fulton Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $52,000 pursuant to a Stipulation and Order NH-16-004 issued April 23. 2015 for surveillance findings on June 11, 2012, May 15, 2012, and November 21, 2013. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.12(i)(1) Quality of Care: Nutrition; 415.12(h)(1) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(i)(1) Quality of Care: Nutrition; 415.12(c)(2) Quality of Care: Pressure Sores; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.3(e)(2)(ii)(b) Notification of Changes; and 415.4(b)(1)(2)(3) Investigative/Report Allegations.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-12-39 issued on September 17, 2012 for surveillance findings on March 24, 2014. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores.
- A federal CMP of $975 was assessed for the June16, 2012 survey findings.
- A federal CMP of $11,895 was assessed for the May 15, 2013 survey findings.
- A federal CMP of $10,000 was assessed for the November 21, 2013 survey findings

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Fulton Center was a former County facility that had a high turnover of the facility's County employed staff after the current operators took over in April of 2012. The current operators had a period of transition after takeover where they had to hire and train new staff at the facility in order to maintain staffing levels needed.

A review of operations of Richmond Center for Rehabilitation and Specialty Healthcare for the period identified above reveals the following:

- The facility was fined $18,000 pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.
- A federal CMP of $27,528 was assessed for the April 24, 2012 survey findings.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-041 issued January 13, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.
- The facility was fined $10,000 pursuant to a Stipulation and Order issued for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. Richmond Center has 300 certified beds with 72 of those beds servicing neurobehavioral residents in dedicated neurobehavioral units. This population can be difficult to serve and the initial survey findings in 2012 reflect a transition of this facility immediately after the current operators took over in April of 2012, with this initial enforcement occurring days after the official transition of ownership.

A review of operations of Ontario Center for Rehabilitation and Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $12,000 pursuant to a Stipulation and Order issued for surveillance findings on June 12, 2015. Deficiencies were found under 10 NYCRR 415.3(e)(2)(iii)-Notice of Rights and Services-Right to Refuse Treatment, Refuse to Participate in Research and the Right to Be Able to Formulate an Advance Directive; and 415.12(m)(2)- Quality of Care No Significant Medication Errors.

Since there were no other enforcements, the requirements for approval have been met as set forth in Public Health Law §2801-1(3).

A review of operations for Chittenango Center for Rehabilitation and Health Care, Rome Center for Rehabilitation and Health Care, and Corning Center for Rehabilitation and Health Care for the periods identified above, results in a conclusion of substantially consistent high level of care since there were no enforcements

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
The Grand Rehabilitation & Nursing at Chittenango	**	**	****
The Grand Rehabilitation and Nursing at Rome	*	*	***
Fulton Center for Rehabilitation and Healthcare	**	*	**
Richmond Center for Rehab and Specialty HC	****	***	**
Ontario Center for Rehabilitation and Healthcare	**	*	**
Corning Center for Rehabilitation and Healthcare	*	*	**

Project Review
This application proposes a reduction of three RHCF beds. The applicant has not provided plans showing the specific rooms to be decertified and the effected nursing units, which results in the addition of a contingency to this project. No other changes in the program or physical environment are proposed in this application.

The proposed operator intends to enter into a Consulting Services Agreement with Centers Health Care for consulting and advisory services related to administrative and operational functions.

The proposed operator was asked to explain the low star ratings. The operator has stated they have implemented initiatives to recruit and retain employees providing direct care services. They also plan on employing a combination of measures to correct deficiency issues, including in-service education, changes to policies and procedures when necessary, implementation of weekly observation and auditing of staff practices, and monthly review of the findings by the quality assurance committee.

Recommendation
From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Asset Purchase Agreement
The applicant has submitted an executed APA to acquire the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	June 16, 2015
Seller:	Glens Falls Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Glens Falls LLC
Assets Transferred:	The business and operation of the Facility; leasehold improvements, furniture, fixtures and equipment owned or leased by Seller; inventory, supplies, and other articles of personal property; transferable contracts, agreements, leases and undertakings; Resident funds held in trust; The name " The Stanton Nursing and Rehabilitation Centre"; security deposits and prepayments; manuals and computer software; resident/patient records; Goodwill; all books and records relating to the Facility; licenses and permits; Medicare and Medicaid provider numbers; rate increases and/or lump sum or other payments, resulting from rate appeals, audits or otherwise; patient claims accounts receivable on and after Closing Date; leases; and assets of Seller relating to the Facility
Excluded Assets:	Real Estate which is the subject of the Real Estate Contract; insurance policies; union agreement and pension plans; rate increases and/or lump sum payments; tax refunds including real estate tax refunds relating to a period or periods prior to the Closing Date; amounts due from parties related to Seller; Seller's cash and cash equivalents; Prepaid expenses; claims, causes of action and legal rights for periods prior to the Closing Date; receivables from any affiliate of Seller; and payments made in connection with "Universal Appeal Settlement"
Assumed Liabilities:	Liabilities and obligations arising with respect to the operation of the Facility on and after the Closing Date; trade accounts payable for items purchased by the Seller prior to Closing (estimated at $1,050,000)
Purchase Price:	$4,434,067
Payment of the Purchase Price:	$58,000 upon execution; $4,376,067 due at Closing

The purchase price of the operations is proposed to be satisfied as follows:

Equity from Members	$1,152,017
Loan (10-year, 25-year amortization, 5% interest)	3,282,050
Total	$4,434,067

Greystone Funding Corporation has provided a letter of interest at the stated terms.

First Amendment to Asset Purchase Agreement

The applicant has submitted an executed First Amendment to the APA for acquisition of the RHCF's operating interests, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	September 21, 2016
Seller:	Glens Falls Nursing and Rehabilitation Center, LLC
Purchaser:	CLR Glens Falls LLC
Change:	To implement the removal of Joseph Zupnik and Elisa Zupnik from ownership in the purchaser and the addition of Hillel Weinberger and Amir Abramchik as the sole owners of the purchaser.

The APA establishes a Total Purchase Price of $86,500,000 as total consideration for the assets transferred (as defined above), the Real Property (as defined below), and the assets of the sellers under all the other APAs and REPAs related to the following entities: 1940 Hamburg Street, LLC (Realty, vacant property); MacDonald Road Corporation (Realty, Home Office); DMN Management Services, LLC (Home Office Assets); and the operational assets and real property associated with the following CONs concurrently under review:

CON 162257 - The Crossings Nursing and Rehabilitation Centre, 80 beds, Onondaga County;
CON 162255 - The Capital Living Nursing and Rehabilitation Centre, 240 beds, Schenectady County;
CON 162256 - The Country Manor Nursing and Rehabilitation Centre. 90 beds, Jefferson County;
CON 162258 - The Mountain View Nursing and Rehabilitation Centre, 77 beds, Ulster County;
CON 162259 - The Orchard Nursing and Rehabilitation Centre, 88 beds, Washington County; and
CON 162260 - The Springs Nursing and Rehabilitation Centre, 78 beds, Rensselaer County.

Please note the above bed counts for CON 162257, CON 162258 and CON 162260 reflect bed reductions anticipated upon establishment.

North Broadway Office Operations, LLC will acquire the operating interests of DMN Management Services (DMN), referenced above, for $258,000. The staff of DMN currently provide services including: QA/QI, billing, IT management, payroll, audit, accounts receivable, and human resources. After the change in ownership, DMN Management Services will no longer exist.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement 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. As of December 20, 2016, the facility had outstanding Medicaid liabilities of $8,767.

Purchase and Sale Agreement for the Real Property

The applicant has submitted an executed REPA to acquire the real property. The terms of the agreement are summarized below:

Date:	June 16, 2015
Seller:	152 Sherman Avenue, LLC
Purchaser:	Glens Falls SNF Realty LLC
Asset Transferred Realty:	Real Property located at 152 Sherman Ave, Glens Falls, NY 12801
Purchase Price:	$7,991,963
Payment of the Purchase Price:	$58,000 upon execution; $7,933,963 at Closing

The purchase price of the real property is proposed to be satisfied as follows:

Equity from Members	$58,000
Loan (10-year, 25-year amortization, 5% interest)	7,933,963
Total	$7,991,963

Capital Funding, LLC has provided a letter of interest at the stated terms.

BFA Attachments A and B are the net worth summaries for the proposed members of CLR Glens Falls LLC (operator) and Glens Falls SNF Realty LLC (real property owner), respectively. Review of the net worth statements reveals sufficient resources overall to meet the equity requirements. It is noted that liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Glens Falls LLC and Glens Falls SNF Realty LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities to make up any member's equity shortfall in contributing to the purchase price and/or working capital needs.

Hillel Weinberger has provided affidavits, disproportionate to his membership interests, to fund the operating and real property loan balloon payments, should terms acceptable to the Department be unavailable at the time of refinancing.

Lease Agreement

The applicant submitted an executed lease agreement, the terms of which are summarized below:

Date:	October 31, 2016
Premises:	120-bed RHCF located at 152 Sherman Ave., Glens Falls, NY 12801
Owner/Landlord:	Glens Falls SNF Realty, LLC
Lessee:	CLR Glens Falls, LLC
Term:	40 years from Commencement Date
Rent:*	$676,574 ($56,381 per month).
Provisions:	Triple Net, plus

*Rent is estimated at $556,574 in fix rent (Net Rent), based on the 25-year amortization of the mortgage, plus $120,000 in Over Rent. In addition to the $676,576 rental amount, the lessee will be billed for other expenses related to the premises incurred by the landlord.

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operating entity.

Consulting Services Agreement

The applicant has provided a draft consulting services agreement, summarized below:

Contractor:	Centers for Care LLC d/b/a Centers Health Care
Facility:	CLR Glens Falls LLC d/b/a The Stanton Nursing and Rehabilitation Center
Affiliation:	The Facility will refer to itself as “Affiliated with Centers Health Care” or “Member of Centers Health Care, limited to marketing efforts and the identification of professionals, consultants, vendors and healthcare providers and other resources that can assist the Facility in the provision of care.
Consulting and Advisory Services:	The contractor will be responsible for the operation, supervision and oversight of all functions related to A/R and A/P, including assistance and supervision of staff in interacting with families, collection of NAMI and private funds, submission of award letters, and preparation of applications for payee, maintenance of billing files, monitoring payments to the facility by all payer sources, pursuing payments for delinquent accounts and assisting the facility, at the facility’s expense. The contractor will provide assistance to and supervision of staff performing and providing the following services: all billing functions for all payer sources and maintenance of all billing and posting records and establishment of payroll budgets and schedule coordination with nursing and other departments. Responsible for the preparation of health facility assessment; assist the Facility with the preparation of RHCF 4 and Medicare cost reports; and reconciliation of billing records, Maintenance of electronic resident/patient billing files, fund records and accounts, and monthly operating cash flow projections. Assist the Facility in reviewing of rate sheets and filing of necessary appeals and audit facility’s monthly pharmacy bills and the implementing of formulary management.
Clinical Consulting Services:	The contractor will provide advice and assistance to the Facility with respect to the administrative functioning of the Therapy, Social Services and Nursing departments. Develop operating policies and procedures, rules and methods of operation appropriate to such departments and the training and orientation of staff. Recommend procedures to ensure the consistency and quality of all the Services. Assist the Facility with respect to its CMI, Medicare, and case-mix reimbursement.
Other Duties:	Develop and implement a marketing plan; furnish sufficient part-time temporary licensed skilled professional staff for the health care activities described herein
Term:	One Year with automatic one year renewals, unless terminated through mutual consent, default or by one party with 60-day written notice.
Fee:	The fees for the Services shall, to the maximum extent possible, represent the actual costs incurred by CHC in providing the Services to the Facility.

CLR Glen Falls LLC retains ultimate control in all of the final decisions associated with the services.

Centers for Care LLC will also provide consulting services to the other RHCFs transferred under the terms of the APA referenced above. Amir Abramchik is the Chief Operating Officer of the consulting services provider, Centers for Care LLC, and a member of the applicant. The Centers for Care LLC is equally owned by Kenneth Rozenberg and Beth Rozenberg.

The fees are estimated at $3,000,000 for the subject facility and the six facilities being acquired concurrently, and divided amongst the facilities as follows, based on the total licensed beds:

- The Capital Living Nursing and Rehabilitation Center, 240 beds: $935,066
- The Country Manor Nursing and Rehabilitation Centre, 90 beds: $350,649
- The Crossings Nursing and Rehabilitation Centre, 80 beds: $311,688
- The Mountain View Nursing and Rehabilitation Centre, 77 beds: $300,000
- The Orchard Nursing and Rehabilitation Centre, 88 beds, $342,857
- The Springs Nursing and Rehabilitation Centre, 78 beds, $303,896
- The Stanton Nursing and Rehabilitation Centre, 117 beds, $455,844

Operating Budget

The applicant has provided the current year (2015) results and the first and third year operating budgets subsequent to the change in ownership, in 2017 dollars, summarized as follows:

	Current Year		First Year		Third Year	
	Per Diem	120 Beds	Per Diem	117 Beds	Per Diem	117 Beds
Revenues						
Medicaid FFS	$190.33	$4,554,797	$169.33	$4,256,448	$169.33	$4,346,193
Medicaid MC	$191.00	17,381	$169.33	16,256	$169.33	16,594
Medicare FFS	$461.95	1,853,345	$468.88	$1,975,860	$468.88	2,017,591
Medicare MC	$494.08	1,797,955	$494.08	1,888,374	$494.08	1,928,394
Commercial	$350.00	119,000	$350.00	124,950	$350.00	127,750
Private Pay	$321.59	2,154,986	$331.24	2,331,598	$331.24	2,380,622
Other Operating		23,014		0		0
Total		$10,520,478		$10,593,486		$10,817,144
Expenses						
Operating	$245.24	$9,494,104	$215.20	$8,968,871	$210.75	$8,968,871
Capital	15.95	617,550	23.32	972,399	22.01	937,249
Total Expenses	$261.19	$10,111,654	$238.52	$9,941,270	$232.76	$9,906,120
Net Income (Loss)		$408,824		$652,216		$911,024
RHCF Patient Days		38,714		40,655		41,523
Utilization %		88.39%		95.2%		97.2%

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

- The Current Year reflects the facility's 2015 revenues and expenses.
- Medicaid revenue is based on the facility's current 2015 Medicaid Regional Pricing rate. The Current Year Medicare rate is the actual daily rate experienced by the facility during 2015 and the forecasted Year One and Year Three Medicare rate is the actual daily rate experienced during 2016. The Private Pay rate is based on the current operator's average rates for 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by approximately 5.5% through various initiatives including renegotiating contracts.
- Projected utilization by payor source for the first and third year after the change in ownership is:

	Current Year	Years One and Three
Medicaid	62.05%	62.05%
Medicare	19.76%	19.76%
Commercial	.88%	.88%
Private Pay	17.31%	17.31%

- The breakeven utilization is projected at 89.4% for the first year.

Capability and Feasibility

CLR Glens Falls LLC will acquire the RHCF's operations for $4,434,067, which will be funded via $1,152,017 in members' equity and a ten-year loan for $3,282,050 at the above stated terms. Glens Falls SNF Realty LLC will acquire the real property for $7,991,963 funded by $58,000 in members' equity and a ten-year loan for $7,933,963 at above stated terms. Greystone Funding Corporation and Capital Funding, LLC has provided letters of interest for the operating and realty loans, respectively. There are no project costs associated with this application.

The working capital requirement is estimated at $1,656,878 based on two months of first year expenses. Funding will be as follows: $828,439 from the members' equity with the remaining $828,439 satisfied through a five-year loan at 5% interest rate. Harborview Capital Funding has provided a letter of interest. Review of BFA Attachments A and B, proposed members net worth summaries for the operator and real property owner, respectively, reveals sufficient resources to meet equity requirements. As previously stated, liquid resources may not be available in proportion to the proposed ownership interest for the seven RHCFs (this application and the six listed above). Hillel Weinberger, a member of CLR Glens Falls LLC and Glens Falls SNF Realty LLC, has provided affidavits stating he is willing to contribute resources disproportionate to his membership interest in the operating and realty entities (covering the purchase price and working capital equity). Additionally, Hillel Weinberger has provided affidavits stating he is willing to contribute resources, disproportionate to his membership interests, for the operating and realty entity balloon payments should terms acceptable to the Department be unavailable at the time of refinancing.

The submitted budget projects $652,216 and $911,024 of net income in the first and third years, respectively. Revenues are estimated to increase by approximately $73,008. Overall expenses are expected to decline by $170,384, coming from a $525,233 reduction in operating expense, partially offset by a $354,849 increase capital items (consisting of a $169,629 increase in interest expense and a $185,220 increase in rent and depreciation expense). The decline in operating expenses comes primarily from the following: a $206,402 decrease in fringe benefits cost, bringing the percentage from 33.03% to 30.75% of salary and wages, and a $291,673 decrease in salaries and wages coming from 1.6 FTE reduction and a change in staffing model. The budget was created taking into consideration the proposed new owners' experience in operating similar sized facilities.

BFA Attachment D is CLR Glens Falls LLC's pro forma balance sheet, which shows the entity will start with $1,980,457 in equity. Equity includes $3,072,377 in goodwill which is not a liquid resource nor is it recognized for Medicaid reimbursement. If goodwill is eliminated, the total net assets are a negative $1,091,321. The budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment E is a Financial Summary of Glens Falls Nursing and Rehabilitation Center, LLC d/b/a The Stanton Nursing and Rehabilitation Centre for 2013 through December 31, 2015. For the 2013 through 2015 period, the RHCF had positive working capital and positive net assets. For 2013 through 2015, the facility had net income that averaged $619,941 and experienced an average occupancy of 90.66%. The applicant intends to reduce expenses by renegotiating vendor contracts, analyzing staffing expenses along with reworking staff schedules to keep overtime expenses down, and reduce bad debt expenses through an accounts receivable collection plan. Also included as part of Attachment E is DMN Management Services and Subsidiaries 2014 and 2015 certified statement, which shows working capital and net assets to be positive with operations showing a $449,584 profit in 2015 before non-recurring expenses of $360,000.

BFA Attachment F is the Internal Financial Summary through September 30, 2016, which shows the facility had positive working capital, positive net assets and had loss after allocation of home office overhead. On a consolidated basis, the organization had a positive working capital, positive net assets and generated a loss.

BFA Attachment G is the Financial Summary of the proposed member's affiliated RHCFs, which shows the facilities maintained positive working capital, positive net assets, and generated positive net income

Based on the preceding, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	CLR Glens Falls LLC, Proposed Members Net Worth
BFA Attachment B	Glens Falls SNF Realty LLC, Proposed Members Net Worth
BFA Attachment C	Current and Proposed Owners of the Real Property
BFA Attachment D	Pro Forma Balance Sheet
BFA Attachment E	Financial Summary, Glens Falls Nursing and Rehabilitation Center, LLC and DMN Management Services LLC, 2014 and 2015 certified financial statement
BFA Attachment F	Internal Financial Summary, Glens Falls Nursing and Rehabilitation Center, LLC and DMN Management Services LLC
BFA Attachment G	Proposed members ownership interest in Affiliated RHCFs and their Financial Summary

Public Health and Health Planning Council

Project # 162274-E
Rockaway Operations Associates LLC d/b/a Far Rockaway Center for Rehabilitation and Nursing

Program:	**Residential Health Care Facility**	***County:***	**Queens**
Purpose:	**Establishment**	***Acknowledged:***	**October 14, 2016**

Executive Summary

Description

Rockaway Operations Associates LLC d/b/a Far Rockaway Center for Rehabilitation and Nursing, a New York limited liability company, requests approval to be established as the new operator of Far Rockaway Nursing Home, a 100-bed, proprietary partnership, Article 28 Residential Health Care Facility (RHCF) located at 13-11 Virginia Street, Far Rockaway (Queens County). There will be no change in the number of beds or licensed services provided.

The RHCF Seller is a debtor under Chapter 7 of the Bankruptcy Code, having filed a Voluntary Petition for relief in the United States Bankruptcy Court for the Eastern Division of New York (Case No. 16-42464) on June 3, 2016. Gregory M. Messer, Esquire, is designated as the Chapter 7 Trustee for the facility. A creditor meeting was held on July 12, 2016, with a Claims Deadline date established by the Court of December 27, 2016. The Asset Purchase Agreement (APA) and Agreement for Sale of Real Property (ASRP) executed by Gregory M. Messer, Esquire, on behalf of the Seller and solely in his capacity as Chapter 7 Trustee, are subject to the approval of the Bankruptcy Court.

On December 12, 2016, the Trustee for the RHCF's Chapter 7 debtor (the current licensed operator of the RHCF) executed an APA with Rockaway Operations Associates, LLC for the sale and acquisition of the operations of Far Rockaway Nursing Home for $2,500,000. Concurrently, Rockaway Realty Estate Holdings Associates, LLC, whose members are Daryl Hagler (99%) and Jonathan Hagler (1%), executed an ASRP with the Trustee for the sale and acquisition of the RHCF's real property for $3,000,000. The Department has been advised that an amendment to the APA clarifying conditions precedent to the obligations of the Buyer to close on the sale is pending review and approval by the Trustee and Buyer. The ASA and ASRP will close simultaneously upon approval by the Public Health and Health Planning Council (PHHPC) and subject to approval by the Bankruptcy Court overseeing the Chapter 7 liquidation. The applicant will lease the premises from Rockaway Realty Estate Holdings Associates, LLC. The applicant has submitted an affidavit attesting that there is a relationship between landlord and the tenant in that the landlord and tenant have previous business relationships involving real estate transactions of other nursing homes.

Ownership of the operations before and after the requested change is as follows:

Current Operator
Far Rockaway Nursing Home
Partners
Estate of L. Szanto
Estate of G. Kirshbaum
Estate of A. Feuereisen
Estate of J. Roth
Estate of L. Reitzer
Estate of A. Mering
et al

Proposed Operator	
Rockaway Operations Associates, LLC	
Members	
Rockaway KR Holding Co., LLC	98%
Kenneth Rozenberg (98.98%)	
Beth Rozenberg (1.02%)	
Beth Rozenberg	2%

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no changes to beds or services at this facility. Far Rockaway Nursing Home's occupancy was 90.9% in 2013, 90.4% in 2014 and 94.9% in 2015. Occupancy as of November 3, 2016 is 92.0% and overall 2016 occupancy is 95.7%.

Program Summary
No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

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

The purchase price for the acquisition of the operating interests is $2,500,000 and will be met with equity of $625,000 from the proposed members' personal resources and a loan for $1,875,000 at 5% for a ten-year term and 25-year amortization period. Kenneth Rozenberg has submitted an affidavit indicating that he will fund the balloon payment if acceptable refinancing is not available. The purchase price for the real estate interests is $3,000,000 and will be met with a loan for $2,700,000 at 5% interest for a ten-year term and 25-year amortization period, and a $300,000 down payment of equity. Daryl Hagler, managing member of Rockaway Real Estate Holdings Associates, LLC, has submitted an affidavit indicating that he will fund the balloon payment if refinancing is not available after the ten-year period. The projected budget is as follows:

	First Year
Revenues	$7,306,309
Expenses	7,136,226
Gain	$170,083

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of an executed bank loan commitment for working capital, acceptable to the Department of Health. [BFA]
2. Submission of an executed bank loan commitment for the purchase of the operations, acceptable to the Department of Health. [BFA]
3. Submission of an executed bank loan commitment for the purchase of the real property, acceptable to the Department of Health. [BFA]
4. Submission of an executed revised Asset Purchase Agreement acceptable to the Department of Health. [BFA]
5. 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]
6. Submission of a plan to continue to enhance access to Medicaid residents. At 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 to 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; and
   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. [RNR]
7. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
   a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
   b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
   c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
   d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
   e. Other factors as determined by the applicant to be pertinent. [RNR]
8. Submission of a photocopy of a Certificate of Amendment of the Articles of Organization of Rockaway KR Holdings, which is acceptable to the Department. [CSL]
9. Submission of a photocopy of a consulting Services Agreement between Rockaway Operations Associates, LLC and Centers for Care! LLC, which is acceptable to the Department. [CSL]
10. Submission of an Attestation for Service Agreements, which is acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of 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 as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date
February 9, 2017

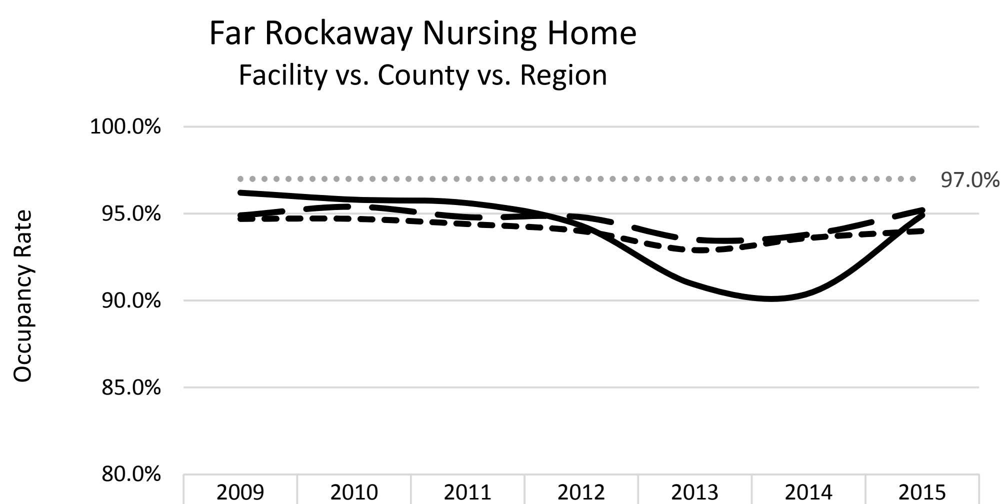
Need Analysis

Analysis

The current bed need methodology shows a need for 9,715 beds in the New York City.

RHCF Need – NYC Region

2016 Projected Need	51,071
Current Beds	41,644
Beds Under Construction	-288
Total Resources	41,356
Unmet Need	9,715



	2009	2010	2011	2012	2013	2014	2015
Facility	96.2%	95.8%	95.6%	94.3%	90.9%	90.4%	94.9%
Queens County	94.7%	94.7%	94.4%	94.0%	92.9%	93.6%	94.0%
New York City Region	94.9%	95.4%	94.8%	94.8%	93.5%	93.8%	95.2%

The overall occupancy for the New York City region was 95.0% for 2015. Far Rockaway Nursing Home's occupancy was 90.9% in 2013, 90.4% in 2014, and 94.9% in 2015. According to the applicant, the low utilization was attributed to the lack of leadership resulting from the death of the owners. The absence of consistent leadership created instability in facility operations which adversely impacted utilization. In order to improve utilization, the facility entered into a consulting services agreement with Centers Health Care in March 2015 to improve operations, stabilize staffing, and enhance the care provided to residents.

While current occupancy is slightly below the desired goal, based on the data submitted, the facility will be near or exceed the Department's planning optimum for calendar year 2016. This high occupancy is expected to continue going forward with the approval of this application.

In order to sustain the improved utilization going forward, the applicant offered to:

- Implement new programs at the facility to provide additional services such as: tracheostomy care, cardiac rehabilitation, enhanced wound care, IV therapy, and complex clinical care. By offering these services, the facility will be able to care for higher acuity residents; and
- Strengthen relationships with hospital discharge planners.

Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department. An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

Far Rockaway Nursing Home's Medicaid admissions of 100% in 2014 and 92.5% in 2015 exceeded Queens County's 75% threshold rates in 2014 and 2015 of 24.0% and 22.4%, respectively.

Conclusion

Contingent approval of this application is being recommended to maintain a resource for the Medicaid population in Queens County.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Far Rockaway Nursing Home	Far Rockaway Center for Rehabilitation and Nursing
Address	13-11 Virginia Street, Far Rockaway	Same
RHCF Capacity	100	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Partnership	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	Partnership (All deceased)	Rockaway Operations Associates, LLC Rockaway KR Holding LLC 98% Beth Rozenberg 2% Rockaway KR Holding LLC Kenneth Rozenberg 98.98% Beth Rozenberg 1.02%

Character and Competence - Background

Facilities Reviewed

Nursing Homes

Boro Park Center for Rehabilitation and Healthcare	05/2011 to present
Bronx Center for Rehabilitation and Health Care	06/2006 to present
Brooklyn Center for Rehabilitation and Residential Health Care	05/2007 to present
Buffalo Center for Rehabilitation and Nursing	06/2014 to present
Bushwick Center for Rehabilitation and Health Care	06/2008 to present
Corning Center for Rehabilitation	07/2013 to present
Daughters of Jacob Nursing Home Company Inc.	08/2013 to 9/2016

Triboro Center for Rehabilitation and Nursing (previously Daughters of Jacob)	09/2016 to present
The Grand Rehabilitation and Nursing at Pawling	06/2006 to 3/31/16
Essex Center for Rehabilitation and Health Care	03/2014 to present
Fulton Center for Rehabilitation and Healthcare	04/2012 to present
Holliswood Center for Rehabilitation and Healthcare	11/2010 to 03/21/16
Hope Center for HIV and Nursing Care	04/2015 to present
Indian River Rehabilitation and Nursing Center	12/2014 to present
Northwoods Rehabilitation and Nursing Center at Moravia	11/2014 to 03/03/16
The Grand Rehabilitation and Nursing at Queens	06/2006 to 03/31/16
Richmond Center for Rehabilitation and Specialty Healthcare	04/2012 to present
Steuben Center for Rehabilitation and Healthcare	07/2014 to present
The Grand Rehabilitation and Nursing at Chittenango	07/2008 to present
The Grand Rehabilitation and Nursing at Rome	07/2008 to present
University Nursing Home	06/2006 to present
Washington Center for Rehabilitation and Health Care	02/2014 to present
Waterfront Center for Rehabilitation and Health Center	08/2011 to present
Williamsbridge Manor Nursing Home	06/2006 to present

Rhode Island Nursing Homes

Banister Center for Rehab	02/2016 to present
Park View Center for Rehabilitation & Healthcare	05/20/16 to present
Kingston Center for Rehab	10/2016 to present

Dialysis Centers

Bronx Center for Renal Dialysis	01/2011 to present
Bushwick Center for Renal Dialysis	06/2014 to present

Adult Homes

Washington Center Adult Home	02/2014 to present

Certified Home Health Agency

Alpine Home Health Care	07/2008 to present

Licensed Home Care Services Agency

Amazing Home Care	06/2006 to present

Ambulance Company

Senior Care Emergency Ambulance Services, Inc.	06/2006 to present

Managed Long Term Care Company

Centers Plan for Health Living	01/2013 to present

Individual Background Review

Kenneth Rozenberg is a New York licensed nursing home administrator, in good standing, and licensed paramedic, in good standing. He has been employed as CEO of Bronx Center for Rehabilitation and Health Care since January 1998. Mr. Rozenberg is the CEO of Centers Health Care, formerly Centers for Specialty Care Group, in which he has a 50% ownership interest. Mr. Rozenberg discloses the following health facility interests:

Boro Park Center for Rehabilitation and Healthcare [97%]	05/2011 to present
Bronx Center for Rehabilitation and Health Care [95%]	10/1997 to present
Brooklyn Center for Rehabilitation and Residential Health Care [95%]	05/2007 to present
Buffalo Center for Rehabilitation and Nursing [90%]	12/2015 to present
Bushwick Center for Rehabilitation and Health Care [98%]	05/2011 to present
Corning Center for Rehabilitation [58%]	07/2013 to present
The Grand Rehabilitation and Nursing at Pawling [30%]	08/2004 to 03/31/16
Essex Center for Rehabilitation and Health Care [90%]	03/2014 to present
Fulton Center for Rehabilitation and Healthcare [81%]	04/2012 to present

Holliswood Center for Rehabilitation and Healthcare [85.5%]	11/2010 to present
Hope Center for HIV and Nursing Care [95%]	04/2015 to present
Indian River Rehabilitation and Nursing Center [9%]	12/2014 to present
Northwoods Rehabilitation and Nursing Center at Moravia [10%]	11/2014 to 03/03/16
The Grand Rehabilitation and Nursing at Queens [48%]	10/2004 to 03/31/16
Richmond Center for Rehabilitation and Specialty Healthcare [95%]	04/2012 to present
Steuben Center for Rehabilitation and Healthcare [92%]	07/2014 to present
The Grand Rehabilitation and Nursing at Chittenango [62%]	05/2011 to present
The Grand Rehabilitation and Nursing at Rome [31%]	05/2011 to present
University Nursing Home [95%]	08/2001 to present
Washington Center for Rehabilitation and Healthcare [90%]	02/2014 to present
Waterfront Center for Rehabilitation [81%]	12/2012 to present
Williamsbridge Manor Nursing Home [95%]	11/1996 to present
Banister Center for Rehab (RI) [5%]	02/2016 to present
Park View Center for Rehabilitation and Healthcare (RI) [5%]	05/2016 to present
Kingston Center for Rehab (RI) [5%]	10/2016 to present
Stonehedge Health & Rehabilitation Center – Rome (REC)	07/2008 to 04/2011
Stonehedge Health & Rehab Center – Chittenango (REC)	07/2008 to 04/2011
Wartburg Lutheran Home for the Aging (REC)	06/2008 to 05/2011
Waterfront Center for Rehabilitation (REC)	08/2011 to 12/2012
Delaware Nursing & Rehab Center (REC)	06/2014 to 12/2015
Daughters of Jacob Nursing Home Company Inc. (REC) [100%]	08/2013 to 09/2016
Triboro Center for Rehabilitation and Nursing (previously Daughters of Jacob)	09/2016 to present
Washington Center Adult Home (AH) [60%]	02/2014 to present
Center Plan for Health Living (MLTC) [60%]	01/2013 to present
Alpine Home Health Care (CHHA) [100%]	07/2008 to present
Amazing Home Care (LHCSA) [33%]	05/2006 to present
Senior Care Emergency Ambulance Services, Inc. (EMS) [40%]	06/2005 to present
Bronx Center for Renal Dialysis [70%]	01/2011 to present
Bushwick Center for Renal Dialysis [70%]	06/2014 to present

On 4/14/2016 Public Health and Health Planning Council gave approval for Mr. Rozenberg to become an operator of the following facilities. These facilities are not included in Mr. Rozenberg's character and competence, because the transactions have not been completed.

CON # 151260 Nanuet Center for Rehabilitation and Nursing
CON # 152296 Monsey Center for Rehabilitation and Nursing
CON # 152295 Haverstraw Center for Rehabilitation and Nursing
CON # 161109 Allerton Center for Rehabilitation and Nursing
CON # 161110 Martine Center for Rehabilitation and Nursing

Beth (Kosowsky) Rozenberg retired in 1995 as a teacher from Park East Day School in New York, NY. Ms. Rozenberg discloses the following health facility interests:

Bronx Center for Rehabilitation and Health Care [5%]	09/2013 to present
Hope Center for HIV and Nursing Care [5%]	04/2015 to present
University Nursing Home [5%]	11/2002 to present
Williamsbridge Manor [5%]	12/2004 to present
Boro Park Center [2%]	04/2016 to present
Northwoods Rehab & Nursing Center at Moravia [9%]	03/2016 to present
Park View Center for Rehab (RI) 5%	05/20/16 to present
Kingston Center for Rehab (RI) 5%	10/2016 to present
Bannister Center for Rehab (RI) [5%]	02/2016 to present

On 4/14/2016 Public Health and Health Planning Council gave approval for Ms. Rozenberg to become an operator of the following facilities. These facilities are not included in Ms. Rozenberg's character and competence, because the transactions have not been completed

CON # 151260 Nanuet Center for Rehabilitation and Nursing
CON # 152296 Monsey Center for Rehabilitation and Nursing
CON # 152295 Haverstraw Center for Rehabilitation and Nursing
CON # 161109 Allerton Center for Rehabilitation and Nursing
CON # 161110 Martine Center for Rehabilitation and Nursing

Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants identified as new members. An assessment of the underlying causes of the enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation.

A review of operations of Bronx Center for Rehabilitation and Health Care for the period identified above reveals the following:

- The facility was fined $2,000 pursuant to a Stipulation and Order NH-07-079 issued October 23, 2007 for surveillance findings on April 27, 2007. Deficiencies were found under 10 NYCRR 415.12 Quality of Care and 415.12(i)(1), Quality of Care: Nutrition.
- The facility was fined $4,000 pursuant to a Stipulation and Order NH-11-047 issued August 25, 2011 for surveillance findings on April 16, 2010. Deficiencies were found under 10 NYCRR 415.12 (h)(2) Quality of Care: Accidents and Supervision and 415.26 Administration.
  - A federal CMP of $36,450 was assessed for the April 16, 2010 survey findings.

A review of operations of Essex Center for Rehabilitation and Health Care for the period identified above reveals the following:

- The facility was fined $6,000 pursuant to a Stipulation and Order NH 16-116 issued March 9, 2016 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.26 Administration; and 415.27(a-c) Administration: Quality Assessment and Assurance.

A review of operations of Fulton Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $52,000 pursuant to a Stipulation and Order NH-16-004 issued April 23. 2015 for surveillance findings on June 11, 2012, May 5, 2013, and November 21, 2013. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.12(i)(1) Quality of Care: Nutrition; 415.12(h)(1) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(i)(1) Quality of Care: Nutrition; 415.12(c)(2) Quality of Care: Pressure Sores; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.3(e)(2)(ii)(b) Notification of Changes; and 415.4(b)(1)(2)(3) Investigative/Report Allegations.
  - A federal CMP of $975 was assessed for the June 11, 2012 survey findings.
  - A federal CMP of $11,895 was assessed for the May 15, 2013 survey findings.
  - A federal CMP of $10,000 was assessed for the November 21, 2013 survey findings.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-12-39 issued on September 17, 2012 for surveillance findings on March 24, 2014. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores.
- The facility was fined $10,000 pursuant to Stipulation and Order NH16-034 issued January 5, 2016 for surveillance findings March 24, 2014. Deficiencies were found under 10 NYCRR 415.12- Quality of Care Highest Practicable Potential

Fulton Center was a former County facility that had a high turnover of the facility's County employed staff after the current operators took over in April of 2012. The current operators had a period of transition after takeover where they had to hire and train new staff at the facility in order to maintain staffing levels needed.

A review of operations of Northwoods Rehabilitation and Nursing Center at Moravia for the period identified above reveals the following:

- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-066 issued January 13, 2016 for surveillance findings on February 6, 2015. Deficiencies were found under 10 NYCRR 415.26 Administration.
  - A federal CMP of $4,842.50 was assessed for the February 6, 2015 survey findings.

A review of operations of Richmond Center for Rehabilitation and Specialty Healthcare for the period identified above reveals the following:

- The facility was fined $18,000 pursuant to Stipulation and Order NH 16-201 issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.
  - A federal CMP of $27,527.50 was assessed for the April 24, 2012 survey findings.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-041 issued January 13, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.
- The facility was fined $10,000 pursuant to a Stipulation and Order NH-16-118 issued for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

Richmond Center has 300 certified beds with 72 of those beds servicing neurobehavioral residents in dedicated neurobehavioral units. This population can be difficult to serve and the initial survey findings in 2012 reflect a transition of this facility immediately after the current operators took over in April of 2012, with this initial enforcement occurring days after the official transition of ownership.

A review of the operations of The Grand Rehabilitation and Nursing at Chittenango (formerly Chittenango Center for Rehabilitation and Health Care; Stonehedge Health & Rehabilitation Center - Chittenango) for the period identified above reveals the following:

- The facility was fined $4,000 pursuant to a Stipulation and Order NH-10-053 issued November 15, 2010 for surveillance findings on October 22, 2009. Deficiencies were found under 10 NYCRR 415.12(h)(1,2) Quality of Care: Accidents and Supervision and 415.26(b)(3)(4) Governing Body.
  - A federal CMP of $5,200 was assessed for the October 22, 2009 survey findings.
- The facility was fined $20,000 pursuant to a Stipulation and Order NH-12-010 issued February 17, 2012 for surveillance findings on January 20, 2011. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores and NYCRR 415.12(d)(1) and Quality of Care: Catheters.
  - A federal CMP of $3,250 was assessed for July 23, 2012 survey findings.

State enforcements for surveys on October 22, 2009 and January 20, 2011 came when the facility was under receivership. The facility has experienced a state enforcement free period since permanent establishment of the current operators in May of 2011.

A review of the operations of The Grand Rehabilitation and Nursing at Rome (formerly Rome Center for Rehabilitation and Health Care; Stonehedge Health & Rehabilitation Center - Rome) for the period identified above reveals the following:

- A federal CMP of $1,600 was assessed for May 18, 2011 survey findings.

A review of the operations of Washington Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $4,000 pursuant to a Stipulation and Order NH-16-134 issued April 6, 2016 for surveillance findings on September 11, 2015. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care: Accident Free Environment; 415.27(a-c) Administration: Quality Assessment and Assurance.
- A federal CMP of $5,900 was assessed for September 11, 2015 survey findings.

A review of the operations of Waterfront Center for Rehabilitation and Healthcare for the period identified above reveals the following:

- The facility was fined $2,000 pursuant to a Stipulation and Order NH-13-014 issued April 24, 2013 for surveillance findings on September 27, 2011. Deficiencies were found under 10 NYCRR 415.12(h)(1)(2) Quality of Care: Accidents and Supervision.
    - A federal CMP of $1,625 was assessed for the September 27, 2011 survey findings.
- The facility was fined $2,000 pursuant to a Stipulation and Order NH-16-135 issued for surveillance findings on May 23, 2012. Deficiencies were found under 10 NYCRR 415.12(c)(2) Quality of Care: Pressure Sores.
- The facility was fined $24,000 pursuant to a Stipulation and Order NH-16-147 issued April 19, 2016 for surveillance findings on November 6, 2015. Deficiencies were found under 10 NYCRR 415.12(m)(2) Quality of Care: No Significant Med Errors; 415.12 Quality of Care: Highest Practicable Potential; 415.12(l)(1) Quality of Care: Unnecessary Drugs; 415.18(a) Pharmacy Services: Facility Must Provide Routine and Emergency Drugs in a Timely Manner; 415.18(c)(2) Pharmacy Services: the Drug Regimen of Each Resident Must be Reviewed at Least Once a Month by Licensed Pharmacist; 415.4(b)(2)(3) Investigate/Report Allegations/Individuals; 415.26 Administration; and 415.27(c)(2)(3)(v) Administration: Quality Assessment and Assurance.

The recent November 6, 2015 enforcement was mostly related to medication administration and a new eMAR. In response to this issue, the operator brought in Centers Health Care clinical consulting staff to help train facility staff and mitigate any potential harm. The operator also conducted a review of eMAR in all facilities operated and developed new audit tools based on the survey findings.

A review of Williamsbridge Manor Nursing Home for the period identified above reveals the following:

- The facility was fined $1,000 pursuant to a Stipulation and Order NH-08- 039 issued July 8, 2008 for surveillance findings of December 19, 2007. A deficiency was found under 10 NYCRR 415.12 Quality of Care.

A review of Alpine Home Health Care, for the periods identified above, reveals the following:

- A fine of $1,000 was issued on February 3, 2015 for not responding to Emergency Preparedness survey.

The review of operations of Boro Park Center for Rehabilitation and Healthcare, Brooklyn Center for Rehabilitation and Residential Health Care, Buffalo Center for Rehabilitation and Nursing, Bushwick Center for Rehabilitation and Health Care, Corning Center for Rehabilitation, Daughters of Jacob Nursing Home Company, The Grand Rehabilitation and Nursing at Pawling, Holliswood Center for Rehabilitation and Healthcare, Hope Center for HIV and Nursing Care, Indian River Rehabilitation and Nursing Center, The Grand Rehabilitation and Nursing at Queens, Steuben Center for Rehabilitation and Healthcare, and University Nursing Home for the time periods indicated above reveals that there were no enforcements.

A review of Banister Center for Rehab and Park View Center for Rehabilitation & Healthcare, Amazing Home Care, Senior Care Emergency Ambulance Services, Inc., and Center Plan for Health Living in Rhode Island for the periods identified above, reveals that there were no enforcements.

A review of operations for Argyle Center for Independent Living (previously Washington Center Adult Home), for the periods identified above, reveals that the following:

- A fine of $455.00 under Stipulation and Order # ACF 16-149 for 487.8 Food Service issued 11/21/16
- A fine of $4690.00 under Stipulation and Order # ACF 17-003 for 487.8 Food Service.

Indian River Rehabilitation and Nursing Center was declared a CMS Special Focus facility prior to Kenneth Rozenberg obtaining a 9% interest in the current operating LLC. Mr. Rozenberg was brought into the operating structure to help stabilize the facility as he operates another RHCF in the County, Washington Center for Rehabilitation and Healthcare. Mr. Rozenberg has committed resources to help stabilize Indian River and the facility has graduated from its Special Focus designation.

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
New York			
Boro Park Center for Nursing and Rehab Center	*****	*****	*****
Bronx Center for Rehab Health	**	***	****
Brooklyn Center for Rehab and Residential Health Care	***	****	****
Buffalo Center for Rehabilitation and Nursing	*	*	****
Bushwick Center for Rehab and Health Care	*****	****	*****
Corning Center for Rehabilitation and Healthcare	*	*	**
Daughters of Jacob Nursing Home Co, Inc	**	**	****
The Grand Rehabilitation & Nursing at Pawling	****	****	***
Essex Center for Rehabilitation and Healthcare	*	*	*
Fulton Center for Rehabilitation and Healthcare	**	*	**
Holliswood Center for Rehabilitation & Healthcare	***	***	****
Hope Center for H I V and Nursing Care	*****	****	*****
Indian River Rehab and Nursing Center	*	*	*
Northwoods Rehab and E C F at Moravia	*	*	**
The Grand Rehabilitation & Nursing at Queens	*****	*****	*****
Richmond Center for Rehab and Specialty H C	****	***	**
Steuben Center for Rehabilitation and Healthcare	**	***	**
The Grand Rehabilitation & Nursing at Chittenango	**	**	****
The Grand Rehabilitation and Nursing at Rome	*	*	***
University Nursing Home	*****	****	*****
Washington Center for Rehabilitation & Healthcare	*	*	*
Waterfront Center for Rehabilitation & Healthcare	*	*	****
Williamsbridge Manor N H	*****	*****	*****
Rhode Island			
Park View Center for Rehabilitation and Health Care	****	**	*****
Bannister Center for Rehabilitation and Health Care	*	*	**

Project Review
This application proposes to establish Rockaway Operations Associates LLC d/b/a Far Rockaway Center for Rehabilitation and Nursing as the new operator of Far Rockaway Nursing Home, a 100-bed Residential Health Care Facility located at 13-11 Virginia Street, Far Rockaway.

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

It is the intent of the new operators to enter into an Administrative and Consulting Services Agreement with Centers Health Care. Kenneth Rozeberg is CEO and 50% owner of Centers Health Care (Centers), formerly Centers for Specialty Care Group, which provides administrative services (payroll, billing, accounts payable) as well as clinical and administrative consulting services to health care facilities. It should be noted that Centers does not have any direct ownership interest in the operations of residential health care facilities in New York State, nor is it proposed through this application that it will have a direct ownership interest in this facility. Despite the common ownership of one of its members, the facility will be a wholly independent and distinct legal entity, in no way controlled by Centers.

It is common for the applicant to contract with Centers for the facilities in which they have an ownership interest. Centers is a resource to provide administrative and clinical support to their skilled nursing interests across the State. Centers employs a regional office type approach with central corporate resources as well as local resources that can provide timely services and regionally knowledgeable clinical staff to the facilities with whom they contract.

Conclusion
No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background review indicates the applicants have met the standard for approval as set forth in Public Health Law §2801-a(3).

Recommendation
From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement
The applicant has submitted an executed asset purchase agreement for the operating interests of the RHCF. The agreement will become effectuated upon PHHPC approval of this CON, subject to approval by the United States Bankruptcy Court for the Eastern Division of New York. The terms of the agreement are summarized below:

Date:	December 12, 2016
Purchaser:	Rockaway Operations Associates, LLC
Seller:	Far Rockaway Nursing Home Proprietary Partnership
Purchased Assets:	All assets used in the operation of the facility. Equipment; supplies and inventory; prepaid expenses; documents and records; assignable leases, contracts, licenses and permits; telephone numbers, fax numbers and all logos; resident trust funds; deposits; accounts and notes receivable; cash, deposits and cash equivalents.
Excluded Assets:	Any security, vendor, utility or other deposits with any Governmental Entity; any refunds, debtor claims, third-party retroactive adjustments and related documents prior to closing, and personal property of residents.
Purchase Price:	$2,500,000
Payment of Purchase Price:	$250,000 cash deposit held in escrow $2,250,000 due at time of Closing ($1,875,000 loan plus $375,000 cash)

An amendment to the executed APA clarifying conditions precedent to the obligations of the Buyer to close on the sale is pending review and approval by the parties to the sale. The to-be-finalized amended agreement will become effectuated upon PHHPC approval of this CON, subject to approval by the United States Bankruptcy Court for the Eastern Division of New York.

The applicant's financing plan appears as follows:

Equity via proposed members	$625,000
Loan (5% interest, 10-year term, 25-year amortization period)	$1,875,000

BFA Attachment A is the net worth summary for the proposed members of Rockaway Operations Associates, LLC, which shows sufficient liquid assets to cover the equity requirement for the purchase agreement.

Greystone has provided a letter of interest for the loan at the stated terms. The applicant has indicated that they will refinance the loan when the balloon payment becomes due. Kenneth Rozenberg has submitted an affidavit stating that he will fund the balloon payment from his personal resources if refinancing is not available.

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. As of December 12, 2016, there is balance of $1,739,577 in outstanding Medicaid overpayment liabilities.

Agreement for Sale of Real Property

The applicant has submitted an executed land purchase agreement for the site they will occupy. The agreement will close simultaneously with the ASA upon approval by the PHHPC, subject to approval by the Bankruptcy Court as noted above. The terms are summarized below:

Date:	December 12, 2016
Premises:	The parcel of land located at 13-11 Virginia Street, Far Rockaway, New York
Seller:	Far Rockaway Nursing Home
Purchaser:	Rockaway Real Estate Holdings Associates, LLC
Purchase Price:	$3,000,000
Payment of Purchase Price:	$300,000 down payment upon execution; $2,700,000 balance due at Closing.

The financing plan for the balance due on the real estate consist of a bank loan for $2,700,000 at 5% interest for a ten-year term and 25-year amortization period. A bank of letter of interest at the stated terms has been provided. Daryl Hagler, who is the majority owner and managing member of the real estate entity, has submitted an affidavit stating that he will refinance the loan when the balloon payment becomes due if refinancing is not available. BFA Attachment B, net worth of Daryl Hagler, reveals sufficient resources for stated levels of equity.

Lease Agreement

Facility occupancy is subject to an executed lease agreement, the terms of which are summarized as follows:

Date:	September 1, 2016
Premises:	A 100-bed RHCF located at 13-11 Virginia Street, Far Rockaway, New York
Landlord:	Rockaway Real Estate Holdings Associates, LLC
Tenant:	Rockaway Operations Associates, LLC
Terms:	10 years
Rental:	$300,000 annually ($25,000 per month)
Provisions:	Taxes, insurance, maintenance and utilities.

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operating entity in that the members of each have previous business relationships involving real estate transactions of other RHCFs. Rockaway Real Estate Holdings Associates, LLC members are Daryl Hagler (99%) and Jonathan Hagler (1%).

Consulting Services Agreement

The applicant has provided a draft consulting services agreement, summarized below:

Contractor:	Centers for Care LLC d/b/a Centers Health Care (CHC)
Licensed Operator/ Facility:	Rockaway Operations Associates LLC, d/b/a Far Rockaway Center for Rehabilitation and Nursing
Affiliation:	The Facility will refer to itself as “Affiliated with Centers Health Care” or “Member of Centers Health Care” limited to marketing efforts and the identification of professionals, consultants, vendors and healthcare providers and other resources that can assist the Facility in the provision of care.
Consulting and Advisory Services:	Contractor will be responsible for the operation, supervision and oversight of all functions related to A/R and A/P, including assistance and supervision of staff in interacting with families, collection of NAMI and private funds, submission of award letters, and preparation of applications for payee, maintenance of billing files, monitoring payments to the facility by all payer sources, pursuing payments for delinquent accounts and assisting the facility, at the facility’s expense. Contractor will provide assistance to and supervision of staff performing and providing the following services: all billing functions for all payer sources and maintenance of all billing and posting records and establishment of payroll budgets and schedule coordination with nursing and other departments. Responsible for the preparation of health facility assessment; assist the Facility with the preparation of RHCF 4 and Medicare cost reports; and reconciliation of billing records, Maintenance of electronic resident/patient billing files, fund records and accounts, and monthly operating cash flow projections. Assist the Facility in reviewing of rate sheets and filing of necessary appeals and audit facility’s monthly pharmacy bills and the implementing of formulary management.
Clinical Consulting Services:	Contractor will provide advice and assistance to the Facility regarding administrative functioning of Therapy, Social Services and Nursing departments. Develop operating policies and procedures, rules and methods of operation appropriate to such departments and the training and orientation of staff. Recommend procedures to ensure the consistency and quality of all the Services. Assist the Facility with respect to its CMI, Medicare, and case-mix reimbursement.
Other Duties:	Develop and implement a marketing plan; furnish sufficient part-time temporary licensed skilled professional staff for the health care activities described herein.
Term:	Effective until the closing date in which ownership and operation of the facility is transferred to the approved third party unless terminated with mutual written consent.
Fee:	Estimated at $488,000 for the subject facility. To the maximum extent possible, the fees represent the actual costs incurred by CHC in providing the Services to the Facility and will be allocated to the nursing homes that CHC provides services for based on beds.

The agreement provides that Far Rockaway Nursing Home will retain ultimate control in all of the final decisions associated with the services. The terms acknowledge the reserve powers that must not be delegated, the conflicts clause provisions to insure that the Licensed Operator retains ultimate control for the operations, and the notwithstanding clause provisions to ensure compliance with governmental agencies, statutes and regulations. In accordance with the Department’s policy regarding administrative service agreements and contracts effective December 13, 2016, the applicant must submit an executed attestation acknowledging understanding of reserve powers that cannot be delegated, and that they will not willfully engage in any such illegal delegations of authority.

Centers for Care LLC also provides consulting services to the other RHCFs owned and operated by Kenneth Rozenberg and Beth Rozenberg. Mr. Rozenberg is affiliated with CHC in that he has an ownership interest in the company.

Operating Budget

The applicant has provided an operating budget, in 2017 dollars, for the first year subsequent to the change of ownership. The budget is summarized below:

	Current Year		Year One	
	Per Diem	Total	Per Diem	Total
Revenues				
Medicare	$635.00	$1,368,435	$583.70	$1,699,743
Medicaid	$183.11	$5,935,930	$171.61	5,563,061
Private Pay	$536.84	$40,263	$565.00	43,505
Total Revenues		$7,344,628		$7,306,309
Expenses				
Operating	$213.69	$7,403,549	$187.58	$6,641,438
Capital	3.33	115,513	13.97	494,788
Total Expenses	$217.02	$7,519,062	$201.55	$7,136,226
Net Income(Loss)		$(174,395)		$170,083
Total Patient Days		34,647		35,406
Occupancy		94.9%		97.0%
Breakeven				94.7%

The following is noted with respect to the submitted budget:

- The Medicare and Private Pay rates are based upon current market rates.
- The current year reflects the facility's 2015 payor and 2015 RHCF-4 cost report information. Historical utilization for base year 2015 was 94.9%.
- For budget year one, Medicaid revenues are projected based on the current operating and capital components of the facility's 2016 Medicaid FFS rate (shown in the BFA Attachment G budget sensitivity analysis. All other revenues assume current payment rates for the respective payors. Private Pay rates are anticipated to increase in year one.
- Expenses are decreasing in Year One due to an anticipated reduction in professional fees, supplies and materials and other direct expenses, and a reduction in purchase services through renegotiation of contracts.
- Increases in capital costs will accrue through additional rent expense, as well as interest due on the working capital and asset acquisition loans.
- Overall utilization is 94.9% and 97.0% for the Current Year and Year One, respectively, while utilization by payor source is as follows:

	Current Year	Year One
Medicare	6.22%	8.22%
Medicaid	93.56%	91.56%
Private Pay	0.22%	0.22%
Total	100.00%	100.00%

- Breakeven utilization is 94.7% or 34,566 patient days for the first year.

Capability and Feasibility

There are no project costs associated with this application. The purchase price for the acquisition of the operating interests is $2,500,000 and will be met with $625,000 equity from proposed members and a bank loan for $1,875,000 at 5% for a ten-year term and 25-year amortization. Greystone has provided a letter of interest for the financing at the stated terms. Proposed Rockaway Operations Associates, LLC member Kenneth Rozenberg, has submitted an affidavit stating that he will fund the balloon payment should acceptable financing not be available at the time the loan comes due. BFA Attachment F is the interest and amortization schedule for the ten-year term.

The working capital requirement is $1,189,371 based on two months of the first year's expenses. Working capital will be satisfied with $604,661 equity from proposed members and the remaining $584,710 will be financed through a bank loan for five years at 5% interest. Greystone has provided a letter of interest for the working capital financing. Kenneth Rozenberg has provided an affidavit attesting that he will provide additional equity disproportionate to his membership interest for working capital. BFA Attachment A, net worth of the proposed members of Rockaway Operations Associates, LLC, reveals sufficient resources for stated levels of equity. BFA Attachment E is the pro-forma balance sheet as of the first day of operation, which indicates a positive members' equity of $1,229,661. It is noted that assets include $2,500,000 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill, members' equity would be a negative $1,270,339.

The submitted budget indicates that net income of $170,083 will be generated for the first year. BFA Attachment G is a budget sensitivity analysis based on current utilization of the facility as of September 30, 2016, which shows the budgeted revenues would increase by $203,934 resulting in a net profit in year one of $374,017 based on current utilization of 95.6%. The budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A department policy paper provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment C, the internal financials of Far Rockaway Nursing Home as of September 30, 2016, indicate that the facility experienced negative working capital of $3,612,607, a negative equity position and generated an annual net operating income of $204,543 for the period. The negative working capital is the result, in part, of a $5.7 million Medicaid recoupment that is still being collected. As of September 30, 2016, the balance due on the Medicaid recoupment was $2.1 million, with the remaining $1.5 million negative working capital related to an inability to pay bills in a timely manner due to accumulated losses. Steps implemented to improve operations have included efforts to increase utilization, as shown on BFA Attachment C.

BFA Attachments D, financial summary of the proposed members' affiliated RHCFs, shows the facilities have maintained positive net income from operations for the periods shown.

Based on the preceding and subject to noted contingencies, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Rockaway Operations Associates, LLC, Proposed Members Net Worth
BFA Attachment B	Rockaway Real Estate Holdings Associates, LLC, Daryl Hagler Net Worth
BFA Attachment C	Far Rockaway Nursing Home, Financial Summary
BFA Attachment D	Affiliated Residential Health Care Facilities
BFA Attachment E	Pro Forma Balance Sheet
BFA Attachment F	Mortgage Amortization Schedules
BFA Attachment G	Budget Sensitivity

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency:	Deer Run at River Ridge, LLC d/b/a The Sentinel at Amsterdam
Address:	Amsterdam
County:	Montgomery
Structure:	Limited Liability Company
Application Number:	2296-L

Description of Project:

Deer Run at River Ridge, LLC d/b/a The Sentinel at Amsterdam, a limited liability company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law. This LHCSA is associated with Deer Run at River Ridge Assisted Living Program.

The members of the Deer Run at River Ridge, LLC comprise the following entities:

Castlerock at Deer Run, LLC – 90.1%

The Sentinel at Amsterdam, LLC – 9.9%

The members of the Castlerock at Deer Run, LLC comprise the following individuals:

Paul Guttenberg – 50%
Retired

Affiliation:
- River Ridge Living Center, LLC (SNF)

Susanne Guttenberg – 50%
Administrator/Owner, River Ridge Living Center, LLC

Affiliation:
- River Ridge Living Center, LLC (SNF)

The sole member/managing member of The Sentinel at Amsterdam, LLC is the following individual:

Eric E. Newhouse, Esq.
Chief Executive Officer, The Eliot at Erie Station
Chief Executive Officer, MedWiz Solutions, LLC
Managing Partner, All Pro Home and Health Care Services, Inc.

Affiliations:
- The Eliot at Erie Station
- The Eliot at Catskill
- Marquis Home Care, LLC

A search of the individuals (and entities where appropriate) named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The Bureau of Professional Credentialing has indicated that Susanne R. Guttenberg NHA held a NHA license #04374, however, is not currently registered (expired December 31, 2015). The Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or her license.

A Certificate of Good Standing has been received for Eric Newhouse, Esq.

A seven (7) year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

- River Ridge Living Center
- The Eliot at Erie Station
- The Eliot at Catskill
- Marquis Home Care, LLC (3/2/16 – present)

River Ridge Living Center, Inc. was fined four thousand dollars ($4,000) pursuant to a stipulation and order dated May 30, 2012 for surveillance findings of April 11, 2011. Deficiencies were found under 10 NYCRR 415.12(h)(1) – Quality of Care Accidents; and 415.26 – Administration.

The Information provided by the Bureau of Quality Assurance for Nursing Homes has indicated that the residential health care facilities reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The Eliot at Catskill was fined five thousand seven hundred dollars ($5,700) pursuant to a stipulation and order dated August 30, 2016 for surveillance findings set forth in the reports of inspection dated July 24, 2015, December 8, 2015 and April 8, 2016. Deficiencies were found under 18 NYCRR 487.7(f)(5) Resident Services and 487.11(f)(8) Environmental Standards.

The Eliot at Catskill was fined two thousand five hundred dollars ($2,500) pursuant to a stipulation and order dated December 19, 2016 for surveillance findings set forth in the reports of inspection dated June 8, 2016 and July 29, 2016. Deficiencies were found under 18 NYCRR 487.4(f) Admission Standards, 487.8(c) Food Service, 487.8(e)(1) Food Service, 487.11(f)(8) Environmental Standards, 487.11(g) Environmental Standards, 487.11(h)(5) Environmental Standards, 487.11(k)(1-3) Environmental Standards, 487.11(k)(5) Environmental Standards and 487.11(k)(16) Environmental Standards.

The information provided by the Division of Adult Care Facilities and Assisted Living Surveillance has indicated that the adult care facilities reviewed have 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 has indicated that the home care agencies reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The applicant proposes to serve the residents of the following counties from an office located at 10 Market Street, Amsterdam, New York 12010.

Montgomery	Fulton	Otsego
Saratoga	Schenectady	Schoharie

The applicant proposes to continue to provide the following health care services:

Nursing	Home Health Aide	Personal Care	Medical Social Services
Physical Therapy	Occupational Therapy	Nutrition	Speech-Language Pathology
Housekeeper			

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

<u>Contingency</u>
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: January 5, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency:	Greater Adult Neighbors, Inc. d/b/a Arcadia Home Care Agency
Address:	Liberty
County:	Sullivan
Structure:	For-Profit Corporation
Application Number:	2604L

<u>Description of Project:</u>

Greater Adult Neighbors, Inc. d/b/a Arcadia Home Care Agency, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

This LHCSA will be associated the Assisted Living Program to be operated by Arcadia Residence, Inc. The LHCSA and the ALP will have identical ownership.

The applicant has authorized 200 shares of stock, which are owned as follows: George Lebovits owns 180 shares and Naomi Lebovits owns 20 shares.

The Board of Directors of Greater Adult Neighbors, Inc. d/b/a Arcadia Home Care Agency comprises the following individuals:

George Lebovits, President
Owner/Operator, Ahava Medical and Rehabilitation Center, LLC (Diagnostic and Treatment Center)

<u>Affiliation:</u>
Ahava Medical and Rehabilitation Center, LLC (2003 – Present)

Naomi Lebovits, Secretary/Treasurer
Unemployed

<u>Affiliation:</u>
Ahava Medical and Rehabilitation Center, LLC (2013 – Present)

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

The applicant proposes to serve the residents of Sullivan County from an office located at 25 Carrier Street, Liberty, New York 12754:

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Speech-Language Pathology
Medical Social Services	Nutrition	Homemaker
Housekeeper		

A seven (7) year review of the operations of the following facilities/ agencies was performed as part of this review (unless otherwise noted):

Ahava Medical and Rehabilitation Center, LLC (Diagnostic and Treatment Center)

The information provided by the Division of Hospitals and Diagnostic & Treatment Centers has 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.

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

<u>Contingency</u>
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: December 15, 2016

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency:	The Bristol Home, Inc. d/b/a Bristol Home Care
Address:	Buffalo
County:	Erie
Structure:	Not-For-Profit Corporation
Application Number:	162276

<u>Description of Project:</u>
The Bristol Home, Inc. d/b/a Bristol Home Care, a not-for-profit corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

This LHCSA will be associated with the Assisted Living Program to be operated by The Bristol Home (ACF). The LHCSA and the ALP will have identical membership.

The Board of Directors of The Bristol Home, Inc. d/b/a/ Bristol Home Care is comprised of the following individuals:

Corine Artis – Board Member Retired <u>Affiliations</u> The Bristol Home (2012-present) Bristol Village (2012-present)	James Bender – Board Member Gift Planning Officer, SUNY at Buffalo
Thomas Hanlon – Board Director Chief Operating Officer & Executive Vice President, Courier Capital, LLC <u>Affiliations</u> The Bristol Home (2013-present) Bristol Village (2013-present)	John Dezik – Board Member Retired <u>Affiliations</u> The Bristol Home (2011 –present) Bristol Village (2011 –present)
Joseph Floss – Board Member President/Owner, Floss Agency, Inc.	Hector Garrido – Board Member Project Architect, Trautman Associates
Cecilia Kohlmeier, RN – Board Member Retired	Daniel Herberger – Board Member Retired
Barbara Cassaro – Vice-President Shipping Coordinator, Reeds Jenss <u>Affiliations</u> The Bristol Home 1992-present) Bristol Village (1992-present)	James Magavern, Esq. – Board Member Attorney, Magavern Magavern Grimm, LLP <u>Affiliations</u> The Bristol Home (1992-present)
William Prohn – Board Member Managing Director, Dopkins & Company, LLP	Alan Vogt – Board Member Retired
Peter Monczynski – Board Member Service Attendant, AVI Food Systems, Inc. <u>Affiliations</u> The Bristol Home (2013-present) Bristol Village (2013-present)	Mary Lou Wyrobek – Chairperson Director of Religious Education, Assumption Church Adjunct Instructor, Canisius College <u>Affiliations</u> The Bristol Home (1985-present)

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 Professions of the State Education Department indicates no issues with the license of the health care professional associated with this application.

A Certificate of Good Standing has been received for the attorney associated with this application.

The applicant proposes to serve the residents of the following counties from an office located at 1500 Main Street, Buffalo, New York 14209:

Allegany	Cattaraugus	Chautauqua	Erie
Genesee	Niagara	Orleans	Wyoming

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care

A seven (7) year review of the operations of the following facilities/ agencies was performed as part of this review (unless otherwise noted):

The Bristol Home (Adult Home)
Bristol Village (Enriched Housing Program)

The Bristol Home was fined one thousand dollars ($1,000.00) pursuant to a stipulation and order dated March 29, 2015 for inspection findings of September 20, 2014 for violations of 18 NYCRR Section 486.5 – Endangerment.

The Division of Adult Care Facilities and Assisted Living Surveillance unit has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety, and welfare of residents and to prevent recurrent code violations.

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

<u>Contingency</u>
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: December 29, 2016

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency:	Ideal Home Health Inc.
Address:	Brooklyn
County:	Kings
Structure:	For-Profit Corporation
Application Number:	2643L

Description of Project:

Ideal Home Health Inc., a business corporation, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

Ideal Home Health Inc. was previously approved as a home care services agency by the Public Health Council at its October 6, 2011 meeting and subsequently licensed 1674L001 effective February 28, 2013. At that time Ideal Home Health Inc. was owned as follows: Anna Krupovlyanskaya – 80 shares, Leonid Krupovlyanskiy – 40 shares, Paul Elberg – 40 shares and Alex Krupoff – 40 shares.

The purpose of this application is to request approval for a stock transfer. The applicant has authorized 200 shares of stock. The proposed shareholders of Ideal Home Health Inc. are the following individuals:

Anna Krupovlyanskaya, RN – 50 Shares
(Previously approved by PHC for this operator)

Alex Krupoff – 50 Shares
(Previously approved by PHC for this operator)

John Litman – 100 Shares
President/Operator, Terryville Associates
President/Operator, 100 Sunrise Highway Corp
President/Operator, AJE Enterprise LTD

The proposed Board of Directors of Ideal Home Health Inc. is comprised of the following members:

Anna Krupovlyanskaya, RN– Chief Executive Officer
(Previously approved by PHHPC for this operator)

Alex Krupoff – Chief Financial Officer
(Previously approved by PHHPC for this operator)

John Litman - Treasurer
(Previously Disclosed)

Anna Krupovlyanskaya and Alex Krupoff are exempt from character and competence review due to the fact that they were previously approved by the Public Health Council for this operator.

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

A review of the operations of Ideal Home Health Inc. (2/2013-Present) was performed as part of this review. The information provided by the Division of Home and Community Based Services has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The applicant proposes to continue to serve the residents of the following counties from an office located at 14 Cass Place, Brooklyn, New York 11235.

Bronx	Kings	New York	Queens	Richmond

The applicant proposes to continue to provide the following health care services:

Nursing	Home Health Aide	Personal Care	Physical Therapy
Occupational Therapy	Homemaker	Housekeeper	

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

<u>Contingency</u>
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:	December 6, 2016

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency:	Crickett Care, Inc.
Address:	Ossining
County:	Westchester
Structure:	For-Profit Corporation
Application Number:	151296

Description of Project:

Crickett Care, Inc., a business corporation, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

Crickett Care, Inc. was previously approved as a home care services agency by the Public Health Council at its January 20, 1995 meeting and was subsequently licensed as 9643L001 effective June 1, 1995. At that time Audrey Perlman was the sole owner.

This application was submitted due to the death of Audrey Perlman on June 5, 2012. Ms. Perlman's Last Will and Testament left all of her shares in Cricket Care, Inc. to her daughter, Jodi Patrick.

The applicant has authorized 200 shares of stock. The following individual is the sole stockholder of Crickett Care, Inc:

Jodi Patrick – 200 shares
Coordinator, Manager, Crickett Care, Inc.

The Board of Directors of Crickett Care, Inc. comprises the following individuals:

Jodi Patrick – President/Treasurer
(Previously Disclosed)

Cari Altayeb – Secretary
(Previously approved by PHC for this operator)

Cari Altayeb (fka Cari Rund) is exempt from character and competence review due to the fact that she was previously approved by the Public Health Council as a member of the board of directors of this operator.

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

A seven (7) year review of the operations of Crickett Care, Inc., was performed as part of this review. The information provided by the Division of Home and Community Based Services has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The applicant proposes to continue to serve the residents of the following counties from an office located at 144 S. Highland Avenue, Ossining, New York 10562:

Bronx	Westchester	Putnam	Rockland

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care	Homemaker

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

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:	December 21, 2016

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency:	A-Plus Care HHC Inc.
Address:	Brooklyn
County:	Kings
Structure:	For-Profit Corporation
Application Number:	152390

Description of Project:

A-Plus Care HHC Inc., a business corporation, , requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

A-Plus Care HHC Inc. was previously approved as a home care services agency by the Public Health and Health Planning Council at its February 7, 2013 meeting and subsequently licensed as 2017L001 on November 19, 2014.

At that time A-Plus Care HHC Inc. had authorized 200 shares of stock, which were owned as follows: Karl Bikhman 100 shares and Anna Domashitsky 100 shares. The purpose of this application is to transfer all 200 shares of stock to Sofia Bakalinsky.

The proposed Board of Directors of A-Plus Care HHC Inc. is comprised of the following individual:

Sofia Bakalinsky, HHA
Retired

The New York State Home Care Registry indicates no issues with the certification of the health care professional associated with this application.

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

A-Plus Care HHC Inc. has entered into a management agreement with Sofia Bakalinsky which was approved by the Department of Health in December 2016.

The applicant proposes to serve the residents of the following counties from an office located at 1757 Broadway, Brooklyn, New York 11207:

Kings	Queens	New York
Bronx	Richmond	Westchester

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Homemaker	Housekeeper	

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

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: December 28, 2016

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency:	SeniorBridge Family Companies (NY), Inc.
Address:	New York
County:	New York
Structure:	For-Profit Corporation
Application Number:	161335

Description of Project:

SeniorBridge Family Companies (NY), Inc., a business corporation, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

SeniorBridge Family Companies (NY), Inc. was previously approved as a home care services agency by the Public Health Council at its November 14, 2008 meeting under application number 1726L and was subsequently licensed effective December 8, 2008.

Aetna Inc. proposes to acquire control of SeniorBridge Family Companies (NY), Inc. in connection with its acquisition of Humana. Specifically, the Transaction contemplates that Echo Merger Sub, Inc., a direct wholly-owned subsidiary of Aetna established specifically for the Transaction, will merge with and into Humana (the “First Merger”). As a result of the First Merger, Humana will become a direct wholly-owned subsidiary of Aetna. Immediately following the closing of the First Merger, Humana will merge (the “Second Merger”) with and into Echo Merger Sub, LLC, a wholly-owned subsidiary of Aetna established specifically for the Transaction, with Echo Merger Sub, LLC remaining as the surviving entity of the Second Merger. Following the Second Merger, the Surviving Company will remain a direct wholly-owned subsidiary of Aetna and will be renamed “Humana LLC.”

The applicant, SeniorBridge Family Companies (NY), Inc., will remain a wholly owned subsidiary of Humana at Home, Inc. (fka SeniorBridge Family Companies)

The members of the Board of Directors of SeniorBridge Family Companies (NY), Inc. and Humana at Home, Inc. are exempt from character and competence review due to the fact that the Board of Directors were previously approved by the Public Health Council for this operator.

The Humana at Home, Inc. has authorized 1,000 shares of stock which will are owned as follows:

Humana LLC – 100%

Aetna Inc. is the sole member of Humana LLC

The sole manager of Humana LLC is:

Bjorn B. Thaler – Manager
Vice President, Head of Corporate Development,
Aetna, Inc.

Aetna Inc. has authorized 7,625,000 shares of class A voting preferred stock and 2,547,149,492 shares of common stock. All shares of class A voting preferred stock are unissued at this time. 350,843,346 shares of common stock have been issued. 2,196,306,146 shares of common stock remain unissued. No individuals owns 10% or more of Aetna Inc. stock.

The Board of Directors of Aetna Inc. is comprised of the following individuals:

Mark T. Bertolini – Chairman
Chief Executive Officer, Aetna Inc.
Chief Executive Officer and President, Aetna Life Insurance Company

Fernando Aguirre – Director
Retired

Affiliation:

- John Dempsey Hospital of the University of Connecticut Health Center (2007-2011)

Frank M. Clark – Director
Retired

Affiliation:

- University of Chicago Medical Center (2003 – 2013)

Betsey Z. Cohen – Director
Strategic Advisor, The Bancorp Inc.

Molly J. Coye, M.D. (MD, NJ, CA all inactive) – Director
Social Entrepreneur in Residence, Network for Excellence in Healthcare Innovation (NEHI)

Roger N. Farah – Director
Co-Chief Executive Officer and Director, Tory Burch LLC

Jeffrey E. Garten – Director
Dean Emeritus, Yale School of Management, Yale University

Ellen M. Hancock – Director
Retired

Richard J. Harrington – Director
Chairman, General Partner, The Cue Ball Group

Olympia J. Snowe – Director
Chairman/CEO, Olympia Snowe, LLC

Edward J. Ludwig – Director
Retired

Affiliations:

- Hackensack University Medical Center (2003-2016)

Joseph P. Newhouse – Director
Director, Division of Health Policy Research and Education; John D. MacArthur Professor of Health Policy and Management; Director, Interfaculty Initiative on Health Policy, Harvard University

A search of the individuals (and entities where appropriate) named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The applicant has confirmed that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate.

The applicant proposes to continue to serve the residents of the following counties from offices located at:

845 Third Ave 7th Fl. New York, New York 10022	Bronx, Kings, Nassau, New York, Queens, Richmond
1010 Northern Blvd, Suite 20 B Great Neck, New York 11021	Nassau, Suffolk
445 Hamilton Ave Suite 1041-1054 White Plains, New York 10601	Putnam, Rockland, Westchester, Bronx
104-70 Queens Blvd., Suite 504 Forest Hills, NY 11375	Bronx, Kings, Nassau, New York, Queens, Richmond
26 Court St., Suite 909 Brooklyn, NY 11242	Bronx, Kings, Nassau, New York, Queens, Richmond

3375 Park Avenue. Suite 3003 Wantagh, New York 11793	Nassau, Suffolk, Queens
80 Orville Dr., Suite 209 Bohemia, New York 11716	Suffolk

The applicant proposes to continue to provide the services.

Nursing	Home Health Aide	Personal Care
Medical Social Services	Homemaker	Housekeeper

A review of the operations of the following facilities/agencies was performed as part of this review:

- SeniorBridge Family Companies (NY), Inc. (New York – LHCSA)
- Hackensack University Medical Center (New Jersey)
- University of Chicago Medical Center (Illinois)(2003 – 2013)
- John Dempsey Hospital of the University of Connecticut Health Center (Connecticut)(2009-2011)

SeniorBridge Family Companies (NY), Inc. (Glen Cove) was fined nine thousand dollars ($9,000) pursuant to a Stipulation and Order dated March 26, 2010 for surveillance findings on February 11, 2009. Deficiencies were found under 10 NYCRR 766.1 – Patient Rights; 766.3(d) – Plan of Care; 766.5(b) and (d) – Clinical Supervision; 766.9(c), (f), (j), and (l) – Governing Authority; and 766.11(f) - Personnel.

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

The responses received from New Jersey, Illinois, and Connecticut indicated that entities in these jurisdictions have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients.

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

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: December 22, 2016

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency:	CareGuardian, Inc. d/b/a Hometeam
Address:	New York
County:	New York
Structure:	For-Profit Corporation
Application Number:	162087

Description of Project:

CareGuardian, Inc. d/b/a Hometeam, a Delaware business corporation, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law. This application amends and supersedes application number 2501L which was contingently approved by the Public Health and Health Planning Council at the October 8, 2015 meeting.

New Universal Home Care, Inc. was previously approved as a home care services agency by the Public Health and Health Planning Council at its October 6, 2011 meeting and subsequently licensed 1764L001 with Felix Salinas as the sole shareholder. In March 2016, Felix Salinas suffered a serious medical episode and is now represented by his wife, Joice Salinas. Ms. Salinas has been appointed the legal Guardian of the person and property of Mr. Salinas effective July 28, 2016.

The Metropolitan Area Regional Office surveillance staff conducted a re-licensure survey of New Universal Home Care, Inc. on May 25, 2016 and May 26, 2016 and found that the governing authority had not maintained control of the agency and that CareGuardian, Inc. d/b/a Hometeam was actually operating the agency. A cease and desist letter was issued to CareGuardian, Inc. on October 13, 2016 directing them to immediately cease providing home care services.

A management agreement between New Universal Home Care, Inc. and CareGuardian, Inc. that had been approved on July 25, 2014 was terminated by the Department on October 18, 2016 due to non-compliance with the regulatory requirements that require the governing authority of the currently approved operator (New Universal Home Care, Inc.) to retain full legal authority over the operations of the Licensed Home Care Services Agency.

Negotiations between the parties involved and the Department resulted in New Universal Home Care, Inc. resuming their responsibilities as the approved operator of the agency. The applicants submitted an amended and restated management agreement between New Universal Home Care, Inc. and CareGuardian, Inc. d/b/a Hometeam which was approved by the Department on December 5, 2016.

The applicant has authorized 82,656,719 shares of stock of which 52,200,000 shares are Common Stock and 30,456,719 shares are Preferred Stock which are owned as follows:

Joshua M. Bruno – 12,000,000 Shares Common Stock	Oak HC/FT Partners, L.P. – 10,132,897 Shares Preferred Stock
Lux Capital L.P. – 8,053,662 Shares Preferred Stock	IA Ventures, L.P. – 8,378,052 Shares Preferred Stock

In addition, the applicant has issued 7,287,558 shares to smaller shareholders of which no individual owns 10% or more of the issued shares. The remaining 36,804,550 remain unissued.

The Managing Partner of IA Ventures L.P. is Bradford W. Gillespie

The Principal of Lux Capital L.P. is Adam L. Goulburn, Ph.D.

The Director representing Oak HC/FT Partners, L.P. is Jennifer A. Baldock

The Board of Directors of CareGuardian, Inc. d/b/a Hometeam comprises the following individuals:

Joshua M. Bruno – President, Secretary, Treasurer, Director
Co-Founder and CEO, CareGuardian, Inc.
Operations Consultant, Home Care Agency Consultant

Affiliations:
CareGuardian, Inc. d/b/a Hometeam (New Jersey) (7/10/14 to present)

CareGuardian, Inc. d/b/a Hometeam (Pennsylvania) (1/20/15 to present)

Adam L. Goulburn, Ph.D. – Director
Principal, Lux Capital L.P.

Affiliations:
CareGuardian, Inc. d/b/a Hometeam (New Jersey) (7/10/14 to present)

CareGuardian, Inc. d/b/a Hometeam (Pennsylvania) (1/20/15 to present)

Bradford W. Gillespie – Director
Managing Partner, IA Ventures, L.P.

Affiliations:
CareGuardian, Inc. d/b/a Hometeam (New Jersey) (7/10/14 to present)

CareGuardian, Inc. d/b/a Hometeam (Pennsylvania) (1/20/15 to present)

Jennifer A. Baldock, JD (fka Jennifer A. Adams) – Director
Consultant, Roselon Industries, Inc.

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

The States of New Jersey and Pennsylvania indicated that CareGuardian, Inc. d/b/a Hometeam is currently active and that there haven't been any enforcement actions taken against these agencies.

A Certificate of Good Standing was received for the attorney.

The applicant proposes to serve the residents of the following counties from an office located at 50 West 23rd Street, Floor 9, New York, New York 10010.

New York	Kings	Queens	Bronx	Richmond

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

<u>Contingency</u>
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: January 9, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency:	Blue Parasol, LLC
Address:	Long Island City
County:	Queens
Structure:	Limited Liability Company
Application Number:	162411

<u>Description of Project:</u>

Blue Parasol, LLC, a to-be-established limited liability company, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

P.S.C. Community Support Services, Inc. d/b/a Blue Parasol, a not-for-profit corporation, was previously approved as a home care services agency by the Public Health and Health Planning Council at its December 6, 2012 meeting and subsequently assigned license number 1997L001 effective May 27, 2014. The sole member of P.S.C. Community Support Services, Inc d/b/a Blue Parasol is P.S.C. Community Services, Inc.

The sole member of Blue Parasol, LLC will be P.S.C. Community Services, Inc.

The proposed board members of Blue Parasol, LLC and the current board members of P.S.C. Community Services, Inc. are the following individuals:

Christopher Olechowski – President Chief Executive Officer, PSC Community Services, Inc. <u>Affiliation</u> PSC Community Support Services, Inc. d/b/a Blue Parasol	Richard Hermanowski – Vice-President Retired <u>Affiliation</u> PSC Community Support Services, Inc. d/b/a Blue Parasol
Dorota Warchol – Chairperson Financial Advisor, Metlife <u>Affiliation</u> PSC Community Support Services, Inc. d/b/a Blue Parasol	Artur Rozbicki – Secretary Certified Customs Specialist, Ken Lehat & Associates, Inc. <u>Affiliation</u> PSC Community Support Services, Inc. d/b/a Blue Parasol
Renata Warchol – Board Member Chief Operating Officer, PSC Community Services, Inc. <u>Affiliation</u> PSC Community Support Services, Inc. d/b/a Blue Parasol	Richard Brzozowski – Treasurer Retired <u>Affiliation</u> PSC Community Support Services, Inc. d/b/a Blue Parasol
Henry Lajca – Board Member Finance Officer, Signature Bank <u>Affiliation</u> PSC Community Support Services, Inc. d/b/a Blue Parasol	Jolanta Olechowski – Board Member English Teacher, NYC Dept. of Education Queens Adult Learning Center

Anna Monasterski – Board Member Project Manager, JP Morgan Chase <u>Affiliation</u> PSC Community Support Services, Inc. d/b/a Blue Parasol	Monica Arjune, RN – Board Member Staff Nurse, Woodhull Medical Center

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 Professions of the State Education Department indicates no issues with the license of the health care professional associated with this application.

The applicant proposes to serve the residents of the following counties from an office located at 51-02 21st Street, Long Island City, New York 11101:

Bronx	Kings	New York
Queens	Richmond	Westchester

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Housekeeper		

A seven (7) year review of the operations of the following facilities/ agencies was performed as part of this review (unless otherwise noted):

PSC Community Services, Inc.
PSC Community Support Services, Inc. d/b/a Blue Parasol

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

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

<u>Contingency</u>
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: January 3, 2016

NEW YORK STATE OF OPPORTUNITY. | Department of Health

MEMORANDUM

To: Public Health and Health Planning Council (PHHPC)

From: Richard J. Zahnleuter
General Counsel

Date: January 12, 2017

Subject: Certificate of Amendment of the Certificate of Incorporation of Loretto Management Corporation Relative to Application #132093, an Application which Received PHHPC Establishment Final Approval on February 25, 2014

Application 132093 established Auburn Senior Services as operator of Mercy Health & Rehab Center NH, Inc. (Mercy) and established Loretto Management Corporation as the active parent/co-operator of Mercy.

Part of the legal review of the application involved reviewing the Certificate of Amendment of the Certificate of Incorporation of Loretto Management Corporation. However, the Certificate cannot be filed with the New York State Department of State without having PHHPC's consent to file attached thereto. Therefore, PHHPC is being asked to grant consent to the filing.

The document has been reviewed. There is no legal objection to the proposed Certificate of Amendment of the Certificate of Incorporation of Loretto Management Corporation and it is in legally acceptable form.

Attachments

CERTIFICATE OF AMENDMENT OF THE CERTIFICATE OF INCORPORATION

OF

LORETTO MANAGEMENT CORPORATION

Under Section 803 of the Not-for-Profit Corporation Law

The undersigned, being respectively the President and Secretary of Loretto Management Corporation (hereinafter referred to as the "Corporation") for the purpose of amending the Certificate of Incorporation of the Corporation, do hereby certify:

1. The name of the corporation is Loretto Management Corporation.

2. The Certificate of Incorporation of the Corporation was filed by the New York State Department of State on June 4, 1987, pursuant to § 402 of the New York State Not-For-Profit Corporation Law. The Certificate of Incorporation of the Corporation was amended by Certificate of Amendment filed by the New York State Department if State on January 28, 1988, pursuant to § 803 of the Not-For-Profit Corporation Law. The Certificate of the Corporation was again Amended and Restated by a Restated Certificate of Incorporation filed on January 27, 2004, pursuant to § 805 of the Not-For Profit Corporation Law.

3. The law the corporation was formed under was § 402 of the New York State Not-For-Profit Corporation Law.

4. The Corporation is defined in Subparagraph (a)(5) of § 102 of the New York State Not-For-Profit Corporation Law

5. The Corporation is a Type "C" Corporation under § 201 of the New York State Not-For-Profit Corporation Law thereof.

6. The amendments effected by this certificate of amendment are as follows:

Paragraph V of the Restated Certificate of Incorporation relating to the charitable purpose for which the Corporation is formed is hereby amended to read in its entirety as follows:

> The charitable purpose for which the Corporation is formed is to relieve the poor and distressed and to advance the health and social well-being of elderly, disabled, underprivileged and otherwise needy persons living in Central New York and its surrounding communities by advising and assisting in the planning and coordination of the activities and functions of (a) Loretto Rest, Inc.; (b) Churchill Manor, Inc.; (c) Bernardine Apartments, Inc.; (d) Loretto Geriatric Community Residences, Inc.; (e) Loretto Properties Corporation; (f) Loretto Adult Community, Inc.; (g)

Loretto Housing Development Fund Co., Inc. (h) Loretto-Malta Manor Housing Development Fund Co., Inc.; (i) Loretto Apartments Housing Development Fund Co., Inc.; (j) Loretto-Sedgwick Heights Corporation; (k) Loretto- Buckley Landing Corporation; (l) Elbridge Adult Community, Inc.; (m) Loretto-Heritage Housing Development Fund Company, Inc.; (n) The Nottingham Residential Health Care Facility; (p) Loretto Rest Realty Corporation; (q) Loretto-Oswego Realty Corporation; and (r) Auburn Senior Services Inc.; (s) Mercy Health & Rehabilitation Center Nursing Home Company, Inc.; (t) Cayuga County Nursing Home; and (u) such other nonprofit organizations recognized under § 501(c)(3) of the Internal Revenue Code of 1986, as amended, as may hereafter be affiliated with the Corporation and/or any of the above not-for-profit corporations.

Paragraph VI of the Restated Certificate of Incorporation relating to the powers of the Corporation is hereby amended to read in its entirety as follows:

The Corporation is empowered to do and perform all acts reasonably necessary to accomplish the above charitable purposes of the Corporation, including:

(a) In keeping with its charitable purposes, the Corporation may sponsor, plan, develop, assist, support, guaranty, secure, purchase, acquire, sell, use, hold, mortgage, encumber, maintain, lease, construct, rehabilitate, alter, enable, provide for and/or otherwise facilitate projects and programs (consisting of both real and personal property) of the organizations described in Article V above, and to do so all on a nonprofit basis;

(b) To do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof and not prohibited by law or inconsistent with any provision of this Certificate of Incorporation; and

(c) To have and exercise all powers available to corporations organized pursuant to the Not-For Profit Corporation Law of New York, or available to not-for profit corporations of any other state in which the Corporation may be authorized to conduct business.

Provided, however, that nothing contained herein shall authorized the Corporation directly or indirectly to undertake any of the activities specified in § 404 of the Not-For-Profit Corporation Law excepting subparagraphs (o) and (t) of § 401 as they may be undertaken for Auburn Senior Services, Inc.

7. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The address to which the Secretary of State

shall forward copies of process accepted on behalf of the corporation is 750 East Brighton Avenue, Syracuse, New York 13205.

8. The certificate of amendment was authorized by the Members of the Corporation.

Kimberly M
(Signature)

Kimberly M Townsend President and Chief Executive Officer
(Typed Name and Title)

PHHPC

PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany New York 12237

(518) 402-0964
PHHPC@health.state.ny.us

February 25, 2014

Mr. John Ognibene
Administrator
Mercy Health and Rehabilitation Center
3 St. Anthony Street
Auburn, New York 13021

Re: Application No. 132093 B Auburn Senior Services, Inc. (Cayuga County)

Dear Mr. Ognibene:

I HEREBY CERTIFY THAT AFTER INQUIRY and investigation, that the Establishment portion for the application of Auburn Senior Services, Inc. is APPROVED, the Establishment contingencies having now been fulfilled satisfactorily effective February 20, 2014. You are reminded that you must satisfy the outstanding construction contingencies in order for the Construction portion of the CON application to be considered approved.

This Establishment portion approval is conditioned upon the applicant's continued compliance with the Medicaid access condition, as included in the Public Health and Health Planning Council's approval of the project. The Public Health and Health Planning Council had considered this application and imposed the contingencies at its meeting of October 2, 2013. You are expected to comply with the conditions listed on the October 23, 2013 letter from Karen Westervelt.

Public Health and Health Planning Council approval is not to be construed as approval of property costs or the lease submitted in support of the application. Such approval is not to be construed as an assurance or recommendation that property costs or lease amounts as specified in the application will be reimbursable under third-party payor reimbursement guidelines.

To complete the requirements for certification approval, please contact the Central New York Regional Office of the New York State Office of Health Systems Management, 217 South Salina Street, Syracuse, New York 13202 or (315) 477-8555, within 30 days of receipt of this letter.

Sincerely,

Colleen M. Leonard

Colleen M. Leonard
Executive Secretary

PHHPC

PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany, New York 12237

(518) 402-0964
PHHPC@health.state.ny.us

February 25, 2014

Mr. John Ognibene
Administrator
Mercy Health and Rehabilitation Center
3 St. Anthony Street
Auburn, New York 13021

Re: Certificate of Dissolution of Mercy Health & Rehabilitation Center Nursing Home Company, Inc.

Dear Mr. Ognibene:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health and Health Planning Council held on the 3rd day of October 2013 I hereby certify that the Public Health and Health Planning Council consents to the filing of the Certificate of Dissolution of Mercy Health & Rehabilitation Center Nursing Home Company, Inc., dated February 20, 2014.

Sincerely,

Colleen M. Leonard

Colleen M. Leonard
Executive Secretary

/cl

PHHPC

PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany, New York 12237

(518) 402-0964
PHHPC@health.state.ny.us

***REVISED**

June 5, 2015

Mr. John Ognibene
Administrator
Mercy Health and Rehabilitation Center
3 St. Anthony Street
Auburn, New York 13021

Re: *Certificate of Dissolution of Mercy Health & Rehabilitation Center Nursing Home Company, Inc.

Dear Mr. Ognibene:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health and Health Planning Council held on the 3rd day of October 2013 I hereby certify that the Public Health and Health Planning Council consents to the filing of the Certificate of Dissolution of Mercy Health & Rehabilitation Center Nursing Home Company, Inc., dated *May 27, 2015.

Sincerely,

Colleen M. Leonard

Colleen M. Leonard
Executive Secretary

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