

STATE OF NEW YORK
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

COMMITTEE DAY

AGENDA

January 25, 2018

10:00 a.m.

New York State Department of Health Offices 90 Church Street, 4th Floor, Rooms 4A/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

	<u>Number</u>	<u>Applicant/Facility</u>
1.	172168 C	Bronx-Lebanon Hospital Center - Fulton Division (Bronx County)
2.	172212 C	North Shore University Hospital (Nassau County)

Acute Care Transplant Services – Construction

Exhibit # 2

	<u>Number</u>	<u>Applicant/Facility</u>
1.	171149 C	North Shore University Hospital (Nassau County)

Diagnostic and Treatment Center – Construction

Exhibit # 3

	<u>Number</u>	<u>Applicant/Facility</u>
1.	172208 C	Charles B. Wang Community Health Center, Inc. (Queens County)

Residential Health Care Facility – Construction

Exhibit # 4

	<u>Number</u>	<u>Applicant/Facility</u>
1.	171421 C	Seton Health at Schuyler Ridge Residential Healthcare (Saratoga County)

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

Ambulatory Surgery Centers - Establish/Construct

Exhibit # 5

	<u>Number</u>	<u>Applicant/Facility</u>
1.	172304 E	Queens Boulevard ASC, LLC (Queens County)
2.	172325 E	Liberty Endoscopy Center (New York County)

Dialysis Services - Establish/Construct

Exhibit # 6

	<u>Number</u>	<u>Applicant/Facility</u>
1.	172220 B	Dialysis at ECC, LLC (Queens County)

Residential Health Care Facilities - Establish/Construct

Exhibit # 7

	<u>Number</u>	<u>Applicant/Facility</u>
1.	161122 E	Comprehensive Rehabilitation and Nursing Center at Williamsville (Erie County)
2.	171175 E	GORNC Operating, LLC d/b/a Gowanda Rehabilitation and Nursing Center (Cattaraugus Count)
3.	171392 E	ORRNC Operating, LLC d/b/a Orchard Manor Rehabilitation and Nursing Center (Orleans County)
4.	172031 E	White Plains Nursing Home, Inc. d/b/a Bronx Park Rehabilitation & Nursing Center (Bronx County)

Certified Home Health Agency - Establish/Construct

Exhibit # 8

	<u>Number</u>	<u>Applicant/Facility</u>
1.	171041 E	Shining Star Home Health Care (Kings County)

C. Home Health Agency Licensures

Exhibit # 9

New LHCSAs – Affiliated with Assisted Living Programs (ALPs)

<u>Number</u>	<u>Applicant/Facility</u>
162315	MLAP Acquisition III, LLC d/b/a Long Beach Home Care (Nassau and Suffolk Counties)

Changes of Ownership

<u>Number</u>	<u>Applicant/Facility</u>
171276	PromptCare Home Infusion of New York, LLC (Nassau, Dutchess, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, Wester, Queens, Queens, Kings, Bronx, New York and Richmond Counties)
171333	Caring People NY Operating, LLC (Queens, Bronx, Kings, New York, Richmond, Westchester, Nassau, Suffolk, and Rockland Counties)
172061	NY Home Care Select, LLC d/b/a Comfort Home Care (Nassau, Westchester, Queens and Suffolk Counties)
172124	Blossom Home Care, LLC (Bronx, New York, Kings, Queens, Nassau and Richmond Counties)
172172	Passionate Home Care, LLC d/b/a LINK Home Care Services (Bronx, Kings, Nassau, New York, Queens, Richmond, Bronx, Putnam, Rockland, Westchester, Orange, Rockland and Ulster Counties)
171242	Welcome Care, Inc. (Kings, Richmond, Queens, Nassau, New York and Bronx Counties)

New LHCSAs

152031	Aza Group Inc. (Kings, Bronx, Queens, Richmond, New York, Nassau Counties)
152270	VIPatient Home Care, Inc. (Kings, Queens, and New York Counties)

- 152293 Santry Home Care, Inc. d/b/a Visiting Angels
(Westchester and Bronx Counties)
- 152315 K Homecare Corporation
(Bronx, New York, Kings, Queens, Nassau and Richmond
Counties)
- 152335 Wellness Registered Nursing, P.C.
(Bronx, and New York Counties)
- 152340 Reginald Aumoithe d/b/a Safe & Sound Nursing Care
Agency
(Nassau, Suffolk and Queens Counties)
- 152369 Life Improvement Homecare, Inc.
(Bronx, New York, Kings, Queens, Nassau and Richmond
Counties)
- 152374 Nurturing Angels Homecare, Inc.
(Bronx, New York, Kings, Queens, Nassau, and Richmond
Counties)
- 152386 HazMed Solution, Inc.
(Queens, New York, Kings, Bronx, Richmond and Nassau
Counties)
- 161008 K. Campion Inc d/b/a Right at Home
(Nassau, Suffolk and Queens Counties)
- 161011 Eprine Home Care, Inc.
(Bronx, New York, Kings, Queens, Nassau and Richmond
Counties)
- 161053 Executive Home Care, Inc. d/b/a Z Best Home Care
(Kings, New York, Queens, Bronx, Richmond and
Westchester Counties)
- 161063 Girgis Associates, Inc. d/b/a ComForCare Home Care –
Staten Island
(Richmond County)
- 161478 Advent Homecare Agency Inc.
(Nassau and Queens Counties)
- 2589 L The Rock Home Care, Inc.
(Kings, New York, Queens and Richmond Counties)
- 2591 L Exclusive Home Care Services, Inc.
(Bronx, Kings, Nassau, New York, Queens and Richmond
Counties)

2535 L

Igor Homecare, Inc.
(Bronx, Queens, Kings, Westchester, New York and
Richmond Counties)

D. Certificates

Exhibit # 10

Certificate of Incorporation

Applicant

Cornerstone FH Charitable Foundation

Certificate of Amendment of the Certificate of Incorporation

Applicant

Bronx-Lebanon Hospital New Directions Fund, Inc.

Bronx-Lebanon Special Care Center, Inc.

The New York Eye and Ear Infirmary

Certificate of Amendment of the Certificate of Consolidation

Applicant

The Bronx-Lebanon Hospital Center

Certificate of Dissolution

Applicant

Sidney Area Hospital Foundation, Inc.



**Project # 172168-C
Bronx-Lebanon Hospital Center - Fulton Division**

**Program: Hospital
Purpose: Construction**

**County: Bronx
Acknowledged: November 13, 2017**

Executive Summary

Description

Bronx-Lebanon Hospital Center - Fulton Division (Bronx-Lebanon) is a 164-bed, voluntary not-for-profit, acute care hospital located at 1276 Fulton Avenue, Bronx (Bronx County). The hospital is licensed under Article 28 of the Public Health Law and Article 31 of the Mental Hygiene Law and is currently certified for 98 psychiatric beds. Bronx-Lebanon requests approval to permanently certify six adult psychiatric beds, which have been operated on a temporary basis since 2010 at the request from the Office of Mental Health (OMH). Upon approval by the Public Health and Health Planning Council (PHHPC), the licensed psychiatric beds will increase to 104 beds.

When St. Vincent's Medical Center closed in 2010, OMH asked Bronx-Lebanon to add temporary psychiatric beds to meet the pressing needs of the community. The applicant indicated that the hospital's Inpatient Psychiatric Units are operating at capacity levels in response to the increasing mental health needs of the community and their Psychiatric Emergency Room continues to generate admissions. Permanent certification of the six adult psychiatric beds will enable the hospital to continue to respond to the mental health needs of the community and meet ongoing demand for inpatient care.

OPCHSM Recommendation

Approval

Need Summary

Bronx Lebanon has been running these temporary psychiatric beds since 2010 and has been operating over 100% utilization the last five years, with expected continued growth. The unit will not be able to handle the volume without the addition of these 6 beds.

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	\$31,072,500
Expenses	<u>30,718,600</u>
Net Income	\$353,900

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

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 8, 2018

Need Analysis

Background

Bronx-Lebanon Hospital Center Fulton has the following certified beds and services:

Table 1: Bronx-Lebanon Hospital Center Fulton

Services	
Amb. Surg. - Multi Specialty	Linear Accelerator
Cardiac Cath – Adult Diag.	Lithotripsy
Cardiac Cath - PCI	Medical Serv - Primary Care
Certified Mental Health Services O/P	Medical Social Services
Chem. Dep. - Detoxification	Methadone Maintenance O/P
Chem. Dep. - Rehabilitation	Nuclear Med - Diagnostic
Chem. Dep. - Rehabilitation O/P	Psychiatric
Chem. Dep. - Withdrawal O/P	Radiology - Diagnostic
Clinic Part Time Services	Respiratory Care
Clinical Laboratory Service	Therapy - Physical O/P
Comp Psych Emer. Program	Intensive Care
Emergency Department	

Source: HFIS, 2015

Table 2: Bronx-Lebanon Hospital Center Fulton

Bed Category	Current Beds	Bed Change	Beds Upon Completion
Chemical Depend. – Rehab.	30		30
Chemical Depend. – Detox.	36		36
Psychiatric	98	6	104
Total	164	6	170

Source: HFIS, 2017

Table 3: Bronx-Lebanon Hospital Occupancy 2010 - 2016

	Current Beds	2012	2013	2014	2015	2016
Med/Surg	0	0.0%	0.0%	0.0%	0.0%	0.0%
Pediatric	0	0.0%	0.0%	0.0%	0.0%	0.0%
Obstetric	0	0.0%	0.0%	0.0%	0.0%	0.0%
General Psychiatric	98	115.1%	111.2%	113.1%	108.8%	108.5%
Chemical Dependence	66	60.9%	65.1%	55.4%	62.2%	60.0%
Total	164	94.5%	93.3%	90.6%	90.7%	89.8%

Note: Occupancy is calculated based on certified beds, not including temporary beds

Source HFIS, 2017

Analysis

Bronx-Lebanon is widely recognized as a leader in the provision of community mental health services, accounting for more than 200,000 visits annually, and offering comprehensive care at the inpatient and outpatient levels for mental health and chemical dependency problems. Permanent certification of six additional Adult Inpatient Psychiatric Beds will enable Bronx-Lebanon to move forward in responding to the mental health needs of the community.

Conclusion

Bronx-Lebanon's service area is amongst the poorest in the nation. Bronx hospitals have seen a significant increase in psychiatric discharges over the last few years. The permanent approval of these psychiatric beds will assist in providing services to the growing number of patients in the area.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

Since the beds have been operating under a temporary approval, there are no significant programmatic changes anticipated and no other changes in services. It is anticipated that current year staffing of 87.60 FTEs will increase by 5.40 FTEs in the first year post-approval and remain at that level through the third year of operation.

Compliance with Applicable Codes, Rules and Regulations

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

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

On August 16, 2010, a Stipulation and Order and \$16,000 fine was issued to Bronx Lebanon Hospital for an incident of wrong sided surgery based on the care rendered to a juvenile who was admitted for a left side hernia repair. A right repair was agreed to at "time out" but no hernia was found during surgery exposing the error.

Conclusion

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.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Operating Budget

The applicant has submitted an operating budget, in 2018 dollars, during the first and third years, summarized below:

	<u>Current Year</u>		<u>Years One and Three</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>Revenues</u>				
Medicaid FFS	\$1,112.33	\$15,693,900	\$1,112.38	\$16,655,000
Medicaid MC	\$740.56	4,767,000	\$740.61	5,058,800
Medicare FFS	\$1,138.74	3,979,900	\$1,138.79	4,223,600
Medicare MC	\$936.06	2,645,300	\$935.84	2,807,200
Commercial FFS	\$965.29	631,300	\$965.00	669,900
Commercial MC	\$734.36	333,400	\$735.71	354,000
Uninsured/Self-Pay	\$363.50	592,500	\$365.50	629,000
Other*		1,225,000		1,300,000
Less Bad Debt		<u>(588,900)</u>		<u>(625,000)</u>
Total Revenues		\$29,279,400		\$31,072,500
 <u>Expenses</u>				
Operating	\$971.95	\$28,774,700	\$971.81	\$30,536,600
Capital	5.79	171,500	5.79	182,000
Total Expenses	\$977.74	\$28,946,200	\$977.60	\$30,718,600
 Excess Revenues		 <u>\$333,200</u>		 <u>\$353,900</u>
 Utilization (Pt Days)		 29,605		 31,418

*Other revenues consists of the allocated portion of the Medical Education Revenues.

Expense and utilization assumptions are based on the historical experience of the hospital in operating psychiatric beds.

Utilization broken down by payor source, during the current, first and third years, are as follows:

	<u>Current Year</u>	<u>Years One & Three</u>
Medicaid FFS	47.66%	47.65%
Medicaid MC	21.74%	21.73%
Medicare FFS	11.80%	11.80%
Medicare MC	9.54%	9.54%
Commercial FFS	2.21%	2.20%
Commercial MC	1.53%	1.54%
Uninsured/Self-Pay	5.52%	5.54%

Capability and Feasibility

There are no project costs associated with this application. The submitted budget indicates an incremental excess of revenues over expenses of \$20,700 during the first and third years, respectively. Revenues are based on current reimbursement methodologies for psychiatric services. The submitted appears reasonable.

BFA Attachment A is the 2015 and 2016 certified financial statements of Bronx-Lebanon Hospital Center. As shown, the entity had an average positive working capital position and an average positive net asset position from 2015 through 2016. Also, the entity achieved an average excess of operating revenues over expenses of \$ 15,394,235 from 2015 through 2016.

BFA Attachment B is the internal financial statements of Bronx-Lebanon Hospital Center as of September 30, 2017. As shown, the entity had a positive working capital position and a positive net asset position through September 30, 2017. Also, the entity achieved an excess of operating revenues over expenses of \$6,632,000 through September 30, 2017.

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 - 2015 and 2016 certified financial statements of Bronx-Lebanon Hospital Center
- BFA Attachment B Financial Summary - September 30, 2017 internal financial statements of Bronx-Lebanon Hospital Center



**Project # 172212-C
North Shore University Hospital**

**Program: Hospital
Purpose: Construction**

**County: Nassau
Acknowledged: October 13, 2017**

Executive Summary

Description

North Shore University Hospital (NSUH), a 738-bed, voluntary not-for-profit, Article 28 acute care hospital located at 300 Community Drive, Manhasset (Nassau County), seeks approval to construct an eight-story addition at the hospital's main campus to include 18 operating rooms (ORs), a post-anesthesia care unit (PACU) and an intensive care unit (ICU), and to certify 18 net new ICU beds. Upon completion, the facility's final bed count will be 756 beds including a total of 97 ICU beds. The project is known as the Advanced Surgical Pavilion (ASP) and is being done to replace undersized and antiquated ORs and renovate and expand post-surgical and critical care unit space. The proposed project will enable the facility to expand the capacity of its surgical programs and related critical care services to meet volume demands and the increasingly complex needs of NSUH's patient population.

The proposed 314,704 sq. ft. ASP will be built in two phases, as follow:

- Phase One - Construction of a new eight level ASP with connections to the main NSUH campus on Levels G, floors 1 and 2, shelled floors 6 and 7, and an elevated parking deck. The new building will consist of 18 ORs (3 Hybrid and 15 Universal, for 5 net new ORs), and two 22-bed ICUs to replace and expand upon the existing ICU facilities currently serving the cardiothoracic and neurosurgical programs (44 beds total of which 18 are net new).
- Phase Two - Decommission and renovate existing ORs and support space for the relocation and expansion of the PACU and

staff support space. Forty-two (42) PACU positions will be constructed (14 net new) replacing and expanding the current facilities to accommodate the incremental ORs and strategic growth.

The ASP will include construction of two shell floors above the new ORs and ICUs that will be fit out at a later date to accommodate NSUH's future clinical use needs and modernization of their inpatient facilities.

NSUH is co-operated by Northwell Healthcare, Inc. whose sole corporate member is Northwell Health, Inc., and is a member of the Northwell Health Obligated Group.

OPCHSM Recommendation
Contingent Approval

Need Summary

Approval of the additional ORs and ICU beds and the construction of this new surgical pavilion will help North Shore University Hospital address existing and future growth. The facility expects this new Surgical Pavilion will address patients' needs and improve the quality of care for the growing number of patients with comorbidities.

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 of \$338,562,858 includes the cost of the Article 28 and shell space construction. The project cost is broken down as follows: Article 28 space for \$280,522,858 and shell space for \$58,040,000. The project cost will be met via equity of \$86,092,285 and the issuance of tax-exempt bonds for a 30-year term at 6.5% interest for the remaining \$252,470,573. Citigroup Global Markets Inc. has provided a letter of interest to underwrite the bonds to be issued through the Dormitory Authority of the State of New York (DASNY) using tax-exempt financing.

Incremental Budget

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$51,334,421	\$73,800,798
Expenses	<u>\$73,704,086</u>	<u>\$91,683,476</u>
Net Income	(\$22,369,665)	(\$17,882,678)

Enterprise Incremental Budget

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,447,882,421	\$1,470,348,798
Expenses	<u>\$1,383,894,586</u>	<u>\$1,401,873,976</u>
Net Income	\$63,987,835	\$68,474,822

The CFO of Northwell Health, Inc. has submitted a letter attesting that Northwell Healthcare, Inc. is committed to support the project to serve the needs of the community and will provide financial support to absorb budgeted operating losses.

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. A copy of the check must be uploaded into NYSECON. [PMU]
2. Submission of a bond resolution acceptable to the Department of Health. Included with the submission must be a sources and uses statement and a debt amortization schedule, for both new and refinanced debt. [BFA]
3. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in BAER Drawing Submission Guidelines DSG-1.0 Required Schematic Design (SD) and Design Development (DD) Drawings, and 2.18 LSC Chapter 18 Healthcare Facilities Public Use, for review and approval. This submission is to address the open life-safety concerns addressed in the DASNY review comment #284075, regarding the existing Level 2 renovations. [DASNY]
4. Submission of State Environmental Quality Review (SEQR) Summary of Findings pursuant to 6 NYCRR Part 617.4(b) (6), and 10NYCRR 97.12 [SEQ]

Approval conditional upon:

1. The project must be completed within six 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 15, 2018 and construction must be completed by February 18, 2023, 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 the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
4. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

February 8, 2018

Need Analysis

Background/Analysis

Beds	Current	Requested	Upon Approval
AIDS	30		30
Bone Marrow Transplant	4		4
Coronary Care	15		15
Intensive Care	79	18	97
Maternity	73		73
Medical / Surgical	486		486
Neonatal Continuing Care	5		5
Neonatal Intensive Care	32		32
Neonatal Intermediate Care	14		14
Total	738	18	756

Source: HFIS 2017

ED Visits			
	2014	2015	2016
Inpatient from ED	25,797	25,562	27,183

Source: SPARCS 2017

Length of Stay and Utilization	Beds	Length of Stay			Utilization		
		2014	2015	2016	2014	2015	2016
Med/Surg	614	5.8	6.0	6.0	91.3%	93.9%	96.7%
Obstetric	73	3.1	2.9	2.9	82.3%	76.5%	82.5%
High-Risk Neonates	51	15.6	15.6	14.9	45.6%	44.6%	46.8%

Source: SPARCS

North Shore University expects to treat sicker patients with multiple comorbidities and address their advanced care needs. North Shore University Hospital is strategically planning to provide an expanded array of state-of-the-art surgical procedures and post-operative care in a brand new state-of-the-art building that will increase the number of patients the hospital will be able to serve, including those who have a very high level of acuity. The expanded program and facility will see/include the following over the next 5 years:

- A proposed liver transplant center program (the subject of a separate CON) and an expanded vascular surgery program.
- Population growth that will result in additional trauma cases.
- The recruitment of orthopedic surgeons, including one specializing in joint replacement and one specializing in spinal surgery.
- The recruitment of cardiac surgeons. Additional cardiac surgery volume related to cases coming from Northwell Health's Peconic Bay Medical Center and an increase in the number of left ventricular assist devices (LVADs) is also anticipated.
- The growth of the Advanced Heart Failure program and the heart transplant program (recently given contingent approval by the DOH).
- The recruitment of additional neurosurgeons. Additional volume is also projected to be driven by the aging of the population in the service area.

Conclusion

North Shore University Hospital has been seeing a higher-level acuity of patients over the years and utilization of the ICU beds is expected to continue to grow.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

Staffing is expected to increase as a result of this construction/expansion project by 51.3 FTEs in year one of the completed project and by 54.5 FTEs by the third year of completion.

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.

Conclusion

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.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Cost and Financing

The total project cost for the Article 28 space and two-floor shell space is \$338,562,858, detailed as follows:

	<u>Article 28</u>	<u>Shell Space</u>	<u>Total</u>
New Construction	\$151,969,788	\$50,000,000	\$201,969,788
Renovation & Demolition	12,200,000	0	12,200,000
Temporary Utilities	50,000	0	50,000
Asbestos Abatement/ Removal	400,000	0	400,000
Design Contingency	10,559,677	2,950,000	13,509,677
Construction Contingency	6,686,207	2,000,000	8,686,207
Planning Consultant Fees	150,000	0	150,000
Architect/Engineering Fees	10,050,000	3,000,000	13,050,000
Construction Manager Fees	510,000	90,000	600,000
Other Fees	2,263,798	0	2,263,798
Movable Equipment	70,750,000	0	70,750,000
Financing Costs	13,396,963	0	16,324,617
Application Fee	2,000	0	2,000
Processing Fee	<u>1,534,425</u>	<u>0</u>	<u>1,550,527</u>
Total Project Cost	\$280,522,858	\$58,040,000	\$338,562,858

Project costs are based on a July 2018 construction start and a 55-month construction period.

The applicant's financing plan appears as follows:

Equity	\$86,092,285
Tax-Exempt Bonds (30-year term, 6.5% interest)	<u>\$252,470,573</u>
Total	<u>\$338,562,858</u>

Citigroup Global Markets Inc. has provided a letter of interest to underwrite the bonds to be issued through DASNY using tax-exempt financing. NSUH is a member of the Northwell Health Obligated Group.

Incremental Operating Budget

The applicant has submitted an incremental operating budget, in 2017 dollars, for the first and third years, summarized below:

	<u>Year One</u>	<u>Year Three</u>
<u>Inpatient Revenues</u>		
Commercial - MC	\$22,846,101	\$32,957,793
Medicare-FFS	12,895,469	18,420,589
Medicare - MC	6,876,612	9,740,318
Medicaid-FFS	2,157,388	3,130,854
Medicaid-MC	4,674,173	6,764,129
Private Pay	<u>1,884,678</u>	<u>2,787,115</u>
Total Revenue	\$51,334,421	\$73,800,798
<u>Expenses</u>		
Operating	\$37,222,492	\$56,154,369
Capital	<u>\$35,981,594</u>	<u>\$35,529,107</u>
Total Expenses	\$73,204,086	\$91,683,476
Gain/(Loss)	<u>(\$22,369,665)</u>	<u>(\$17,882,678)</u>
Total Discharges	1,065	1,569

Inpatient utilization by payor source for Year One and Year Three is as follows:

	<u>Year One</u>	<u>Year Three</u>
Commercial - MC	25.45%	25.44%
Medicare-FFS	37.00%	37.09%
Medicare - MC	16.80%	16.63%
Medicaid-FFS	5.45%	5.42%
Medicaid - MC	10.52%	10.45%
Private Pay	4.78%	4.97%

Utilization, revenue and expense assumptions are based on the historical experience of the applicant. The CFO of Northwell Health, Inc. has submitted a letter indicating that Northwell Healthcare, Inc. is committed to support the project to serve the needs of the community and will provide financial support to absorb the budgeted losses.

Capability and Feasibility

The total project cost is \$338,562,858 consisting of Article 28 space for \$280,522,858 and shell space construction for \$58,040,000. The project cost will be met with \$86,092,285 in accumulated funds and the remaining \$252,470,573 will be funded via a tax-exempt DASNY bond issuance with a 30-year term at 6.5% interest. Citigroup has provided a letter of interest to underwrite the bond financing. BFA Attachment A is Northwell Health's 2015-2016 Consolidated Certified Financial Statements and their internal financial statements as of September 30, 2017, which indicates the availability of sufficient funds for the equity contribution to meet the total project cost.

Working capital requirements are estimated at \$15,280,579 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.

The submitted incremental budget indicates a loss in the first and third years of \$22,369,665 and \$17,882,678, respectively. The projected losses are due to the interest and depreciation expenses associated with this project. Without these expenses, the facility would show positive operating income. The CFO of Northwell Health, Inc. has provided a letter indicating that they will offset the losses via operations. NSUH's aim for the project is to replace existing outdated facilities, accommodate current surgical and critical care volume, and allow for future growth responsive to a patient population with increasingly complex healthcare needs and comorbidities. Revenues reflect the current reimbursement methodologies including cardiac, neurological and orthopedic surgeries. The budget is reasonable.

BFA Attachment A shows Northwell Health maintained average positive working capital and net asset positions, and achieved an average positive net operating income of \$345,039,000 for the 2015-2016 period and a positive net income of \$266,167,000 for the period ending September 30, 2017.

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 2015-2016 Consolidated Certified and 1/1/2017- 9/30/2017 Internal Financial Summary of Northwell Health, Inc.



**Project # 171149-C
North Shore University Hospital**

**Program: Hospital
Purpose: Construction**

**County: Nassau
Acknowledged: March 8, 2017**

Executive Summary

Description

North Shore University Hospital (NSUH), a 738-bed, voluntary not for profit, Article 28 hospital located at 300 Community Drive, Manhasset (Nassau County), seeks approval to certify Adult Liver Transplant Service, convert six medical/surgical beds to intensive care (ICU) beds, and construct a six-bed intensive care recovery space. The six-bed unit will be dedicated to transplant patients. The liver transplant service will be developed in partnership with Maimonides Medical Center, a 711-bed, tertiary care hospital located in Brooklyn that is a clinical affiliate of NSUH. The new ICU will be located on the 6th floor of the Monti Pavilion at NSUH. The total area of renovation is 5,755 square feet, which includes a 4,530 square foot patient sleeping suite. The existing NSUH operating suite will be utilized for transplant surgeries. Pre- and post-transplant medical assessments and treatments will take place in ambulatory space on the campus of NSUH. The proposed liver transplant program will house the inpatient transplantation service, as well as the pre- and post-hospitalization outpatient components. NSUH is a member of Northwell Health Inc. and is co-operated by Northwell Healthcare, Inc.

The applicant has experience as an organ transplant center. Effective October 5, 2007, NSUH was certified for Adult Kidney Transplant Service and has performed over 200 kidney transplants since then. The primary service area for the liver transplant center includes Queens, Nassau and Suffolk Counties. Because of NSUH's relationships with Maimonides Medical Center, Wyckoff Hospital and Staten Island University Hospital through

Northwell Health, their extended service area will include Kings (Brooklyn) and Richmond (Staten Island) Counties as well.

The liver transplant service will complement NSUH's established Center for Liver Disease program that currently provides pre- and post-liver transplant services to approximately 90 patients with or recovering from end-stage liver disease.

**OPCHSM Recommendation
Contingent Approval**

Need Summary

NYS currently has over 1100 people on our liver waitlists. There are 5.2 million people in Nassau, Suffolk and Queens counties and there is no liver transplant center on Long Island. In 2016 all centers performed more than 20 liver transplants. It appears all liver transplant centers, except Westchester Medical Center, will perform between 40 and 50 transplants in 2017.

Program Summary

The applicant has assured the Department their program will meet all the requirements of 10 NYCRR 405.30 and 405.31 as well as comply with the relevant CMS Conditions of Participation for Transplant Centers. State regulations require facilities with approved liver transplant programs to join and participated in the activities of the New York Center for Liver Transplantation.

Financial Summary

Project costs of \$8,604,623 will be met via equity of \$860,462 and the issuance of tax-exempt bonds for a 30-year term at 6.5% interest for the remaining \$7,744,161. Citigroup Global Markets Inc, has provided a letter of interest to underwrite the bonds to be issued through the Dormitory Authority of the State of New York (DASNY).

The CFO of Northwell Health, Inc. submitted a letter noting that Northwell is committed to financially support the program to serve the needs of the community and will absorb the budgeted losses.

The projected incremental and enterprise budgets are as follows:

Incremental Budget

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,183,700	\$5,845,400
Expenses	<u>6,515,600</u>	<u>9,969,500</u>
Net Income	(\$5,331,900)	(\$4,124,100)

Enterprise Incremental Budget

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,397,731,700	\$1,402,393,400
Expenses	<u>1,316,706,100</u>	<u>1,320,160,000</u>
Gain	\$81,025,600	\$82,233,400

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 evidence of UNOS approval to establish a liver transplant program, acceptable to the Department. [HSP]
3. Submission of evidence of the applicants liver transplant program becoming a member, in good standing, with the New York Center for Liver Transplantation (NYCLT). [HSP]
4. Submission of a signed commitment, acceptable to the Department, to provide services regardless of patient's ability to pay. [HSP]
5. Submission of documentation of acceptable progress toward implementation of the Northwell Health Comprehensive Plan to Increase Organ Donation (2017-2022). [HSP]
6. Submission of a bond resolution 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]
7. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in BAER Drawing Submission Guidelines DSG-02, for review and approval. [DAS]

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 September 1, 2018 and construction must be completed by July 1, 2019, 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 applicant must provide services regardless of ability to pay. [HSP]
4. The applicant's liver transplant program remaining a member, in good standing, with the NYCLT. [HSP]
5. The applicant committing and devoting resources to improving organ donation and NYS Donate Life Registry enrollments as a top priority in all system hospitals. This commitment must be evidenced by acceptable progress toward implementation of all aspects of the comprehensive Plan noted above to create a system-wide institutional culture which supports organ donation and NYS Donate Life Registry enrollment, that is continually evaluated and updated as needed. [HSP]
6. The applicant working with the Department, the NYS Transplant Council, Organ Procurement Organization(s), GNYHA, NYCLT, the New York Alliance for Donation, NYS transplant centers and other organizations to improve donation, organ donor management, organ preservation and transplant practices. [HSP]
7. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [DAS]

Council Action Date

February 8, 2018

Need Analysis

Background

The current need methodology for liver transplantation services, NYCRR Title 10 Part 709.7 was developed in the 1980's, just as transplantation services began to be offered as a surgical option for liver. The Department plans to discuss the need methodology with the Transplant Council at an upcoming meeting.

The current regulations call for consideration of the following criteria as well as other relevant factors:

- An incidence rate of 10 transplant candidates per 1 million population.
 - This would calculate to 190 persons on a waitlist.
 - NYS currently has over 1100 people on our liver waitlists.
- One liver transplant center per 5 million population.
 - This criterion would limit NYS to 4 centers.
 - There are currently 7 liver transplant centers in the state.
 - There are 5.2 million people in Nassau, Suffolk and Queens counties and there is no liver transplant center on Long Island.
- Minimum of 20 transplants per year within 2 years of operation.
 - In 2016 all centers performed more than 20 liver transplants.
 - The Northwell (NW) application projects performing 20 liver transplants by Year 2.
- No additional programs to be added until others performing 50 transplants per year.
 - All liver transplant centers except Westchester look as though they will perform between 40 and 50 transplants in 2017.

The last CON for a liver transplant program submitted and approved was from New York Presbyterian – New York Weill Cornell Center in 2009.

During the 30+ years since the NYS need methodology was established and remained in place unchanged, liver transplantation has been evolving. During this same period, the federal oversight system for organ transplantation has grown and matured. In 2007, the Centers for Medicare and Medicaid Services (CMS) developed organ transplant conditions of participation (CoPs) for each organ specific transplant service. In addition, the federal government contracted with the United Network for Organ Sharing (UNOS) to be the Organ Procurement and Transplantation Network (OPTN), requiring that all transplant programs obtain UNOS/OPTN approval and agree to follow UNOS/OPTN policies before initiating transplant services. The UNOS/OPTN national organ allocation policy requires heart, lung and liver transplant program perform a minimum of ten transplants annually. In 2014, the Department of Health revised and updated the organ transplantation programmatic regulations (Part 405.30 and 405.31) to be consistent with the federal standards of ten transplants annually.

New York State Governor Andrew M. Cuomo and New York State Commissioner of Health Howard A. Zucker have made increasing organ donation and transplant rates a public health priority. As a result, efforts are underway to create a statewide culture that supports and improves organ donation-related activities and practices across the continuum from increasing NYS Donate Life Registry enrollments to improved donor organ management, procurement, preservation and transplantation. In addition, with the assistance and guidance of the Transplant Council, the Department of Health plans to re-examine and update the need methodology for liver transplantation. Considering these factors, and that all existing New York State liver transplant programs are performing above the federal minimums, the Department focused its review on the programmatic aspects of the application, data on donation, transplant volumes, outcomes and wait lists, and consulted with an expert panel convened by the Chairperson of the NYS Transplant Council. This is described in detail in the Programmatic Analysis.

There are seven existing adult liver transplant programs in NYS. Five are in New York City, including New York Presbyterian Hospital – Columbia Presbyterian Center (NYP-Columbia), New York Presbyterian Hospital – New York Weill Cornell Center (NYP-Weill Cornell), Mount Sinai Hospital, Montefiore Medical Center – Henry & Lucy Moses Division, and NYU Langone Hospital. The other two existing programs are located at Westchester Medical Center in Valhalla and Strong Memorial Hospital in Rochester. NYP-Columbia, Montefiore, Mount Sinai and Westchester also perform pediatric liver transplants.

Data from the Organ Procurement and Transplant Network (OPTN) reported below identifies Mount Sinai and NYP-Columbia as consistently performing the most liver transplants per year and that all existing programs are performing more than the minimum 10 transplants per year required by CMS, UNOS and NYCRR Title 10 Part 405.30 regulations.

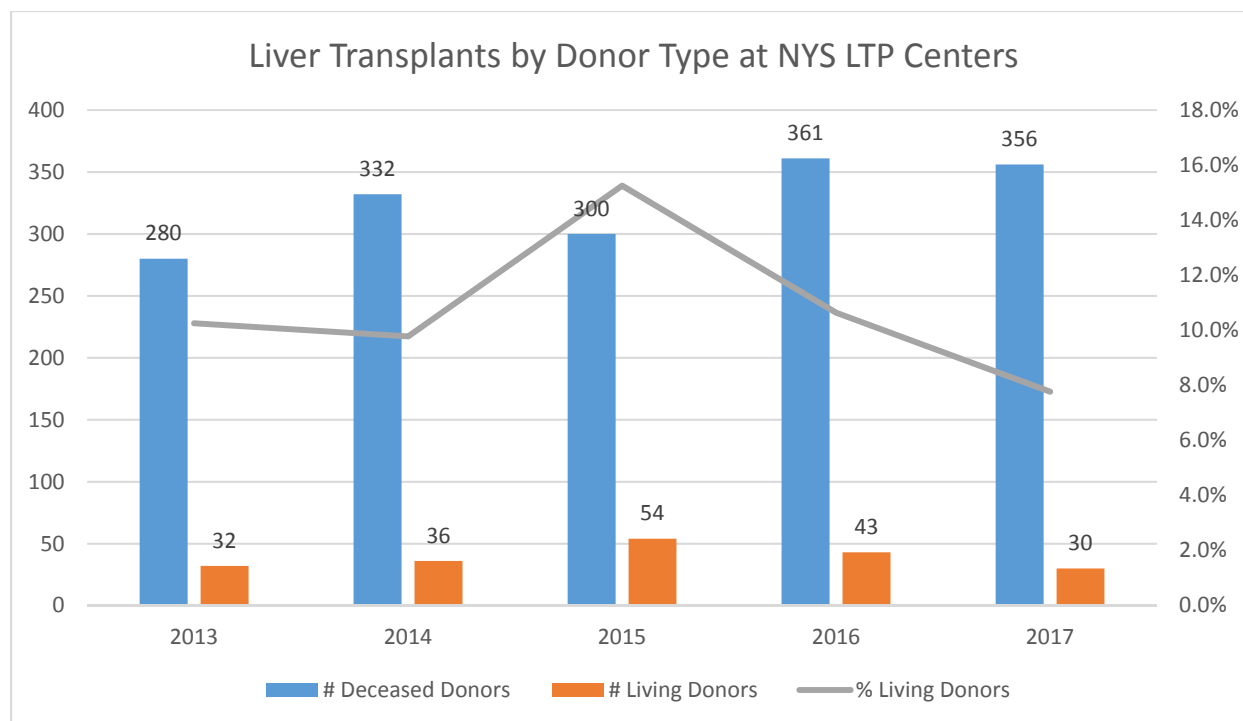
Liver Transplants per NYS Transplant Center 2014-2017- All Donor Types; UNOS/OPTN

	2010	2011	2012	2013	2014	2015	2016	2017**
NYP-Columbia	118	128	123	110	142	115	93	77
NYP-Weill Cornell *	4	9	10	1	0	12	29	44
Strong Memorial	43	44	32	24	22	29	36	41
Montefiore Medical Center	17	25	29	32	46	39	48	44
Mount Sinai Medical Center	104	110	108	93	107	117	133	120
NYU Langone Hospital	40	42	27	33	26	19	44	44
Westchester Medical Center	32	21	25	19	25	23	21	16
TOTAL	358	379	354	312	368	354	404	386

*Program restarted in 2015

**Jan.1, 2017-Jan. 3, 2018

Organ donation and transplant volumes at NY centers have fluctuated over the years. While liver transplants and organ donation have seen increases in recent years, this is only after a sustained period of downward trending which resulted from decreased organ donation and changes in patient and donor selection, such as the use of extended criteria donors.



Source: UNOS/OPTN

While deceased donors are the primary source of livers transplanted at New York centers, NYS transplants a higher percentage of living liver donations than the national average, 10.6% in NYS vs 4% nationally in 2016.

Liver Donations and Transplants in NYS

	2013	2014	2015	2016	2017
Liver Transplant in NYS—All Donor Types	312	368	354	404	386
Liver Donations in NYS—All Donor Types	297	326	323	358	343
Difference between Donations and Transplants in NYS	-15	-42	-31	-46	-43

Source: UNOS/OPTN

Transplant centers in NYS perform more liver transplants than the number of livers donated in the state. NYS liver transplant programs share these organs in accordance with UNOS allocation rules and with other centers within our region. NYS and a section of southwestern Vermont make up UNOS Region 9.

UNOS/OPTN liver allocation is an external factor that significantly impacts liver transplant in NYS. New York State has been disadvantaged by the current allocation policy. As noted above, the median Model End Stage Liver Disease score (MELD) for patients transplanted in NYS is higher than in adjoining geographic areas.

UNOS/OPTN policy requires livers to be shared locally (i.e., per the geographic boundaries of the local organ procurement agency, of which there are 4 in New York). New York State has had a variance from this policy to share donated livers state-wide since the 1990s. The UNOS/OPTN liver allocation policy was amended on December 4, 2017, although an implementation date has yet to be established. The new policy marginally broadens the geographic sharing region to 150 miles around the donor hospital for critically ill patients (MELD/PELD of 32). The Department supported the NY Center for Liver Transplantation’s efforts seeking implementation of a proposal, based on data analysis and modeling, to expand the size of the area in which livers would be shared to a 250 or 500 mile around the donor hospital, creating a more equitable allocation system. Unfortunately, these efforts were not successful and a proposal with a much more modest share area was approved. It is anticipated this policy change will result in a small net gain of livers coming across state lines to New York City, Westchester and Long Island. However, it is not clear when the policy will be implemented nor its ultimate impact. The Department has and will continue to be actively involved and supportive of the New York transplant community’s efforts over the past 18 years to address the geographic inequities in the UNOS/OPTN liver allocation system.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

The proposed Liver Transplant Center will serve the populations of Queens, Nassau and Suffolk Counties (primary service area) and Brooklyn and Staten Island (extended service area) with a combined population of approximately 8.4 million. The applicant describes the population in the primary service area of the proposed program as aging and culturally diverse with 22% of the population Hispanic, 19% Asian and 17% African American. In 2014, persons aged 50+ accounted for 81.6% of the transplant waitlist. Asian, Hispanic and African American populations are disproportionately impacted by hepatitis and chronic liver disease, compared to the Caucasian population. The burden of chronic liver disease combined with an aging population is projected to lead to an increase in need for treatment including liver transplantation in the primary and extended service areas.

The applicant reports that NSUH has a thriving Liver Disease program which from January through December 2016 saw over 3,500 unique patients. Currently, NSUH provides pre- and post-liver transplant services to approximately 90 patients with or recovering from end-stage liver disease. This number has been steadily increasing year after year.

On average for the years 2015 and 2016, approximately 170 patients with chronic liver disease were under the care of Northwell Health Physician Partners and approximately 60 were referred for transplant evaluation. NSUH hepatologists have extensive experience in caring for liver transplantation patients.

The applicant notes that according to 2015 SPARCS data, 95.6% of the patients residing in the five-county service area needing a liver transplant went to a Manhattan hospital for it. Mount Sinai Medical Center, NY Presbyterian-Columbia and NYU Medical Center were the top three destinations for adult liver transplants from this service area. There is no local option for these patients in the proposed NSUH/Northwell Liver Transplant Center Service Area.

The applicant asserts that the proposed liver transplant center will create improved local access for this patient population, within the setting that the patients and their families are already familiar with, will result in more highly coordinated care, as well as significantly reduced travel times, related expense and stress on the patient and their family members.

The applicant has indicated an intent to provide services regardless of ability to pay.

Program Review

In addition to materials provided as part of the CON application, staff review of the proposed project included review of a draft of components of the applicant's UNOS application for approval to initiate a liver transplant program; the facility's most recent kidney transplant CMS survey in 2015; the UNOS/Organ Procurement and Transplantation Network (UNOS/OPTN) and the Scientific Registry of Transplant Recipients (SRTR) data on liver donation volumes, living and deceased donor liver transplant volumes, transplant rates and outcomes, waitlist volume, mean time to transplant and median MELD/PELD at transplant, as well as the applicant's kidney transplant data.

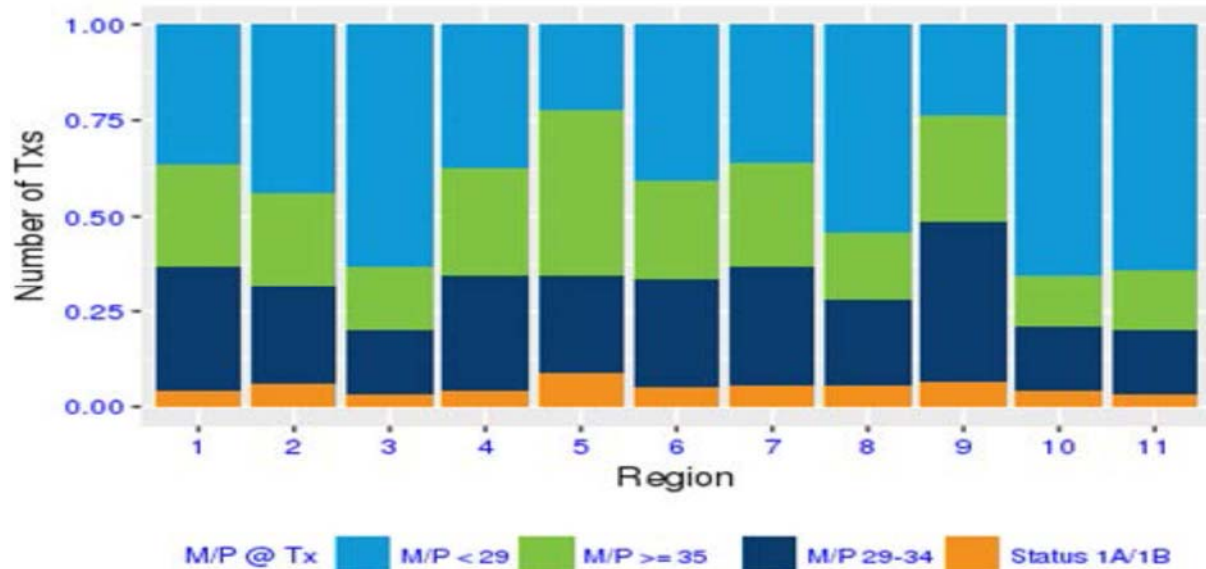
2016 Waitlist Mortality

		Obs/Exp Ctr.	Region 9	US
NYP-Columbia	Overall	6.9/10.9	14.6/12.5	15.2
	Adult	7.5	14.8	15.4
	Peds	0	6.2	8
NYP-Weill Cornell	Overall	8.8/10.6	14.6/12.5	15.2
	Adult	8.8	14.8	15.4
Strong Memorial	Overall	23.7/17.2	14.6/12.5	15.2
	Adult	23.7	14.8	15.4
Montefiore	Overall	6.1/12.5	14.6/12.5	15.2
	Adult	6.2	14.8	15.4
	Peds	0	6.2	8
Mount Sinai	Overall	25.3/18.2	14.6/12.5	15.2
	Adult	25.5	14.8	15.4
	Peds	19.8	6.2	8
NYU Langone	Overall	6.9/5.5	14.6/12.5	15.2
	Adult	6.9	14.8	15.4
Westchester MC	Overall	26.2/16.7	14.6/12.5	15.2
	Adult	26.5	14.8	15.4
	Peds	0	6.2	8

Source: Scientific Registry of Transplant Recipients (SRTR)

In the last comprehensive report publicly available, SRTR reports that the overall waitlist mortality, like waitlist time, decreased somewhat nationally between 2014 and 2015. Though there is variability in the mortality rate of patients with end stage liver disease on the waiting lists of the NYS liver transplant centers, the Region 9 waitlist mortality is recognized to be high compared to that of other Regions in the country.

2016 Median MELD/PELD Score at Transplant per Region



Regions 5, 9 and 1 have the greatest percentage of patients being transplanted with Model End-Stage Liver Disease/Pediatric End-stage Liver Disease (MELD/PELD) scores over 29. MELD/PELD scores are a prime indicator of severity of illness and need for liver transplant in adult and pediatric populations. The higher the score the more severe the illness. Region 1 includes Connecticut, eastern Vermont, Maine, Massachusetts, New Hampshire and Rhode Island. Region 5 is comprised of Arizona, California, Nevada, New Mexico and Utah.

The Scientific Registry of Transplant Recipients (SRTR) reports that during the period of one year (January 2016-December 2016) and 30 months (January 2014-June 2016) outcomes for liver transplants (graft failure and patient mortality) performed by all NY centers are as expected.

The applicant has in place all the clinical and supporting personnel required to obtain UNOS approval to establish a new liver transplant program. These include a surgical and medical director, additional liver transplant surgeons and hepatologists, transplant program administrators and coordinators, anesthesia, infectious disease, psychiatry, social work, pharmacy, finance, quality assurance/performance improvement and others needed to support delivery of services to this population.

Staffing is expected to increase by 25.3 FTEs in Year One of program startup and to a total of 40.2 FTEs by the third year of operation.

NSUH will apply to UNOS for approval to establish a liver transplant program upon approval of this application.

Organ Donations

The Northwell Health Network and its affiliate hospitals have undertaken several initiatives to increase donation rates and build a culture of donation. They received conditional approval for a heart transplant program in June 2017. One of the conditions included in the approval of their heart application was a five-year comprehensive plan to create a system wide culture which supports organ donation and enrollment in the NYS Donate Life Registry. Northwell submitted their plan to the Department in August 2017. The Department reviewed the plan and determined it to be comprehensive in nature and that it fulfills the condition required to move forward with program implementation. The plan expands use of a "Physician Donor Council" at each Northwell facility and, at the system level, accelerates implementation of an electronic monitoring system (eICU) that, based on triggers (vital signs, Glasgow Coma Scale, etc.), facilitates early identification of potential donors and referral to the local organ procurement agency. This system is currently active in 115 ICU beds and eight step-down beds in eight network hospitals. Further implementation in 2018 is planned for all critical care beds in Phelps Memorial and Northern Westchester Hospitals as well as all CCU beds at LIJ. In addition, this plan creates the framework for an institutional commitment to organ donation, including broad based staff education and outreach.

NSUH is an experienced organ transplant center. In August of 2007, the NYSDOH certified North Shore University Hospital for Adult Kidney Transplant. Since inception, the transplant center has performed over 200 transplants. The US Centers for Medicare and Medicaid Services (CMS) has recertified the Transplant Center after conducting a survey visit in August 2015. The kidney transplant program was recertified without comments from the CMS reviewers. The applicant reports that the CMS survey team praised the "quality structure" of the NSUH transplant program, recommending that it be presented as a "best practice" at an upcoming national conference.

Cohens Children's Hospital, an affiliate of North Shore within the Northwell Health system, was approved to open a pediatric kidney transplant program in 2016.

Expert Review Process

To further evaluate this application the Department convened a committee consisting of experts in the field to review the application, provide feedback as to its strengths and weaknesses and make recommendations to the PHHPC and the Commissioner of Health.

The review committee was chaired by the Chairperson of the NYS Transplant Council and included another member of the Transplant Council (TC); two liver transplant surgeons; a hepatologist; and a transplant program administrator from non-competing out-of-state programs and a chief operating officer from a large organ procurement organization, also out of state.

Review Committee members were provided with the following information for review and evaluation:

- components of the CON application;
- UNOS/OPTN and SRTR data for volumes, outcomes, transplant rates, MELD scores at transplant and other data regarding existing liver transplant centers in NYS and nationally;
- components of the applicants draft UNOS/OPTN application to initiate a liver transplant program;
- public comment received about the application.

Committee members were asked to review this program based on the merits of the application, supplemental material supplied by the Department and their individual knowledge and expertise. Each member was asked their thoughts and opinions and discussion followed.

Committee members acknowledged that:

- The application evidenced the quality of the proposed project, including overall preparedness of the applicant to put in place the required transplant associated clinical and administrative support;
- The capacity of the applicant to perform quality assurance and performance improvement program (QAPI), develop and implement policies and procedures consistent with standards of care and current medical evidence, and carry out other CMS/UNOS/DOH programmatic requirements;

- Northwell Center for Liver Diseases is currently serving the end-stage liver disease care needs of over 10,000 patients (est. 2012);
- The population size of the primary service area (Nassau, Suffolk and Queens counties) of 5.2 million people is significant, and that in 2016 one hundred twelve patients who reside in these counties received their transplant in centers located in New York City (primarily Manhattan). This number represents 27 percent of New Yorkers who received a liver transplant in 2016;
- There are significant challenges and hardships for patients and families associated with needing to travel to receive and/or support transplant related care;
- The existing liver transplant centers have the capacity to perform more transplants;
- The addition of a new program could dilute the existing pool of organ donors and organs available for transplant;
- There is no definitive evidence based minimum number of liver transplants that equate with quality. They noted that quality determinants are very complex and data indicates that it is not wise to attribute quality of liver transplant care and outcomes to just one variable, in this case volume. They did not think the "50" minimum in the Title 10 Section 709.7 was a valid number. They cited a 2014 publication "Association Between Liver Transplant Center Performance Evaluations and Transplant Volume", American Journal of Transplantation 2014;14:2097-2105 which demonstrated no measurable changes in outcomes associated with a reduction in transplant center volumes.
- Even if the number of livers available for transplantation in NY stays stagnant, the impact on the existing programs will be minimal, based on the applicant's volume projections (10 in year 1; 20 in year 2; and 30 in year 3.)
- The "Northwell Health Comprehensive Plan to Increase Organ Donation" (2017-2022) shows a high level of commitment and a specific plan of action to improve organ donation. The Committee thought this was a key aspect of the application and that Northwell is making good progress towards making organ donation a system top priority.
- Having a liver transplant program at a facility/network often increases the sensitivity of staff and leadership to the importance of and dedication to increasing donation and enhances momentum to accomplish the plan's goals.
- The actions taken to implement the eICU system to increase early identification of potential donors and notification of LiveOnNY, education of staff and efforts to increase organ donation within Northwell system and community; and
- The public had commented in support of and opposition to this application.

At the time this application was reviewed by the Review Committee, changes to the UNOS/OPTN liver allocation policy were still evolving. The committee generally saw the national policy as an external factor which if changed, may or may not bring more donated livers into New York. Thus, this was not a major factor in the Committee's review.

The committee raised no concerns about the applicant's volume projections.

In conclusion, the Committee saw value in adding this service to the care of end stage liver disease patients in the Center for Liver Diseases and especially for the 5.2 million people in the primary service area-which currently does not have a liver transplant program.

The Applicant has assured the Department that their program will meet all the requirements of 10 NYCRR 405.30 and 405.31 as well as comply with the relevant CMS Conditions of Participation for Transplant Centers. State regulations require facilities with approved liver transplant programs to join and participated in the activities of the New York Center for Liver Transplantation.

The Department's conditions for approval will reflect the Department's recognition that hospitals need to be proactive partners in our statewide efforts to improve organ donation and registry enrollment.

Compliance with Applicable Codes, Rules and Regulations

A successful Medicare Transplant re-approval survey was conducted for the NSUH adult kidney transplant programs August 11-12, 2015.

This facility currently 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.

Past enforcement of history of this facility and affiliated facilities includes:

- *North Shore University Hospital – Manhasset (PFI 0541)*
S&O dated 12/11/08 and \$18,000 fine for deficient practice related to post-operative care 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. Follow-up care was delayed or inadequately administered.
- *Syosset Hospital (PFI 0550)*
S&O dated 7/8/10 and \$42,000 fine for deficient practice related to a tonsillectomy death Based on the findings of an investigation of the care to a child having an adenotonsillectomy. It was determined that the patient was improperly cleared for surgery and that despite multiple comorbidities was not kept for observation post-operatively. The patient expired after discharge.
- *Long Island Jewish Medical Center (PFI 1630)*
S&O dated 11/21/16 and \$4,000 fine for deficient practice related to Infection Control. The facility had 21 ORs running. It was observed that in twelve of the rooms a total of 24 staff were observed not following acceptable standards of practice for Infection Control practices in the Surgical Areas specifically in regard to the use of proper attire and exposure of hair during procedures. Examples are a plastic surgeon with approx. 2 "of hair exposed under cap while performing surgery, RN circulating nurse with front of hair showing under hat, resident with sideburns exposed while performing surgery, X Ray tech with full beard with beard cover hanging around his neck and facial hair showing around mask during procedure and in one OR with 4 surgeons all with hair exposed under hats.
- *Plainview Hospital (PFI 0552)*
S&O dated 3/6/17 and \$4,000 fine for deficient practice related to Infection Control The facility staff including physicians, podiatrists, radiologists, transporters, and physical therapist failed to use standard infection control practices. This included failure to wear PPE, wash hands, clean equipment, and follow isolation precautions for patients with identified infectious diseases (i.e. C Diff). These failures place patients at risk for exposure to infectious diseases.

Conclusion

Governor Cuomo and Commissioner Zucker have made organ and tissue donation and increasing NYS Donate Life Registry enrollments, a public health priority. Recent efforts have been focused on modernizing and expanding the NYS Donate Life Registry and calling upon the physician community to become engaged in the organ donation crisis. A logical next initiative is a call to action for all hospitals, including transplant centers, to support efforts to create a state-wide culture that supports and improves organ donation. This enhances the overall goal of creating a state-wide environment, which reaches across medical and social institutions and into communities, to improve organ donation.

The expansion of the population health model, and hospitals as entities willing and able to accept broad responsibilities for the health of the populations they serve, has coincided with changes that are critical to support organ donation promotion and procurement. Hospitals are vital partners in the organ donation process, from referring potential donors and managing their care, to maximize the number of organs available for transplantation, and to promoting organ donor registry enrollment efforts. These activities have become increasingly vital and necessary to address New York's shortage of organ donors.

Accordingly, the Department has determined that any application for organ transplant services must include a detailed plan of specific, measurable organ donation activities. These should be comprehensive and aim to improve actual recovery of transplantable donor organs, create an institutional culture that supports donation throughout the facility and in all arenas where patient care is delivered, and demonstrate a commitment to improving donor registry enrollment rates.

North Shore's application reflects this movement and contains an innovative program to improve the donor referral process; their eICU. Progress toward implementation of their plan is acceptable. The Department's contingencies and conditions for approval will reflect the Department's recognition that hospitals need to be proactive partners in statewide efforts to improve organ donation and registry enrollment.

Recommendation

From a programmatic perspective, contingent approval is recommended.

<h2>Financial Analysis</h2>

Total Project Cost and Financing

The total project cost is \$8,604,623, detailed as follows:

Renovation & Demolition	\$4,338,458
Design Contingency	433,846
Construction Contingency	433,846
Planning Consultant Fees	130,154
Architect/Engineering Fees	347,077
Construction Manager Fees	216,923
Other Fees	216,923
Movable Equipment	1,488,510
Telecommunications	538,900
Financing Costs	410,932
Application Fee	2,000
Processing Fee	<u>47,056</u>
Total Project Cost	\$8,604,625

Project costs are based on a construction start date of September 1, 2018, and a ten-month construction period.

The applicant's financing plan appears as follows:

Equity	\$860,462
Tax-Exempt Bonds (30-year term, 6.5% interest)	<u>\$7,744,161</u>
Total	\$8,604,625

Citigroup Global Markets Inc, has provided a letter of interest to underwrite the bonds to be issued through DASNY. NSUH is a member of the Northwell Health Obligated Group.

Incremental Operating Budget

The applicant has submitted an incremental operating budget, in 2017 dollars, for the first and third years, summarized below:

	<u>Year One</u>	<u>Year Three</u>
<u>Inpatient Revenues</u>		
Commercial - MC	\$1,068,400	\$3,205,100
Medicare - MC	0	1,371,900
Medicaid - MC	<u>0</u>	<u>1,112,100</u>
Total Inpatient	\$1,068,400	\$5,689,100
<u>Outpatient Revenues</u>		
Commercial - MC	\$57,600	\$78,200
Medicare - MC	34,600	41,700
Medicaid - MC	<u>23,100</u>	<u>36,400</u>
Total Outpatient	\$115,300	\$156,300
 Total Revenue	 \$1,183,700	 \$5,845,400
<u>Expenses</u>		
Operating	\$5,426,600	\$8,894,400
Capital	<u>1,089,000</u>	<u>1,075,100</u>
Total Expenses	\$6,515,600	\$9,969,500
 Gain/(Loss)	 <u>(\$5,331,900)</u>	 <u>(\$4,124,100)</u>
 Total Discharges	 10	 30
Total Outpatient Visits	955	1,295

Inpatient utilization by payor source for year one and year three is as follows:

	<u>Year One</u>	<u>Year Three</u>
Commercial - MC	50%	50%
Medicare - MC	0%	27%
Medicaid - MC	20%	23%
Charity Care	30%	0%

Outpatient utilization by payor source for year one and year three is as follows:

	<u>Year One</u>	<u>Year Three</u>
Commercial - MC	50%	68%
Medicare - MC	30%	36%
Medicaid - MC	20%	32%

The following is noted with respect to the submitted budget:

- Transplant programs are not eligible to apply for CMS certification until after completion of ten transplants, and CMS certification is required as a Condition of Payment (COP) for Medicare and Medicaid reimbursement. Therefore, there are no inpatient Medicaid and Medicare revenues projected during the first year, though they anticipate providing care to Medicaid Managed Care patients (two discharges in Year One).
- The applicant expects that prior to CMS certification, they will be able to negotiate rates on a case by case basis in Year One for commercial pay patients.
- The CFO of Northwell Health, Inc. submitted a letter noting that Northwell is committed to financially support the program to serve the needs of the community and will absorb the budgeted losses related to the program.
- Utilization, revenue and expense assumptions are based on the experience of the applicant through their kidney transplant service program, and through research performed by the hospital on their service area.

Capability and Feasibility

The total project cost of \$8,604,625 will be met with \$860,462 in accumulated funds and the remaining \$7,744,161 will be funded via bond issuance with a 30-year term at 6.5% interest. Citigroup has provided a letter of interest to underwrite the bond financing. Working capital requirements are estimated at \$1,661,583 based on two months of third year expenses. Working capital will be funded from operations. BFA Attachment A is the Consolidated Statement of Financial Position and Consolidated Statement of Operations from Northwell Health's financial statements for 2016 (audited) and the nine months ending September 30, 2017 (unaudited), which indicates the availability of sufficient funds for the equity contribution to meet the total project cost and to meet working capital needs.

The submitted incremental budget indicates a loss in the first and third year of \$5,331,900 and \$4,124,100, respectively. This is primarily due to the facility's inability to bill for Medicare and Medicaid inpatient services until CMS certification of the Liver Transplant Program is received. After certification, the program still does not project to be profitable, but the applicant stated that as the service develops, the program's resources and the NSUH facilities will provide specialized treatment and management for all aspects of liver disease, in addition to comprehensive evaluations, pre-surgical care and post-surgical care for liver transplantations. As patient volumes grow, the financial results will significantly improve and are expected to generate a positive impact on net income. The applicant submitted a letter from the CFO of Northwell indicating that they will offset the program's projected losses via operations. Revenues reflect current reimbursement methodologies for liver transplant services. The budget appears reasonable.

BFA Attachment A shows the hospital maintained positive working capital and net asset positions, and achieved an average net operating income.

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 2016 (Audited) and September 30, 2017(Unaudited) Financial Summary of Northwell Health, Inc.



Project # 172208-C
Charles B. Wang Community Health Center, Inc.

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Construction **Acknowledged:** October 13, 2017

Executive Summary

Description

Charles B. Wang Community Health Center, Inc. (the Center), a voluntary not-for-profit, Article 28 diagnostic and treatment center located at 125 Walker Street, New York, requests approval to construct and certify an extension clinic to be located at 131-72 40th Road, Flushing (Queens County). The Center is operated by Chinatown Action for Progress Inc. and is certified as a Federally Qualified Health Center (FQHC) with four existing clinic locations, two in lower Manhattan and two in Flushing. This project includes the ground-up construction of a ten-story, 80,000 square-foot building that will include five clinical floors, two administrative floors with multi-functional space for health education and workshops, two levels of parking and utilities (cellar and ground floors) and one mechanical equipment floor. The majority of the Center's patients are low-income, uninsured or underinsured Asian Americans, with 88% of patients best served in a language other than English. The proposed plan will improve the Center's capacity to provide culturally competent and linguistically appropriate healthcare to the community's residents, expand services, improve the patient's experience, and increase efficiencies.

OPCHSM Recommendation
Contingent Approval

Need Summary

The Center will provide primary care and dental services. The number of projected visits for just the extension clinic is 25,000 for Year One.

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 cost of \$65,000,000 will be met with \$23,774,000 equity (including land purchased), a \$10,000,000 gift from the Chinatown Health Clinic Foundation, \$6,226,000 in various grants, and \$25,000,000 in Tax-Exempt Bonds issued through Build NYC Resource Corporation. Flushing Bank has provided a letter of intent to underwrite the Bonds with terms as follows: 15-year fixed rate estimated at 3.50% as of November 22, 2017 (first 24 months interest only), with a 25-year amortization.

The projected budget is as follows:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$73,435,000	\$82,911,000
Expenses	<u>73,290,500</u>	<u>81,906,000</u>
Gain	\$144,500	\$1,005,000

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 forty-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. 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. Submission of a final New York City Economic Development Corp Grant approval letter to be used as a source of financing, acceptable to the Department of Health. [BFA]
4. Submission of a final New York City Council Grant approval letter(s) to be used as a source of financing, acceptable to the Department of Health. [BFA]
5. Submission of a final New York City Office of Environmental Remediation to be used as a source of financing, acceptable to the Department of Health. [BFA]
6. Submission of a land appraisal by a member of the Members Appraisal Institute, acceptable to the Department of Health. [BFA]
7. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-03. [AER]
8. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-03. [AER]
9. Submission of State Environmental Quality Review (SEQR) Summary of Findings pursuant to 6 NYCRR Part 617.4(b)(6). [SEQ]

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, 2018 and construction must be completed by May 1, 2020, 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 Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

February 8, 2018

Need Analysis

Background and Analysis

The primary service area is Queens County, which has a population estimate of 2,333,054 for 2016. Approximately 26.7% of the population is Asian (Source- US Census, 2017). Charles B. Wang Community Health Centers primarily serves a low-income, under-insured Asian-American population that is linguistically and cultured isolated.

Charles B. Wang Community Health Center is certified as a federally Qualified Health Center (FQHC) and operates four safety-net diagnostic and treatment centers, two in lower Manhattan and two in Flushing, NY. Approval of this project will allow the FQHC to expand primary and preventive care including dental and mental health services to the community. The hours of operation for the center will be Monday through Saturday from 9 am until 5 pm.

The number of projected visits for just the proposed extension clinic is 25,000 for Year One and 50,000 for Year Three.

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 will provide improved access to primary care and dental services to the residents of Queens County, especially low-income Asian-Americans.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

The Charles B. Wang Community Health Center, Inc. reported that patient demand was beginning to outstretch capacity in the Flushing area, so the Center acquired property on 40th Road to construct the extension site with the goal of expanding the Center's primary and prevention services to meet the medical needs of those in the community who were underserved. Providing services that are bilingual and multicultural would improve access to healthcare for the growing Asian American community in Queens.

Staffing is expected to be 32.0 FTEs in the first year of operation and increase to 86.0 FTEs by the third year of operation.

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.

Conclusion

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.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total project costs for new construction and movable equipment is estimated at \$65,000,000, broken down as follows:

Land Acquisition	\$15,125,000
New Construction	33,649,201
Renovation & Demolition	535,354
Site Development	2,059,074
Temporary Utilities	26,230
Asbestos Abatement or Removal	102,643
Design Contingency	274,600
Construction Contingency	1,680,887
Planning Consultant Fees	440,139
Architect/Engineering Fees	2,881,103
Construction Manager Fees	1,573,800
Other Fees	617,971
Movable Equipment	2,066,348
Telecommunications	175,216
Financing Costs	500,000
Interim Interest Expense	3,000,000
CON Application Fee	1,250
CON Processing Fee	<u>291,184</u>
Total Project Cost	\$65,000,000

The land value is stated at cost (\$15,000,000 purchase price plus \$125,000 in closing cost). The purchase price was review by the Board of Directors, real estate sub-committee, and in 2016 the Board passed a resolution to purchase real property for \$15,000,000. The applicant will have the land appraised, which is a requirement for funding and CON contingency satisfaction.

Project costs are based on a construction start date of May 1, 2018, with a 24-month construction period.

The applicant's financing plan appears as follows:

Equity - Accumulated Funds	\$8,649,000
Equity - Land	15,125,000
Gift - Chinatown Health Clinic Foundation (<i>confirmation letter provided</i>)	10,000,000
Tax-Exempt Bonds	25,000,000
Grants (<i>supporting documents provided</i>)	<u>6,226,000</u>
Total	\$65,000,000

Flushing Bank provided a letter of intent to underwrite the Bonds with terms as follows: 15-year fixed rate estimated at 3.50% as of November 22, 2017 (first 24 months interest only) with a 25-year amortization.

The total grant award is \$6,226,000 summarized as follows:

Grant - The Borough of Queens-Presidents Funding	\$3,100,000
Grant - New York City Economic Development Corp	1,000,000
Grant - New York City Council	1,370,000
Grant - New York City Council	676,000
Grant - New York City Office of Environmental Remediation	80,000

In addition to providing the \$10,000,000 gift, the Chinatown Health Clinic Foundation has pledged to support the Charles B. Wang Community Health Center, Inc. via a fund-raising campaign, and if needed will cover up to a \$10,000,000 operating cost shortfall.

Operating Budget

The applicant has submitted their current year (2016) and projected operating budgets for the first and third years, in 2018 dollars, summarized below:

Revenues	Current Year		First Year		Third Year	
	Per Vst.	Total	Per Vst.	Total	Per Vst.	Total
Medicaid FFS	\$185.84	\$30,662,126	\$189.48	\$40,981,286	\$194.21	\$47,628,037
Medicare FFS	\$143.78	1,079,063	\$143.30	1,415,481	\$146.09	1,624,965
Private Pay	\$164.55	8,415,562	\$165.40	11,047,206	\$164.23	12,548,143
Self-Pay (sliding)	\$48.53	1,003,740	\$51.02	1,324,083	\$53.53	1,553,978
NYS Uncompensated		2,311,009		2,541,944		2,773,877
HRSA 330 Funds		4,352,970		5,170,000		5,363,000
Donated Vaccines		2,057,565		2,201,565		2,344,565
State/Local Grants		<u>7,953,640</u>		<u>8,753,435</u>		<u>9,074,435</u>
Total Revenue		\$57,835,675		\$73,435,000		\$82,911,000
Expenses						
Operating	\$213.92	\$52,266,576	\$205.62	\$65,571,123	\$204.91	\$74,137,576
Capital	<u>\$19.17</u>	<u>4,682,604</u>	<u>\$24.21</u>	<u>7,719,377</u>	<u>\$29.50</u>	<u>7,768,424</u>
Total Expenses	\$233.09	\$56,949,180	\$229.83	\$73,290,500	\$233.77	\$81,906,000
Net Income		<u>\$886,495</u>		<u>\$144,500</u>		<u>\$1,005,000</u>
Patient Visits		244,324		318,900		361,800

The following is noted with respect to the submitted budget:

- The current year reflects the facility's 2016 revenue and expenses.
- Reimbursement rates are based on the FQHC's historical experience.
- Expenses are based upon historical experience adjusted for volume, investment and rising costs. Additionally, staffing levels are expected to increase by 32 and 86 FTEs in the first and third years, respectively. Nurses, Aides, Physicians, Dentists and Hygienists represents 59% of the increased FTEs in year one, and 64% of the increase in year three.
- Utilization by payor for the first and third years is summarized below:

Utilization	Current Year		First Year		Third Year	
	Visits	%	Visits	%	Visits	%
Medicaid-FFS	164,991	67.53%	216,282	67.82%	245,241	67.79%
Medicare-FFS	7,505	3.07%	9,878	3.10%	11,123	3.07%
Private Pay	51,144	20.93%	66,789	20.94%	76,408	21.12%
Charity (sliding)	<u>20,684</u>	<u>8.47%</u>	<u>25,951</u>	<u>8.14%</u>	<u>29,028</u>	<u>8.02%</u>
Total	244,324	100%	318,900	100%	361,800	100%

- Breakeven is projected at 99.8% and 98.8% of estimated First and Third Year visits

Capability and Feasibility

Total project cost of \$65,000,000 will be met with \$23,774,000 in equity (including land purchased), \$10,000,000 in Foundation gifts, \$6,226,000 in grants, and \$25,000,000 in Tax-Exempt Bonds issued through Build NYC Resource Corporation and underwritten by Flushing Bank at the above stated terms.

Working capital requirements are estimated at \$4,159,470 based on two months of third year incremental expenses. Working capital will be funded from operations. BFA Attachments A and B are Charles B. Wang Community Health Center, Inc.'s 2016 certified financial statements and their internal financials as of July 31, 2017, which indicates the availability of sufficient funds for the project. The applicant states they have ongoing fundraising and capital campaigns, which are expected to enhance cash flow and liquid resources.

The applicant projects the organization will generate a net profit of \$144,500 and \$1,005,000 in the first and third years, respectively. The budget appears reasonable.

Review of BFA Attachments A and B shows the facility had average working capital of \$19,881,991, average net assets of \$49,744,642, and generated net income of \$886,495 in 2016 and \$353,047 through July 31, 2017.

BFA Attachment C is Chinatown Health Clinic Foundation, Inc.'s 2016 certified financial statement and internal financials of June 30, 2017, which shows the entity had net assets of \$18,809,149 and 19,060,184, respectively.

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, Charles B. Wang Community Health Center, Inc. 2016 certified financial statements. |
| BFA Attachment B | Financial Summary, Charles B. Wang Community Health Center, Inc. July 31, 2017 internal financial statements |
| BFA Attachment C | Financial Summary, Chinatown Health Clinic Foundation 2016 certified financial statements and June 30, 2017 internal statements |



Project # 171421-C
Seton Health at Schuyler Ridge Residential Healthcare

Program: Residential Health Care Facility
Purpose: Construction

County: Saratoga
Acknowledged: June 20, 2017

Executive Summary

Description

Seton Health at Schuyler Ridge Residential Healthcare (Seton Health) is a 120-bed, voluntary not-for-profit, Article 28 residential health care facility (RHCF) located at 1 Abele Boulevard, Clifton Park (Saratoga County). The facility also operates a 25-slot adult day health care program (ADHCP) onsite. Seton Health requests approval to construct a two-story addition containing 40 private rooms and to renovate and convert 40 beds from semi-private to private rooms. Upon completion of this project, the facility will change from 12 private and 108 semi-private beds to 92 private and 28 semi-private beds, with no net new beds.

St. Peter's Health Partners (SPHP) is the active parent and co-operator of Seton Health. The RHCF is a critical part of SPHP's long-range strategic plan for southern Saratoga County, which has the highest population growth rate in the region. The current facility was built in 1994 as a single-story building with three 40-bed nursing units. The layout reflects a 20-year-old design, with each unit consisting of four private rooms and 18 semi-private rooms. The applicant seeks to increase the number of private rooms and modernize the building to address the demand for private rooms.

The two-story addition will be constructed first to minimize disruptions to the residents, reduce the length of the project, and maintain occupancy levels. This approach will eliminate the loss of patient revenues, minimize the cost of moving, and help to reduce any negative effects the project may have on the RHCF's finances.

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no impact on certified beds or county bed need.

Program Summary

The expansion of Schuyler Ridge will improve the residential living environment. The addition of 40 single bedded rooms, and the conversion of 40 existing doubles to singles, will address the demands of residents for additional privacy

Financial Summary

The total project cost is \$19,964,743. However, due to the cost per bed exceeding applicable caps, the total reimbursable cost is \$17,050,931

Total project cost of \$19,964,743 will be met with \$7,176,545 in cash and an intercompany loan of \$12,788,198 over 25 years at 4.15% interest. The projected Enterprise Budget is as follows:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$16,361,243	\$17,382,298	\$18,056,373
Expenses	<u>13,054,856</u>	<u>15,421,887</u>	<u>15,441,454</u>
Net Income	\$3,306,387	\$1,960,411	\$2,614,919

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 intercompany loan commitment, acceptable to the Department of Health. [BFA]
3. 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]
4. Submission of a plan 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]
5. 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 Medicaid Access 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]
6. Submission and programmatic review and approval of the final floor plans. [LTC]
7. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-04. [AER]

Approval conditional upon:

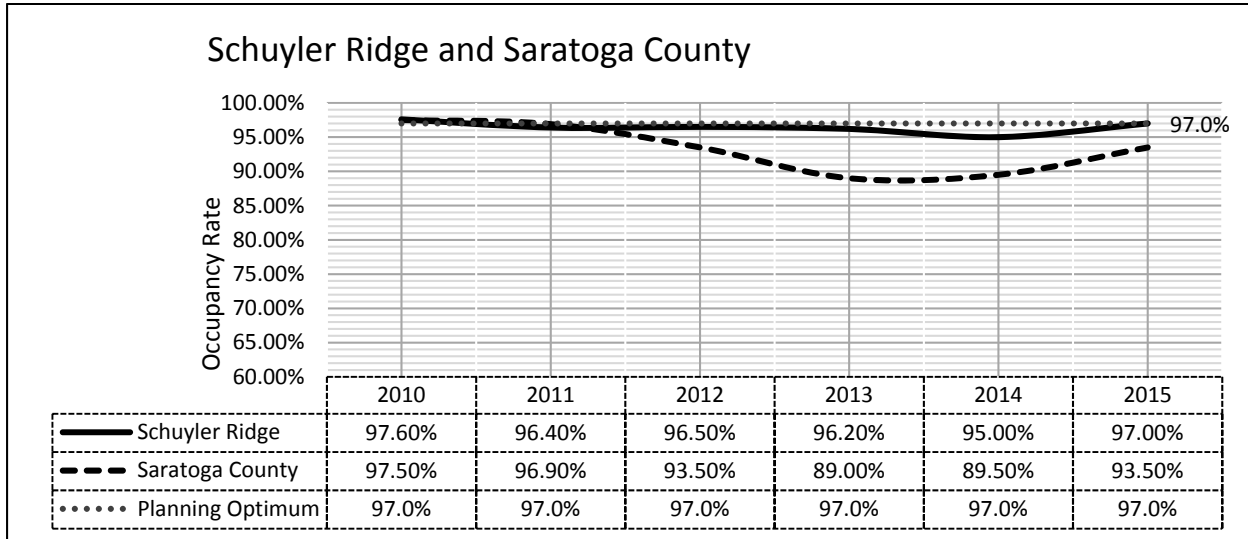
1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Construction must start on or before May 1, 2018 and construction must be completed by May 1, 2020, 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. 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]
4. 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]
5. The operator shall submit a plan to maintain resident services and safety during construction to the Northeastern Regional Office, and must receive approval for such plan prior to the commencement of construction. [LTC]
6. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

February 8, 2018

Need Analysis

Analysis



The overall occupancy for Saratoga County was 93.5% for 2015. Schuyler Ridge's utilization has been around the departments planning standard since 2010.

Population

In 2016, Saratoga County's overall population is 227,053 according to the US Census. In 2015, the 65 and older population made up 16.8 percent of the county's population which is 1.4 percent higher than the state average.

Medicaid Admissions

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.

Schuyler Ridge's Medicaid admissions for 2014 (9.5%) did not meet or exceed Saratoga counties threshold of 12.7%. In 2015 Schuyler Ridge had 2.1% Medicaid admissions, which did not meet or exceed the county's threshold of 13.1%.

The 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.

Conclusion

There will be no change in beds in Saratoga County. This is a construction project with renovation and conversion to single beds. There will be no impact on certified beds or county bed need.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Seton Health at Schuyler Ridge Residential Healthcare	Same
Address	1 Abele Boulevard Clifton Park, NY 12065	Same
RHCF Capacity	120	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Voluntary	Same
Class of Operator	Not for Profit	Same
Operator	Seton Health at Schuyler Ridge Residential Healthcare	Same

Program Review

Seton Health at Schuyler Ridge (Schuyler Ridge) is a 120-bed nursing home located in Clifton Park. Since the nursing home opened in 1995 there have been no projects to renovate and update the building. The circa 1990 building reflected the design elements of the time when it opened, and was recognized as a contemporary and appealing facility. Since then the nursing home landscape has changed, and the long-term care market in Saratoga County has become more competitive. Schuyler Ridge has responded by exploring improvements to the nursing home which would maintain its historical high occupancy. Schuyler Ridge has identified the lack of single bedded rooms as the most pressing issue with which to devote resources. The current proposal is to construct a two story 40 bed addition, and undertake a modest modernization to the existing building. The new wing will contain 40 single resident rooms, and 40 doubles in the existing nursing units will be converted to singles. The overall bed complement will remain 120 beds.

Physical Environment

The existing facility contains three 40 bed nursing units in a one story 59,000 square foot building. Currently Schuyler Ridge includes only four single-bedded rooms per unit. Upon completion of construction the nursing home will consist of 92 single-bedded rooms and 14 doubles. The new wing will contain 40 beds, all in single-bed configuration. The three existing nursing units will be reduced to a total of 80 beds, with the Fenimore nursing unit containing 28 beds, (six doubles and 16 singles), and the Ensign Point and Clifton Hills nursing units each containing 26 beds (four doubles and 18 singles).

The new wing will be "L shaped and consist of 32,500 square feet on two floors, each floor identical to the other. The design is the familiar linear configuration with a double loaded corridor. Resident rooms of varying sizes run along the outside of a central corridor, with the nursing station and office located in the middle of the "L". Each resident room includes a full bathroom with European shower. Entry into the unit is made from the West end, through the lobby/lounge adjacent to the elevator bank. The first floor lobby area exits to an outside activity area, and a connector on the South end of the lobby leads to the Fenimore nursing unit and the administration building and public entrance.

Each nursing unit situates the dining room, kitchen and pantry immediately adjacent to the nursing station, with the central bathing area across from the nursing office. A large activity/sun room is located on the North end of the unit. A living room with fireplace occupies the Southwest corner of the unit.

Construction in the existing building consists chiefly of reducing the double bedded resident rooms to singles and renovating the bathrooms to provide individual showers. The staff lockers and lounge in the Administration Building will also undergo minor renovation. The building systems will require some enhancement including the replacement of the emergency generator and the fire alarm system.

Compliance

Seton Health at Schuyler Ridge is currently in current compliance with all applicable codes, rules and regulations.

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures	Staffing	Quintile
Seton Health at Schuyler Ridge Residential H C	*****	***	*****	****	4

Project Analysis and Conclusion

The expansion of Schuyler Ridge will improve the residential living environment. The addition of 40 single bedded rooms, and the conversion of 40 existing doubles to singles, will address the desires of newly admitted residents for additional privacy.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total cost of new construction, renovations and moveable equipment is projected to be \$19,964,743, broken down as follows:

New Construction	\$8,046,095
Renovation & Demolition	6,675,143
Design Contingency	1,174,992
Construction Contingency	772,687
Architect/Engineering Fees	1,413,851
Construction Manager Fees	335,245
Other Fees(Consultant)	148,041
Movable Equipment	690,747
Telecommunications	331,747
Interim Interest Expense	265,000
CON Application Fee	2,000
CON Processing Fee	<u>109,195</u>
Total Project Cost	<u>\$19,964,743</u>

Project costs are based on approximate 24-month construction period.

The Construction Cost Control Unit has determined that the cost per bed exceeds the applicable RHCF bed cap limitation for the facility's geographic region. Therefore, total allowable reimbursable project costs will be limited to \$17,050,931, as shown below:

Reimbursable Cost	\$16,939,736
CON Application Fee	2,000
CON Processing Fee	<u>109,195</u>
Total Reimbursable Project Cost	\$17,050,931

Per Department of Health policy, in addition to the 25% equity contribution on reimbursable project cost, the applicant is required to cover project costs in excess of total reimbursable project cost via equity.

The applicants financing plan for the project is as follows:

Accumulated Funds	\$7,176,545
Intercompany Loan (4.15% interest over 25-year term)	<u>12,788,198</u>
Total Funds	<u>\$19,964,743</u>

A letter of interest has been submitted from Trinity Health.

BFA Attachment D illustrates the bed cap and equity contribution calculations for this project.

Operating Budget

The applicant has provided an operating budget, in 2017 dollars, for the first and third years after construction. The budget is summarized below:

	<u>Current Year (2016)</u>		<u>Year One (2019)</u>		<u>Year Three (2021)</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>RHCF Revenues</u>						
Medicare	\$590.53	\$2,559,348	\$608.16	\$2,635,759	\$627.14	\$2,718,024
Medicaid	\$220.23	3,801,167	\$257.59	4,445,938	\$258.52	4,462,065
Commercial	\$658.35	486,518	\$697.08	515,139	\$752.32	555,961
Private Pay	\$413.81	8,423,909	\$427.65	8,705,738	\$453.47	9,231,292
All Other		<u>49,363</u>		<u>0</u>		<u>0</u>
Total RHCF Rev.		\$15,320,305		\$16,302,574		\$16,967,342
<u>ADHCP Revenues</u>						
Medicaid	\$120.62	\$184,670	\$143.38	\$219,515	\$144.08	\$220,584
Private Pay	\$89.41	131,340	\$92.09	\$135,281	\$97.70	143,519
All Other	\$100.90	<u>11,805</u>	\$100.90	<u>11,805</u>	\$100.90	<u>11,805</u>
Total ADHCP Rev.		\$327,815		\$366,601		\$375,908
Total Patient Rev.		\$15,648,120		\$16,669,175		\$17,343,250
Other Oper. Rev.		\$27,489		\$27,489		\$27,489
Non-Oper. Rev.		<u>\$685,634</u>		<u>\$685,634</u>		<u>\$685,634</u>
Total Revenues		\$16,361,243		\$17,382,298		\$18,056,373
<u>RHCF Expenses</u>						
Operating	\$281.54	\$12,019,092	\$299.17	\$12,771,528	\$300.23	\$12,816,810
Interest	\$7.26	309,988	\$19.56	835,078	\$18.96	809,363
Depreciation	<u>\$12.53</u>	<u>535,104</u>	<u>\$38.06</u>	<u>1,624,609</u>	<u>\$38.06</u>	<u>1,624,609</u>
Total RHCF Exp.	\$301.33	\$12,864,184	\$356.79	\$15,231,215	\$357.25	\$15,250,782
<u>ADHCP Expenses</u>						
Operating	\$60.05	\$187,162	\$60.05	\$187,162	\$60.05	\$187,162
Depreciation	<u>\$1.13</u>	<u>3,510</u>	<u>\$1.13</u>	<u>3,510</u>	<u>\$1.13</u>	<u>3,510</u>
Total ADHCP Exp.	\$61.18	\$190,672	\$61.18	\$190,672	\$61.18	\$190,672
Total Expenses		\$13,054,856		\$15,421,887		\$15,441,454
Net Income		<u>\$3,306,387</u>		<u>\$1,960,411</u>		<u>\$2,614,919</u>
Total Patient Days		42,690		42,690		42,690
Total ADHCP Visits		3,117		3,117		3,117
Occupancy		97.5%		97.5%		97.5%
Breakeven		81.84%		91.06%		87.61%

The following is noted with respect to the operating budget:

- The Medicaid rate includes assessment revenues for the current year and projected Years One and Three. The Medicaid capital component assumes reimbursement of interest and depreciation associated with total project cost. Since Article 28 reimbursable project cost is less than total project cost, the Medicaid revenue income would be reduced by \$45,270 to a total net income of \$1,915,141 and \$2,569,649 for Years One and Three, respectively.
- Medicare and private pay assume current rates of payment.
- Other Operating Revenue is assets released from restriction and miscellaneous revenues.
- Non-Operating Revenues are gains on investments.
- All other income includes grant monies for ADHCP services for patients not covered and the universal settlement for inpatient services.
- Occupancy is projected at the 2016 historical level of 97.5%.
- Inpatient utilization by payor source is projected as follows:

Medicare	10.15%
Medicaid	40.43%
Commercial	1.73%
Private Pay	47.69%
- Outpatient utilization by payor source is projected as follows:

Medicaid	49.12%
Private Pay	47.13%
All Other	3.75%
- Breakeven occupancy for inpatient in Year One is projected at 91.46%.

Capability and Feasibility

The total project cost is \$19,964,743. The facility will provide equity of \$7,176,545 from accumulated funds and remaining project cost of \$12,788,198 will be satisfied with an intercompany loan at 4.15% over a 25-year term. Trinity Health has submitted a letter of interest. As previously noted, SPHP is a member of Trinity Health. BFA Attachment D is Trinity Health's 2016 certified financials, which indicates the entity has sufficient funds to provide the intercompany loan.

BFA Attachment A is a financial summary of Seton Health at Schuyler Ridge, which shows the facility has maintained positive working capital and net asset balances during 2016 and as of June 30, 2017. The facility also generated operating income of \$2,620,753 during 2016, and \$2,322,245 as of June 30, 2017. The applicant reveals sufficient resources to meet project cost equity requirements.

Based on the preceding, and subject to the noted contingency, 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	Seton Health at Schuyler Ridge Residential Health Care – financial summary
BFA Attachment B	Seton Health at Schuyler Ridge Residential Health Care – 2016 certified financials.
BFA Attachment C	Organizational Chart for Trinity Health
BFA Attachment D	Bed Cap Calculation for Schuyler Ridge
BFA Attachment E	Trinity Health Certified Financials - 2016



**Project # 172304-E
Queens Boulevard ASC, LLC**

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Establishment **Acknowledged:** November 10, 2017

Executive Summary

Description

Queens Boulevard ASC, LLC, a proprietary Article 28 diagnostic and treatment center (D&TC) located at 95-25 Queens Boulevard, Rego Park (Queens County), requests approval for indefinite life status. The D&TC was approved under CON 111165 as a single-specialty freestanding ambulatory surgery center specializing in gastroenterology services for a five-year limited life, and began operations on March 25, 2013. The applicant is not proposing to add or change any services, or expand or renovate the facility.

Reports submitted by the applicant, the total number of procedures was 9,620 in Year One (2014-1st full year) and 10,615 in Year Three (2016). Actual charity care in Year Three (2016) was 0.35% and Medicaid was 45.88%.

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.

**OPCHSM Recommendation
Approval**

Financial Summary

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

Need Summary

Data submission by the applicant, as a contingency of CON 111165, has been completed. Based on CON 111165, Queens Boulevard ASC, LLC projected 7,135 procedures in Year One and 8,452 procedures in Year Three. Medicaid procedures were projected at 25.89 % and charity care was projected at 2.50%. Based on the Annual

	<u>Year One</u>
Revenues	\$9,084,745
Expenses	<u>5,356,030</u>
Net Income	\$3,728,715

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval

Council Action Date

February 8, 2018

Need Analysis

Analysis

The primary service area is Queens County. The table below provides information on projections and utilization by procedures for Year One (2014-1st full year) and Year Three (2016) based on CON 111165

CON 111165- Procedures	Year 1 (2014)		Year 3 (2016)	
	Projected	Actual	Projected	Actual
Queens Boulevard ASC				
Total	7,135	9,620	8,452	10,615

The table below provides Year Three utilization, projections and actual, by payor, for CON 111165, and projections for year one following approval.

Payor	CON 111165 Projected Year 3 (2016)	CON 111165 Actual Year 3 (2016)	CON 172304 Projections Year 1
Medicaid FFS	7.80%	0.58%	0.69%
Medicaid MC	18.09%	45.30%	45.84%
Medicare FFS	4.90%	5.08%	4.67%
Medicare MC	0.12%	12.73%	15.39%
Commercial MC	66.59%	28.39%	23.57%
Other (Exchange)	0.00%	5.42%	7.55%
Private Pay	0.00%	2.15%	1.84%
Charity Care	2.50%	0.35%	0.45%
Total	100.00%	100.00%	100.00%

The center currently has Medicaid Managed Care contracts with the following health plans: Affinity, BCBS Medicaid, Fidelis, Health Care Partners, HealthFirst, Metroplus, UHC Community Plan, Wellcare and others. The center's Medicaid utilization has been consistently above the original projection of 26% each year of its operation and is projected to be 46% going forward. The center actively participates in the NYC Community Care Program and has partnered with Queens Hospital to develop a formal Charity Care referral relationship. The center has also partnered with NYSDOH Cancer Services Program to provide services to the under-insured. The center has four (4) procedures rooms and is open Monday through Friday from 8 am until 6 pm, and extends its hours as necessary to accommodate patient needs.

Queens Boulevard ASC is committed to serving individuals needing care regardless of the source of payment or the ability to pay.

Conclusion

The 2015 report by the Ad Hoc Advisory Committee on Freestanding ASCs and Charity Care indicates that "single specialty freestanding ASCs offering endoscopy are likely to serve an older clientele, a large portion of whom are 65 or over and eligible for Medicare; hence, it may be reasonable to expect a lower volume of Medicaid and charity care cases from these providers than from ASCs offering more general surgical services." In this case, the Center is serving a substantial percentage of Medicaid cases, and although the center's charity care utilization is less than 2 percent, the center has been making reasonable and sustained efforts to provide service to the uninsured in its service area. Approval of the proposed project will provide for the continued access to gastroenterology ambulatory surgery services for the communities of Queens County.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

The Center is not proposing to add any services or make any changes to the building or operations. Staffing is expected to remain at 23.0 FTEs, and Azeem Khan, M.D. will continue to serve as the Center's Medical Director.

Compliance with Applicable Codes, Rules and Regulations

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

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

Conclusion

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.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Operating Budget

The applicant has submitted their current year (2016) and the first and third year operating budgets, in 2018 dollars, as shown below:

	<u>Current Year</u> (2016)	<u>Year One</u> (2018)	<u>Year Three</u> (2020)
<u>Revenues</u>			
Medicaid FFS	\$8,350	\$10,438	\$10,438
Medicaid MC	3,197,157	3,211,401	3,211,401
Medicare FFS	244,288	246,813	246,813
Medicare MC	798,435	1,132,892	1,132,892
Commercial FFS	3,865,900	3,807,815	3,807,815
Other (Exchange)	269,861	638,786	638,786
Private Pay	<u>36,800</u>	<u>36,600</u>	<u>36,600</u>
Total Revenues	\$8,420,791	\$9,084,745	\$9,084,745
<u>Expenses</u>			
Operating	\$4,004,775	\$4,124,919	\$4,181,359
Capital	<u>1,174,671</u>	<u>1,174,671</u>	<u>1,174,671</u>
Total Expenses	\$5,179,446	\$5,299,590	\$5,356,030
Net Income	<u>\$3,241,345</u>	<u>\$3,785,155</u>	<u>\$3,728,715</u>

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Utilization (Procedures)	10,615	10,786	10,786
Cost Per Procedure	\$487.94	\$496.57	\$496.57

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

	<u>Current Year</u>		<u>Years One & Three</u>	
	<u>Procedures</u>	<u>%</u>	<u>Procedures</u>	<u>%</u>
Medicaid FFS	62	0.58%	74	0.69%
Medicaid MC	4,809	45.30%	4,944	45.84%
Medicare FFS	539	5.08%	504	4.67%
Medicare MC	1,351	12.73%	1,660	15.39%
Commercial FFS	3,014	28.39%	2,542	23.57%
Other (Exchange)	575	5.42%	814	7.55%
Private Pay	228	2.15%	199	1.84%
Charity Care	<u>37</u>	<u>0.35%</u>	<u>49</u>	<u>0.45%</u>
Total	10,615	100.00%	10,786	100.00%

Capability and Feasibility

There are no project costs associated with this application. The submitted budgets indicate net income of \$3,785,155 and \$3,728,715 in the first and third years. Revenues are based on current reimbursement methodologies. The budgets are reasonable.

BFA Attachment B is the 2015 and 2016 certified financial statements of Queens Boulevard ASC, LLC. The facility had an average positive working capital position and an average net asset position from 2015 through 2016. The entity achieved an average net income from operations of \$3,549,685 from 2015 through 2016.

BFA Attachment C is the internal financial statements of Queens Boulevard ASC, LLC as of October 31, 2017. The facility had a positive working capital position and a positive net asset position through October 31, 2017. The entity achieved a net income from operations of \$2,862,199 through October 31, 2017.

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	Current and original ownership of Queens Boulevard ASC, LLC
BFA Attachment B	Financial Summary – 2015 and 2016 certified financial statements of Queens Boulevard ASC, LLC
BFA Attachment C	Financial Summary – October 31, 2017 internal financial statements of Queens Boulevard ASC, LLC



**Project # 172325-E
Liberty Endoscopy Center**

Program: Diagnostic and Treatment Center **County:** New York
Purpose: Establishment **Acknowledged:** November 22, 2017

Executive Summary

Description

Liberty Endoscopy Center, LLC, a proprietary, single-specialty (gastroenterology), Article 28 freestanding ambulatory surgery center (FASC) located at 156 William Street, New York (New York County), requests approval to transfer 28% ownership interest to seven new members. The proposed new members are Deborah Chua, M.D., Veronika Dubrovskaya, M.D., Michael Glick, M.D., Valerie Antoine-Gustave, M.D., Neal Joseph, M.D., Martin Wolff, M.D., and Alex Ky, M.D., all of whom are currently performing procedures at the Center. The proposed new members have each executed a Membership Subscription Agreement, which includes his/her agreement to be bound by the Center's existing, approved Operating Agreement. The purchase price for each 4% membership interest is \$28,450 for a total purchase price of \$199,150 for the 28% ownership transfer.

Upon approval of this application, the FASC will continue to be owned and operated by Liberty Endoscopy Center, LLC, and the existing lease, which extends through 2030 with two five-year renewal options, will continue unchanged.

Since becoming operational January 13, 2017, the Center has provided gastroenterology services to residents of New York County. Highlights of the Center's achievements include collaboration with The Bowery Mission, one of the oldest not-for-profit

organizations in New York, to provide free colonoscopy services to the population served by The Bowery Mission, and agreement with Cumberland Diagnostic and Treatment Center, a NYC Health + Hospitals clinic, in collaboration with NYC Community Cares Project to provide uninsured patients with access to colonoscopy screenings.

**OPCHSM Recommendation
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 are no project costs associated with this application and no budgeted operating expenses or revenues. The proposed new members have each purchased a 4% membership interest for \$28,450 resulting in a total purchase price of \$199,150 for the 28% ownership transfer.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

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 8, 2018

Program Analysis

Project Proposal

Liberty Endoscopy Center, LLC, an existing single specialty (gastroenterology) freestanding ambulatory surgery center, requests approval to transfer 28% ownership interest to seven (7) new members. There are no anticipated changes in operation resulting from this change in ownership.

The table below details the proposed change in ownership:

Member Name	Current Membership Interest	Proposed Membership Interest
Albert Harary, M.D.	2.25%	1.50%
Alexander Chun, M.D.	4.49%	2.99%
Anthony Borcich, M.D.	2.25%	1.50%
Carl McDougall, M.D.	4.49%	2.99%
David Robbins, M.D.	6.85%	4.57%
Eric Morgenstern, M.D.	4.49%	2.99%
Ilan Weisberg, M.D.	4.49%	2.99%
Jennifer Bonheur, M.D.	6.85%	4.57%
Jonathan Warman, M.D.	2.25%	1.50%
Julie Foont, M.D.	6.85%	4.57%
Jusuf Zlatanovic, M.D.	6.85%	4.57%
Makoto Iwahara, M.D.	4.49%	2.99%
Michael Krumholz, M.D.	4.49%	2.99%
Mylan Satchi, M.D.	1.12%	0.75%
Paulo Pacheco, M.D.	6.85%	4.57%
Peter Balocco, M.D.	4.49%	2.99%
Peter Kim, M.D.	10.0%	6.67%
Yasmin Metz, M.D.	0.45%	0.30%
Mount Sinai Ambulatory Ventures, Inc.	10.0%	10.00%
PE Healthcare Associates, LLC	6.00%	4.00%
<i>*Martin Wolf, M.D.</i>	----	4.00%
<i>*Michael Glick, M.D.</i>	----	4.00%
<i>*Neal Joseph, M.D.</i>	----	4.00%
<i>*Valerie Antoine-Gustave, M.D.</i>	----	4.00%
<i>*Veronika Dubrovskaya, M.D.</i>	----	4.00%
<i>*Deborah Chua, M.D.</i>	----	4.00%
<i>*Alex Ky, M.D.</i>	----	4.00%
TOTAL	100%	100%

***Members subject to a Character and Competence Review for this project**

Character and Competence

The new members are practicing board-certified gastroenterologists. Drs. Wolff, Glick, Joseph, Antoine-Gustave, Dubrovskaya, and Chua are employed by Gotham Medical Associates. Dr. Ky, a board-certified surgeon, is employed by Mount Sinai as an Associate Professor of Surgery, and she also serves as the Medical Director for Mount Sinai's downtown office.

Regarding the education and training of the new members: Dr. Wolff earned his medical degree from the New York University (NYU) School of Medicine and completed a gastroenterology fellowship at the NYU Medical Center. Additionally, he is a Clinical Assistant Professor of Medicine at NYU School of Medicine and an attending gastroenterologist at NYU Langone Medical Center and Mount Sinai Beth Israel. Dr. Glick graduated from NYU School of Medicine and completed a fellowship in gastroenterology at Memorial Sloan Kettering Cancer Center. Dr. Joseph earned his medical degree at George Washington

University and subsequently pursued specialty training in gastroenterology at Lenox Hill Hospital. Additionally, he has recently served as a Co-Medical Director for Liberty Endoscopy Center (located in Manhattan). Dr. Antoine-Gustave earned her medical degree from Johns Hopkins School of Medicine and completed a fellowship in gastroenterology at Brigham and Women's Hospital. Dr. Dubrovskaya earned her medical degree from Virginia Commonwealth University and completed a gastroenterology fellowship at St. Luke's-Roosevelt Hospital. Dr. Chua earned her medical degree from Temple University School of Medicine and completed fellowship training in gastroenterology at New York University. Dr. Ky earned her medical degree from the SUNY Stony Brook School of Medicine and she completed a Colorectal Surgery fellowship at Mount Sinai Hospital.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted for the seven (7) incoming individual physician 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.

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.

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

Membership Subscription Agreement

The applicant has submitted the executed Membership Subscription Agreements for the proposed members, the terms of which are summarized below:

Date:	September 12, 2017
Description:	Purchase of 4% membership interest
Company:	Liberty Endoscopy Center, LLC
Purchasers:	Deborah Chua, M.D., Veronika Dubrovskaya, M.D., Michael Glick, M.D., Valerie Antoine-Gustave, M.D., Neal Joseph, M.D., Martin Wolff, M.D., and Alex Ky, M.D.
Purchase Price:	\$28,450 per proposed new member
Payment of Purchase Price:	\$2,845 deposit held in escrow; Equity via personal assets for the \$25,605 balance due at closing.

Payment of the balance due from each proposed new member will be paid via equity from their personal assets. BFA Attachment A presents a summary of the proposed members' net worth statements, which shows sufficient resources for the transactions.

Capability and Feasibility

There are no project costs associated with this application and no budgeted operating expenses or revenues.

BFA Attachment C is an internal financial summary of Liberty Endoscopy Center as of September 30, 2017, which shows the entity has maintained a positive working capital position and net equity position, but has experienced a net operating loss of \$303,993 due to startup costs.

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 Personal Net Worth Statements of Proposed Members of Liberty Endoscopy Center
- BFA Attachment B Current and Proposed Membership interest in Liberty Endoscopy Center, LLC
- BFA Attachment C Internal Financial Statements as of September 30, 2017



**Project # 172220-B
Dialysis at ECC, LLC**

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Establishment and Construction **Acknowledged:** October 10, 2017

Executive Summary

Description

Dialysis at ECC, LLC, a New York limited liability company, requests approval to establish and construct a 20-station, Article 28 Chronic Renal Dialysis Center to be located on the ground floor of the Elmhurst Care Center, a 240-bed residential health care facility (RHCF) located at 100-17 23rd Avenue, East Elmhurst (Queens County). The Center will provide dialysis services to residents of the RHCF and outpatient members of the surrounding community, and will also offer home hemodialysis training and support.

The proposed members of Dialysis at ECC, LLC are Tibor Klein with 66.66% ownership and Miriam Basch with 33.34% ownership. Tibor Klein has a 75% ownership interest in the RHCF.

The RHCF currently has eight residents requiring dialysis treatment who must be transported to an off-site facility three days per week. In addition, two residents of Elm York Home for Adults, a 262-bed adult care facility affiliated with Elmhurst Care Center through common ownership, and located next door to the RHCF, require dialysis and are transported off-site for treatment. Locating the proposed

dialysis center in the RHCF will eliminate the need for transportation and improve the quality of life for these residents.

**OPCHSM Recommendation
Contingent Approval**

Need Summary

A 20-station dialysis extension located at Elmhurst Care Center, will address the needs of nursing home residents requiring dialysis.

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 cost of \$2,092,046 will be met via equity from the proposed members' personal resources. The projected budget is as follows:

Revenues	\$5,990,553
Expenses	<u>4,724,231</u>
Net Income	\$1,266,322

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 building lease agreement, acceptable to the Department of Health. [BFA]
3. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
4. Submission of a photocopy of the applicant's executed Restated Articles of Organization, acceptable to the Department. [CSL]
5. Submission of a photocopy of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]
6. Submission of the applicant's evidence of site control, 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. Construction must start on or before May 1, 2018 and construction must be completed by April 30, 2019, 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 the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
4. The applicant is required to submit Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, prior to the applicant's start of construction for record purposes. [AES]

Council Action Date

February 8, 2018

Need Analysis

Analysis

The primary service area for the new facility will be Queens County, which had a population estimate of 476,015 for 2016. The percentage of the population aged 65 and over was 14.2%. The nonwhite population percentage was 51.8%. These are the two population groups that are most in need of end stage renal dialysis service. Comparisons between Queens County and New York State are shown below.

	Queens County	New York State
Ages 65 and Over	14.2%	15.4%
Nonwhite	51.8%	30.1%

Source: U.S. Census 2015

Capacity

The Department's methodology to estimate capacity for chronic dialysis stations is specified in Part 709.4 of Title 10 and is as follows:

- One free standing station represents 702 treatments per year. This is based on the expectation that the center will operate 2.5 patient shifts per day at 6 days per week, which is 15 patients per week, per station [(2.5 x 6) x 52 weeks] equals 780 treatments per year. Assuming a 90% utilization rate based on the expected number of annual treatments (780), the annual treatments per free standing station is 702. The estimated average number of dialysis procedures each patient receives from a free-standing station per year is 156.
- One hospital based station represents 499 treatments per year. This is based on the expectation that the hospital will operate 2.0 patient shifts per day at 6 days per week, which is 12 patients per week, per station [(2 x 6) x 52 weeks] equals 624 treatments per year. Assuming an 80% utilization rate based on the expected number of annual treatments (624), the number of annual treatments per hospital station is 499. One hospital based station can treat 3 patients per year.

Need Projections

New York State Chronic End Stage Renal Disease (Dialysis) Resources / Need Projected Through 2021							
County	Existing Resources	Approved Resources	Total Current Resources	Total Need 2021	Unmet Need 2021	County-wide Stations Under Review	Unmet Need After Approval
	a	b	c	d	e	f	g
			(a + b)		(d - c)		(e - f)
Queens	651	353	1004	1059	55	20	35
Approval of this CON Will Reduce the Stations Under Review (column f) by 20							
Column (a): Existing Resources: Stations in operation							
Column (b): Approved Resources: Stations approved but not yet operating							
Column (d): Total Need Calculated on 2016 Data and 95% Confidence Linear Regression Methodology							
Column (f): Submitted Projects Under Review							

The increasingly diverse racial demographics of Queens County, increasing obesity rates and the higher than expected rates of diabetes (and that disease's relationship to End Stage Renal Disease), as well as the aging of the population in general, indicate that there will be a continued need for dialysis services in the County in the future.

This project will extend the continuum of care of services that Elmhurst Care Center provides to its residents and others in need of dialysis services in Queens County. Elmhurst Care Center currently has eight RHCf residents who require dialysis treatment, which means that they must be transported to an off-site facility three days per week to receive treatment. In addition, there are currently two residents of Elm York Home for Adults, a 262-bed adult care facility (ACF) affiliated with Elmhurst Care Center through common ownership and located next door to the RHCf, who require dialysis treatment and are transported off-site for dialysis. Location of the proposed dialysis center on-site in the RHCf will enable the provision of services in one location for persons who require both long-term care (either RHCf or ACF) and treatment for End Stage Renal Disease, thereby improving quality of life for these residents. Location of a dialysis unit at the RHCf will also reduce Medicaid expenditures related to transportation of patients from the nursing home or adult care facility to an off-site treatment center.

As required by State and Federal regulations, the proposed Center will not only treat the residents of the RHCf who require chronic renal dialysis but will also be available to the general public.

Conclusion

Approval of this project will enhance the quality of life for the nursing home residents and adult care facility residents who require dialysis services, as well as meet a community need. After approval, there will still be a need of 35 net new stations.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

Proposed Operator	Dialysis at ECC, LLC
Site Address	100-17 23 rd Avenue East Elmhurst, NY (Queens County)
Approved Services	Chronic Renal Dialysis (20 Stations)
Shifts/Hours/Schedule	Two shifts per day, six days per week Monday through Saturday, 6 am to 7 pm (with the projection of going to three shifts per day in the second year of operations.)
Staffing (1st Year / 3rd Year)	13.6 FTEs / 36.75 FTEs
Medical Director(s)	Robert Krinsky, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Expected to be provided by provided by Long Island Jewish Forest Hills 4.7 miles / 16 minutes

Character and Competence

The members of Dialysis at ECC, LLC are:

<u>Name</u>	<u>Membership</u>
Tibor Klein	66.66%
Miriam Basch	33.34%

The proposed members of Dialysis at ECC, LLC are owners/members of health care facilities and have experience in addressing the needs of nursing home residents and the elderly. Mr. Klein is a member of Elmhurst Care Center, Inc., the operator of Elmhurst Care Center. In addition to Ms. Basch's ownership interest in a residential health care facility in Queens, she also is employed as a part-time clerk in four nursing and rehab centers located in Brooklyn.

Disclosure information was submitted and reviewed for the proposed Medical Director. Robert Krinsky, M.D. is a New York State licensed practicing clinical physician who completed a two-year fellowship in Nephrology at Maimonides Medical Center and is board-certified in Internal Medicine with sub-certification in Nephrology.

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

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

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, contingent approval is recommended.

Financial Analysis

Lease Rental Agreement

The applicant has submitted a draft lease rental arrangement for the site that they will occupy, which is summarized below:

Premises:	10,100 square feet located at 100-17 23 rd Avenue, East Elmhurst, New York.
Lessor:	Yorkshire Realty, Inc.
Lessee:	Dialysis at ECC, LLC
Term:	10 years
Rental:	\$225,500 annually (\$22.33 per sq.ft.) with 3% annual increase.
Provisions:	The lessee shall be responsible for maintenance, utilities and real estate taxes.

The lease will be a non-arm's length lease arrangement since Tibor Klein has ownership interest in the landlord entity. The applicant has submitted letters from two New York State Real Estate Brokers attesting to the reasonableness of the per square foot rental.

Total Project Cost and Financing

Total project cost, which is for renovations and the acquisition of moveable equipment, is estimated at \$2,092,046, further broken down as follows:

Renovation and Demolition	\$1,058,148
Design Contingency	105,815
Construction Contingency	105,815
Architect/Engineering Fees	120,931
Other Fees (Consultant)	25,500
Moveable Equipment	662,405
CON Fee	2,000
Additional Processing Fee	<u>11,432</u>
Total Project Cost	\$2,092,046

Project costs are based on a construction start date of May 1, 2018, and a 12-month construction period.

The proposed members will provide equity to meet the total project cost. BFA Attachment A, the net worth of the proposed members, indicates sufficient equity exists to satisfy project costs.

Operating Budget

The applicant has submitted an operating budget, in 2017 dollars, during the first and third years of operation, summarized below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Trmt.</u>	<u>Total</u>	<u>Per Trmt.</u>	<u>Total</u>
<u>Revenues</u>				
Medicaid FFS	\$275.46	\$196,957	\$275.46	\$576,823
Medicaid MC	\$350.44	\$125,107	\$260.33	\$272,563
Medicare FFS	\$285.00	\$1,630,200	\$285.00	\$4,774,320
Commercial FFS	\$260.33	<u>\$92,937</u>	\$350.38	<u>\$366,847</u>
Total Revenues		\$2,045,201		\$5,990,553
<u>Expenses</u>				
Operating	\$224.34	\$1,603,806	\$206.25	\$4,318,887
Capital	<u>54.78</u>	<u>391,611</u>	<u>19.36</u>	<u>405,344</u>
Total Expenses	\$279.12	\$1,995,417	\$225.61	\$4,724,231
Net Income		\$49,784		\$1,266,322
Utilization (Treatments)		7,149		20,940
Cost Per Treatment		\$279.12		\$225.61

Utilization broken down by payor source during the first and third years is as follows:

	<u>Year One</u>	<u>Year Three</u>
Medicaid FFS	10.00%	10.00%
Medicaid MC	4.99%	5.00%
Medicare FFS	80.01%	80.00%
Commercial FFS	5.00%	5.00%

The reimbursement rates and revenue assumptions are based on the experience of other dialysis centers in nursing homes. Expense assumptions are based on the typical expenses for chronic renal dialysis centers in nursing homes.

Capability and Feasibility

Total project cost of \$2,092,046 will be met via equity from the personal resources of the proposed members.

Working capital requirements are estimated at \$787,372, which is equivalent to two months of third year expenses. The applicant will fund the working capital requirement via equity from the proposed members' personal resources. BFA Attachment A is the personal net worth statements of the proposed members of Dialysis at ECC, LLC, which indicates the availability of sufficient funds for the equity contribution. BFA Attachment C is the pro forma balance sheet of Dialysis at ECC, LLC, which indicates a positive members equity position of \$2,879,418 as of the first day of operation.

The submitted budget indicates a net income of \$47,784 and \$1,266,322 during the first and third years, respectively. Revenues are based on the current reimbursement methodologies for dialysis services. The submitted budget appears reasonable.

BFA Attachment B is the 2015 and 2016 certified financial statements of Elmhurst Care Center. As shown, the entity had a positive working capital position, positive shareholders' equity and generated an average net income of \$4,070,533 for the period.

Subject to the noted contingency, 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 Statement of Proposed Members
- BFA Attachment B- Financial Summary: 2015 and 2016 certified financial statements of Elmhurst Care Center
- BFA Attachment C- Pro Forma Balance Sheet



**Project # 161122-E
Comprehensive Rehabilitation and Nursing Center at
Williamsville**

Program: Residential Health Care Facility
Purpose: Establishment

County: Erie
Acknowledged: March 14, 2016

Executive Summary

Description

Comprehensive Rehabilitation and Nursing Center at Williamsville is a 142-bed, proprietary, Article 28 residential health care facility (RHCF) located at 147 Reist Street, Williamsville (Erie County). Two of the current members, Ephram Lahasky and Joshua Farkovitz, request approval to transfer 36% of their ownership interest in the facility (18% each) to two other current members and three new members. Upon approval, the facility will have seven members. There will be no change in beds or services as a result of the transfer of ownership interest.

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

<u>Members</u>	<u>Current</u>	<u>Proposed</u>
Ephram Lahasky	37.0%	19.0%
Joshua Farkovits	37.0%	19.0%
David Gast	16.0%	24.5%
Samuel Halper	10.0%	13.5%
Debbie Korngut	0%	11.5%
Teresa Lichtschein	0%	7.5%
Jeffrey Arem	0%	5.0%

OPCHSM Recommendation
Contingent Approval

Need Summary

There will be no Need recommendation on this application.

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 application. The total purchase price for the 36% transfer of ownership is \$6 and has been paid in full. No budget analysis is necessary as this is a 36% transfer of ownership interest, and the four current members are remaining in the ownership structure with majority interest. The RHCF is not proposing to change its business model, which has historically been profitable, and the facility has no outstanding Medicaid liabilities.

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 Certificate of Amendment of the Amended and Restated Articles of Organization, acceptable to the Department. [CSL]
2. Submission of a photocopy of the applicants amended and executed Assignment of Leases and Rents, acceptable to the Department. [CSL]
3. Submission of a photocopy of the applicant's amended and executed 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]

Council Action Date

February 8, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Comprehensive Rehabilitation and Nursing Center at Williamsville	Comprehensive Rehabilitation and Nursing Center at Williamsville
Address	147 Reist Street Williamsville, NY. 14221	Same
RHCF Capacity	142	Same
ADHC Program Capacity	N/A	N/A
Type of Operator	Proprietary	Proprietary
Class of Operator	Limited Liability Company	Limited Liability Company
Operator	Comprehensive at Williamsville, LLC	Comprehensive at Williamsville, LLC
	<u>Members</u> David Gast 16.0% Ephram Lahasky 37.0% Joshua Farkovits 37.0% Samuel Halper 10.0%	<u>Members</u> David Gast 24.5% Ephram Lahasky 19.0% Joshua Farkovits 19.0% Samuel Halper 13.5% Debbie Korngut 11.5% Terry Lichtstein 7.5% Jeff Arem 5.0%

Character and Competence - Background

Facilities Reviewed

Meadow Park Rehabilitation and Health Care Center	09/2007 to present
<u>New Jersey Nursing Home</u>	
Riverside Nursing and Rehabilitation Center	04/2012 to present
<u>Pennsylvania Nursing Home</u>	
Brighton Rehabilitation and Wellness Center	11/2014 to present
<u>Minnesota Nursing Homes</u>	
Centennial Gardens for Nursing and Rehab	03/2016 to present
Hillcrest Care and Rehabilitation Center	07/2015 to present
Laurels Peak Care and Rehabilitation Center	07/2015 to present
Mala Strana Care and Rehabilitation Center	07/2015 to present
Meeker Manor Rehabilitation Center LLC	07/2016 to present
Oaklawn Care and Rehabilitation Center	07/2015 to present
The Estates at Bloomington	03/2017 to present
The Estates at Chateau LLC	03/2017 to present
The Estates at Delano LLC	03/2017 to present
The Estates at Excelsior LL	03/2017 to present
The Estates at Fridley LLC	03/2017 to present
The Estates at Greely LLC	03/2017 to present
The Estates at Linden LLC	03/2017 to present
The Estates at Lynnhurst LLC	03/2017 to present
The Estates at Roseville LLC	03/2017 to present
The Estates at Rush City LLC	03/2017 to present
The Estates at Twin Rivers LLC	03/2017 to present
The Gardens at Cannon Falls	03/2016 to present
The North Shore Estates LLC	07/2016 to present
Valley View Manor	09/2015 to present

Minnesota Assisted Living Facilities

Crystal Seasons Assisted Living	07/2015 to present
Laurels Edge Assisted Living	07/2015 to present
Mala Strana Assisted Living	07/2015 to present
The Green Prairie Rehab Center	07/2016 to present

Individual Background Review

Teresa Lichtschein is currently employed as a financial tracker for the Gissim Corporation. Ms. Lichtschein has a high school diploma from Esther Schoenfeld High School and discloses the following nursing home ownerships:

Meadow Park Rehabilitation and Health Care Center (7.5%)	12/1999 to present
Riverside Nursing and Rehabilitation Center (NJ) (7.6%)	04/2012 to present
Friendship Ridge Nursing Home (2%)	11/2014 to present

Debbie Korngut has no employment history and discloses no health facility ownerships.

Jeffrey Arem lists his employment as the Director of Sales for Alamo Mobile X-Ray and EKG Services located in Brooklyn, New York. He is also the sales and marketing representative for Pharmscript LLC, a long term care pharmacy. Mr. Arem has a high school diploma from Yeshiva Tiferas Torah and discloses the following ownership interests in health care facilities:

Centennial Gardens for Nursing and Rehabilitation (MN) 5%	03/2016 to present
Crystal Seasons Assisted Living (MN) (12.5%)	07/2015 to present
Hillcrest Care and Rehabilitation Center (MN) (12.5%)	07/2015 to present
Laurels Peak Care and Rehabilitation Center (MN) (12.5%)	07/2015 to present
Mala Strana Care and Rehabilitation Center (MN) (12.5%)	07/2015 to present
Oaklawn Care and Rehabilitation Center (MN) (12.5%)	07/2015 to present
The Gardens at Cannon Falls 5%	03/2016 to present
Valley View Manor (MN) (12.5%)	09/2015 to present
Laurels Edge Assisted Living (MN) (12.5%)	07/2015 to present
Mala Strana Assisted Living (MN) (12.5%)	07/2015 to present
Meeker Manor Rehabilitation Center LLC (MN) (14.25%)	07/2016 to present
The Estates at Bloomington (MN) (6%)	03/2017 to present
The Estates at Chateau LLC (MN) (6%)	03/2017 to present
The Estates at Delano LLC (MN) (6%)	03/2017 to present
The Estates at Excelsior LLC (MN) (6%)	03/2017 to present
The Estates at Fridley LLC (MN) (6%)	03/2017 to present
The Estates at Greely LLC (MN) (6%)	03/2017 to present
The Estates at Linden LLC (MN) (6%)	03/2017 to present
The Estates at Lynnhurst LLC (MN) (6%)	03/2017 to present
The Estates at Roseville LLC (MN) (6%)	03/2017 to present
The Estates at Rush City LLC (MN) (6%)	03/2017 to present
The Estates at Twin Rivers LLC (MN) (6%)	03/2017 to present
The Green Prairie Rehab Center (MN) (14.25%)	07/2016 to present
The North Shore Estates LLC (MN) (14.25%)	07/2016 to present
The Gardens at Cannon Falls MN) (5%)	03/2016 to present

Character and Competence - Analysis

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

A review of Meadow Park Rehabilitation and Health Care Center for the period identified above reveals the following:

- The facility was fined \$4,000 pursuant to a Stipulation and Order NH-17-08 issued January 31, 2017 for surveillance findings on October 19, 2016. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care Accident Free Environment and 10 NYCRR 415.26 Administration.
- The facility incurred a Civil Monetary Penalty of \$45,366.75 for the immediate jeopardy associated with the survey.

A review of operations for Riverside Nursing Home (NJ) for the period identified above reveals the following:

- A fine will be imposed for a July 2016 survey for the following: air temperature too high. The fine has not yet been processed by CMS.
- A Civil Monetary Penalty of \$173,110 has been recommended for a September 2, 2016 survey for the following: excessive hot water temperature, failure to report abuse incident, disabled resident not protected from abuse. The fine has not yet been processed by CMS.

A review of operations for Brighton Rehabilitation and Wellness Center a/k/a Friendship Ridge for the time period indicated above indicates there were no enforcements.

A review of the affidavit submitted for Centennial Gardens for Nursing and Rehab indicates the nursing home incurred a \$8,125 Civil Monetary Penalty for deficiency F323 from the December 22, 2016 survey.

A review of the affidavit submitted for The Gardens at Cannon Falls indicates the nursing home incurred a \$29,393 Civil Monetary Penalty for deficiency F309 from the December 1, 2016 survey.

A review of the affidavits submitted by the applicant for Hillcrest Care and Rehabilitation Center, Laurels Peak Care and Rehabilitation Center, Mala Strana Care and Rehabilitation Center, Meeker Manor Rehabilitation Center LLC, Oaklawn Care and Rehabilitation Center, The Estates at Bloomington, The Estates at Chateau, The Estates at Delano, The Estates at Excelsior, The Estates at Fridley, The Estates at Greely, The Estates at Linden, The Estates at Lynnhurst, The Estates at Roseville, The Estates at Rush City, The Estates at Twin Rivers, The Estates at Cannon Falls, The North Shore Estates, Valley View Manor, Crystal Seasons Assisted Living, Laurels Edge Assisted Living, and Mala Strang Assisted Living indicates there were no Civil Monetary Penalties imposed.

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures	Staffing	Quintile
Meadow Park Rehab Health Center LLC	*	*	****	*	5

NJ

Riverside Nursing and Rehabilitation Center	**	*	****	****
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PA

Brighton Rehabilitation and Wellness Center	*	*	***	*
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MN

Hillcrest Care & Rehabilitation Center	*****	****	*****	*****
Laurels Peak Care & Rehabilitation Center	***	**	**	****
Mala Strana Care & Rehabilitation Center	****	***	***	****
Oaklawn Care & Rehabilitation Center	****	***	*****	**
Valley View Manor HCC	*****	***	*****	****
The North Shore Estates LLC	*****	****	*****	****
The Green Prairie Rehabilitation Center	****	****	****	***

*Nursing home ownerships of one year or less are not included.

The applicant has provided analyses regarding the low rating for Meadow Park Rehab Health Center LLC (Meadow Park) and Brighton Rehabilitation and Wellness Center (Brighton). Regarding Meadow Park, the applicants notes the low overall rating stems from the Immediate Jeopardy declared in 2016. Meadow Park has a quality improvement program in place and conducts quarterly Quality Assurance meetings to identify potential issues and other areas of concern to enhance the quality of services and programs. Meadow Park has hired a clinical professional to facilitate and oversee medical aspects and to improve quality measures including decreasing hospitalization. The applicant attributes the low rating for Brighton on poor surveys in 2016.

Project Review

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

Conclusion

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.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Purchase Option Agreements

Executed purchase option agreements between each buyer and seller for the partial transfer of ownership have been submitted, as detailed below.

Execution Dates:	March 31, 2015 and July 27, 2015
Sellers:	Ephram Lahasky and Josh Farkovits
Buyers:	David Gast, Sam Halper, Jeff Arem, Debbie Korngut, Teresa Lichtschein
Percentage Purchased:	David Gast (8.5%), Sam Halper (3.5%), Jeff Arem (5%), Debbie Korngut (11.5%), Teresa Lichtschein (7.5%)
Purchase Price:	Total purchase price is \$6 for the 36% ownership transfer (paid).

Capability and Feasibility

There are no project costs associated with this application. The total purchase price for the 36% transfer of ownership is \$6 and has been paid in full. BFA Attachment A is the personal net worth statements of the proposed new shareholders, which shows sufficient liquid resources to cover the purchase price.

No budget analysis was necessary as this is a 36% transfer of ownership interest. Four current members are remaining in the ownership structure with majority interest, and the RHCF is not proposing to change its business model, which has historically been profitable. The facility has no outstanding Medicaid liabilities.

BFA Attachment B is the 2013-2014 certified financial summary of St. Francis Home of Williamsville. As shown, the facility had an average negative working capital position, an average negative net asset position and generated an average net loss of \$1,134,000 for the period. The operating losses and the negative working capital position during 2013 and 2014 were due to excess staffing costs and low occupancy levels. To improve operations the current members, as the new operators of the RHCF effective May 5, 2015, implemented staffing reductions where applicable and renegotiated the labor contract.

BFA Attachment C is a financial summary of Comprehensive Rehabilitation and Nursing Center at Williamsville for 2015 (eight-month internals), 2016 (certified) and 2017 (internals as of October 31,

2017). As shown, the facility had average positive working capital and net asset positions, achieved an average net income of \$922,062 for the period May 1, 2015 - December 31, 2016, and had a net loss of \$116,143 for the period ending October 31, 2017. The reason for the net loss in 2017 was due to the inclusion of depreciation in the amount of \$324,000 in the income statement. Excluding depreciation (non-cash expense), the facility would have had a net income of \$207,857 for the period.

BFA Attachment D is Meadow Park Rehabilitation and Health Care Center's 2013-2016 certified and internal financial statements as of October 31, 2017. As shown, the facility has an average positive working capital position and an average negative net asset position for the period. In addition, the facility had an average net income of \$879,998 for the period 2013-2016 and a net income of \$739,783 for the period ending October 31, 2017. The loss in 2013 was due to the facility having lower occupancy levels than projected and a large one-time Medicaid recoupment during the period.

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 Personal Net Worth Statements of members of Comprehensive Rehabilitation and Nursing Center at Williamsville
- BFA Attachment B 2013-2014 Certified and Internal Financial Summary- St. Francis Home of Williamsville
- BFA Attachment C May 1, 2015 - December 31, 2015 Internal, 2016 Certified and as of October 31, 2017 Internal Financial Summary of Comprehensive Rehabilitation and Nursing Center at Williamsville
- BFA Attachment D 2013-2016 Certified and as of October 31, 2017 Internal Financial Summary for Meadow Park Rehabilitation and Health Care Center



Project # 171175-E
GORNC Operating, LLC d/b/a Gowanda Rehabilitation and Nursing Center

Program: Residential Health Care Facility
Purpose: Establishment

County: Cattaraugus
Acknowledged: March 24, 2017

Executive Summary

Description

GORNC Operating, LLC, a New York limited liability company, requests approval to be established as the new operator of Gowanda Rehabilitation and Nursing Center, a 160-bed, proprietary, Article 28 residential health care facility (RHCF) located at 100 Miller Street, Gowanda (Cattaraugus County). GNH, LLC is the current operator of the facility. Upon approval of this application, the entity will do business as Gowanda Rehabilitation & Nursing Center. There will be no change in beds or services provided.

On September 13, 2016, GNH, LLC entered into an Operations Transfer and Surrender Agreement (OTSA) with GNH, LLC to transfer its sole rights and obligations as operator of the facility to GORNC Operating, LLC, effective upon approval by the Public Health and Health Planning Council. There is no purchase price related to the transfer/surrender of the operations. The current operator desires to divest itself of the operations of the facility and all of its interest in the tangible and intangible property and other interest to the operation and/or management of the facility. Concurrently, 100 Miller Street, LLC, the current real property owner, entered into a Contract of Sale (COS) with GORNC Realty, LLC for the sale and acquisition of the RHCF's real property for \$16,000,000. The COS will close upon approval of the change in operator. There is a relationship between GORNC Operating, LLC and GORNC Realty, LLC in that there are familial relationships between the members.

The applicant will lease the premises from GORNC Realty, LLC.

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

Table with 2 columns: Members, Percentage. Title: Current Operator GNH, LLC. Rows: Nathan Stern (40%), Moshe Scheiner (60%).

Table with 2 columns: Member, Percentage. Title: Proposed Operator GORNC Operating, LLC. Rows: GORNC Holdings, LLC (100%), Batia Zagelbaum (17.5%), Esther R. Barth (37.5%), Chaya S. Walden (15.0%), Yechiel Zagelbaum (15.0%), Yoel Zagelbaum (15.0%).

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

Table with 2 columns: Member, Percentage. Title: Current Owner 100 Miller Street, LLC. Row: Teddy Lichtschein (100%).

Table with 2 columns: Members, Percentage. Title: Proposed Owner GORNC Realty, LLC. Rows: Ephraim Zagelbaum (47.5%), Alexander Barth (37.5%), Yehudah J. Walden (15%).

Concurrently under review is CON 171392 in which the same proposed members are seeking approval for ownership interest in Orchard Manor Rehabilitation and Nursing Center.

OPCHSM Recommendation
Contingent Approval

Need Summary
The Gowanda Rehabilitation and Nursing Center's occupancy was 95.4% in 2012, 95.6% in 2013, 95.3% in 2014 and 96.4% in 2015.

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. The applicant does not intend to utilize any

staffing agencies upon their assumption of ownership.

Financial Summary

GORNC Operating, LLC will acquire the operations under the terms of the OTSA. There is no purchase price related to this transaction. GORNC Realty, LLC will acquire the RHCF's real property for \$16,000,000 funded via \$1,600,000 in equity with the remaining \$14,400,000 to be financed with a loan for a ten-year term at 5% interest. Greystone Funding Corporation has provided a letter of interest for the loan at the stated terms. The proposed budget is as follows:

	<u>Year One</u>
Revenues	\$17,719,744
Expenses	<u>17,113,040</u>
Net Income	\$606,704

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 loan commitment for the purchase of the RHCF realty, acceptable to the Department of Health. [BFA]
2. Submission of an executed lease agreement, 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 a photocopy of the Operating Agreement of GORNC Operating, LLC, which is acceptable to the department. [CSL]
5. Submission of a photocopy of a lease for the facility, which is acceptable to the department. [CSL]
6. Submission of a photocopy of the Articles of Amendment of the Articles of Organization of GORNC Operating, LLC, which is acceptable to the department. [CSL]
7. Submission of a photocopy of a Certificate of Amendment of the Articles of Organization of GORNC Holdings, LLC, which is acceptable to the department. [CSL]
8. Submission of a photocopy of the Operating Agreement of GORNC Holdings, LLC, which is acceptable to the department. [CSL]

Approval conditional upon:

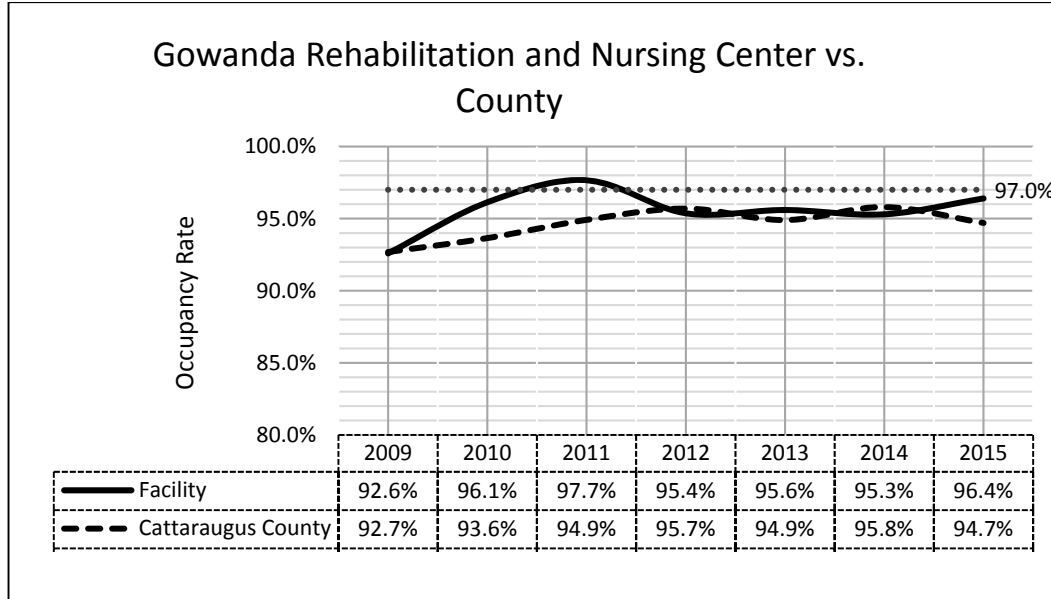
1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

February 8, 2018

Need Analysis

In 2015 the overall occupancy for Cattaraugus County was 94.7% and 96.4% for the facility.



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.

Gowanda Rehabilitation and Nursing Center's Medicaid admissions rate has consistently exceeded the threshold of 75% of the Cattaraugus County rate, as demonstrated in the table below.

Percent of New RHCFA Admissions that are Medicaid	2013	2014	2015
Cattaraugus County 75% Threshold	19.7%	19.4%	20.1%
Gowanda Rehabilitation and Nursing Center	34.3%	32.4%	30.2%

Conclusion

Cattaraugus County has maintained a RHCFA occupancy close to planning standards. The Gowanda Rehabilitation and Nursing Center has exceeded County planning thresholds for Medicaid admissions as well as overall occupancy. This change in ownership should not negatively impact access or quality of care, and will enable the new owners to continue providing this well-utilized service.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Gowanda Rehabilitation and Nursing Center	Same
Address	100 Miller Street Gowanda	Same
RHCF Capacity	160	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Same
Operator	GNH, LLC	GORNC Operating, LLC GORNC Holdings, LLC 100% Batia Zagelbaum (17.5%) Esther R. Barth (37.5%) Chaya Walden (15.0%) Yechiel Zagelbaum (15.0%) Yoel Zagelbaum (15.0%)

Character and Competence - Background

Facilities Reviewed

Tarrytown Hall Care Center	04/2008 to present
Alpine Rehabilitation and Nursing Center	07/2009 to present
Norwich Rehabilitation and Nursing Center	01/2011 to present
Highland Rehabilitation and Nursing Center	02/2013 to present
Utica Rehabilitation and Nursing Center	02/2015 to present

Massachusetts Nursing Homes

Cambridge Rehabilitation and Nursing Center	09/2010 to present
Medford Rehabilitation and Nursing Center	04/2012 to present
Rehabilitation and Nursing Center at Everett	01/2013 to 07/2017

Individual Background Review

Batia Zagelbaum is currently employed as a Midwife for Maternal Resources OB, PC. She holds a Certified Nurse-Midwife License in both NY and NJ, a Nurse Practitioner Obstetrics/Gynecology in NY, and a RN license in NY and NJ. All are in good standing. Ms. Zagelbaum discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [9%]	03/2017 to present
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Esther Barth has no employment history for the past 10 years, and she holds no professional licenses. Ms. Barth discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [8%]	03/2017 to present
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Chaya Walden is employed in the Accounts Payable office at Windsor Healthcare Management. She holds no professional licenses. Ms. Walden discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [7%]	03/2017 to present
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Yechiel Zagelbaum has been a pediatrician in private practice in Brooklyn, NY since 2002. Dr. Zagelbaum is a New York State Physician with license in good standing; and current certification in general pediatrics. Mr. Zagelbaum discloses the following health facility ownership interests:

Tarrytown Hall Care Center [13.5%]	04/2008 to present
Alpine Rehabilitation and Nursing Center [5%]	07/2009 to present
Norwich Rehabilitation and Nursing Center [15%]	01/2011 to present
Highland Rehabilitation and Nursing Center [10%]	02/2013 to present

Utica Rehabilitation and Nursing Center [5%]	02/2015 to present
Delhi Rehabilitation and Nursing Center[2%]	01/2018 to present
Cambridge Rehabilitation and Nursing Center [10%](MA)	09/2010 to present
Medford Rehabilitation and Nursing Center [10%] (MA)	04/2012 to present
Rehabilitation and Nursing Center at Everett [5%] (MA)	01/2013 to 07/2017
Yorktown Rehabilitation & Nursing Center pending. PHHPC approval June 13, 2016.	

Yoel Zagelbaum is an Attorney with the NYS Bar Association and also a Patent attorney in good standing. Mr. Zagelbaum is currently the President at Riverside Abstract, LLC, which is a Title Insurance business. He discloses the following ownership interests:

Tarrytown Hall Care Center [13.5%]	04/2008 to present
Alpine Rehabilitation and Nursing Center [5%]	07/2009 to present
Norwich Rehabilitation and Nursing Center [15%]	01/2011 to present
Highland Rehabilitation and Nursing Center [10%]	02/2013 to present
Utica Rehabilitation and Nursing Center [5%]	02/2015 to present
Delhi Rehabilitation and Nursing Center [2%]	01/2018 to present
Cambridge Rehabilitation and Nursing Center [10%] (MA)	09/2010 to present
Medford Rehabilitation and Nursing Center [10%] (MA)	04/2012 to present
Rehabilitation and Nursing Center at Everett [5%] (MA)	01/2013 to 07/2017

Character and Competence - Analysis

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

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

- The facility was fined \$10,000 pursuant to a Stipulation and Order NH-17-055 issued for surveillance findings on September 12, 2017. A deficiency was found under 10 NYCRR 415.12 Quality of Care Highest Practicable Potential.
- The facility incurred a Civil Monetary Penalty of \$7,023.25 for the immediate jeopardy associated with the survey.

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

- The facility was fined \$2,000 pursuant to a Stipulation and Order NH-18-002 issued for surveillance findings on September 12, 2017. A deficiency was found under 10 NYCRR 415.5(h)(4) Environment Comfortable and Safe Temperature Level.

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 a reasonably prudent operator would take to prevent the recurrence of the violation.

A review of Utica Rehabilitation and Nursing Center for the period identified above revealed the following:

- The facility was fined \$6,000 pursuant to a Stipulation & Order #18-001 for surveillance findings on December 21, 2016, March 25, 2016 and June 30, 2017. Deficiencies were found under 10 NYCRR 415.12 Quality of Care- Highest Practicable Potential; 415.26 Administration; and 415.4(b)(3) Staff Treatment of Residents/ Investigate. The noted Stipulation & Order omitted F tags 415.12 Quality of Care- Highest Practicable Potential and 415.26 Administration.
- An assessment of the underlying causes of the above enforcement indicates that although the deficiency cited under 10NYCRR 415.4(b)(3) was recurrent in nature, they were for low level D deficiencies.
- The facility incurred a Civil Monetary Penalty of \$11,731.85 for the immediate jeopardy associated with the survey.

A review of operations for Alpine Rehabilitation and Nursing Center, Tarrytown Hall Care Center and Orchard Manor Rehabilitation and Nursing for the periods identified above revealed that there were no enforcements.

An affidavit submitted by the applicant for Medford Rehabilitation and Nursing Center, Massachusetts revealed that the facility paid an enforcement of \$96,785 for findings on 2/27/13. Deficiencies were cited under §483.25 – Quality of Care with a scope and severity of L. The affidavit submitted by the applicant revealed that a federal CMP was assessed for June 8, 2016 survey findings. This is still in the appeal process, and no fine has been paid.

An affidavit submitted by the applicant for Rehabilitation and Nursing Center at Everett, Massachusetts revealed that the facility paid an enforcement of \$49,400 for findings on 6/4/13. Deficiencies were cited under §483.10(b)(3) (d)(2)–Informed of Health Status / Medical Condition with a scope and severity of G.

An affidavit submitted by the applicant for Cambridge Rehabilitation and Nursing Center, Massachusetts for the period identified above revealed that the facility was fined \$2,275 pursuant to surveillance findings on 1/12/15. Deficiencies were cited under §483.20(k)(3)(ii) – Qualifications of Facility Staff with a scope and severity of G.

The affidavits provided by the applicant for the above facilities indicate that none of the MA facilities have repeat deficiencies.

Yechiel and Yoel Zagelbaum have an ownership interest in Delhi Nursing & Rehabilitation Center. The review of operations is not included since the facility opened on January 2, 2018.

Quality Review

Provider name	Overall	Health Inspection	Quality Measures	Staffing	Quintile
Highland Rehabilitation and Nursing Center	**	**	****	***	3
Utica Rehabilitation & Nursing Center	*	*	***	***	5
Tarrytown Hall Care Center	*****	****	*****	***	4
Orchard Manor Rehabilitation and Nursing Center	*	*	**	*	5
Norwich Rehabilitation & Nursing Center	**	**	***	***	4
Alpine Rehabilitation and Nursing Center	**	**	**	***	5

MA

Cambridge Rehabilitation & Nursing Center	***	**	*****		
Medford Rehabilitation and Nursing Center	*	*	****	***	

With regard to the homes with quality ratings of one or two, the applicant noted the low ratings are mainly attributed to poor survey results, while in most cases quality measure ratings are higher. The applicant is working to make significant improvements to their older buildings, according to their statement. It is stated that new management personnel have been hired as well as clinical leadership, who have implemented new policies and systems to increase the level of care and overall performance of their facilities. The applicant adds they have “high levels of direct care retention rates”.

It is noted that Utica Rehabilitation and Orchard Manor have been owned less than three years and the nursing homes had low ratings prior to the change of ownership.

Project Review

No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application. The applicant does not intend to utilize any staffing agencies upon their assumption of ownership.

Conclusion

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

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Operations Transfer and Surrender Agreement

The applicant submitted an executed OTSA to acquire the RHCF's operating interest. The agreement will become effectuated upon PHHPC approval of this CON. The terms are summarized below:

Date:	September 13, 2016
Transferor:	GNH, LLC
Transferee:	GORNC Operating, LLC
Asset Acquired:	All furniture, fixtures, furnishing, equipment, appliances, tools, instruments, machinery, computers, computer equipment & hardware, office equipment, vehicles and other transportation equipment, parts, supplies other tangible personal property owned by Transferor. All contracts, agreements, leases, purchase orders, insurance policies, other arrangements that are transferable. All menus, policies, manuals, training material, marketing, sales/promotional materials, and intellectual property. All administrative records, financial books/records, payroll records, medical records. Also, goodwill, petty cash, Medicare and Medicaid Provider #'s, and all other assets.
Excluded Assets:	Cash, licenses and permits not transferable, marketable securities, any grant award by Government Entity related to facility operation prior to closing, funds from all rate adjustments/appeals relating to service prior to close, all accounts receivable.
Purchase Price:	\$0

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 October 26, 2017, the facility had a nominal outstanding Medicaid overpayment liability of \$24,014.

Contract of Sale

Date:	September 13, 2016
Seller:	100 Miller Street, LLC
Buyer:	GORNC Realty, LLC
Asset Acquired:	160-bed skilled nursing home located at 100 Miller Street, Gowanda New York which includes all real property, equipment, and assignable permits and warranties.
Assumption of Liabilities:	Seller shall retain all liabilities
Purchase Price:	\$16,000,000
Payment of the Purchase Price:	\$250,000 deposit held in escrow; and \$15,750,000 due at Closing.

The purchase price of the real property will be satisfied as follows:

Equity	\$1,600,000
Loan (10 years, 5% interest)	<u>\$14,400,000</u>
Total	\$16,000,000

Greystone Funding Corporation has provided a letter of interest for the financing at the stated terms. BFA Attachment A provides the realty members' net worth summaries, which shows sufficient liquid resources to meet the equity requirements.

Lease Agreement

A draft lease has been submitted to lease the RHCF real property. The terms are summarized below:

Premises:	160-bed RHCF located at 100 Miller St., Gowanda, NY
Landlord:	GORNC Realty, LLC
Lessee:	GORNC Operating, LLC
Term:	10-year Initial Term with renewals via automatic one year extensions for a total term of 20 years from the Commencement Date.
Rental:	\$1,157,628 (base rent \$927,628 + property tax/insurance \$230,000)
Provisions:	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 through common ownership

Operating Budget

The applicant has provided an operating budget, in 2017 dollars, for the first year of operation after the change in ownership. The budget is summarized below:

Revenue	Current Year (2016)		Year One	
	Per Diem	Total	Per Diem	Total
Commercial - FFS		\$0	\$274.81	1,886,851
Medicare - FFS	\$519.07	6,235,575	\$585.03	6,485,015
Medicaid - FFS	\$242.41	9,021,638	\$240.05	6,893,868
Medicaid - MC		0	\$240.04	1,723,467
Private Pay/Other	\$419.61	<u>2,973,332</u>	\$489.28	<u>1,217,340</u>
Total Revenue		\$18,230,545		\$18,206,541
Expenses	Per Diem	Total	Per Diem	Total
Operating	\$210.23	16,099,400	\$201.76	15,889,949
Capital	<u>\$12.26</u>	<u>1,884,664</u>	<u>\$34.78</u>	<u>1,223,091</u>
Total Expenses	\$222.49	17,984,064	\$236.54	17,113,040
Net Income		<u>\$246,481</u>		<u>\$1,093,501</u>
Utilization (Patient Days)		56,315		56,337
Occupancy		96%		96%

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

- Medicare's per diem rate for Year One is based on the facility's most current average rate of payment, which also includes Medicare Part B and ancillary revenue.
- Commercial – Fee-for-Service revenue was included in Private Pay revenue in the Current year. In Year One is appropriately split between the two.
- All other revenue is based on the current operator's model and then adjusted based on the experience of the applicant.
- Expense assumptions are based on the current operator's model and then adjusted based on the applicant's experience. This includes reducing Plant Operations expense by \$455,263 and a reduction in Rent/Depreciation of \$520,735 that is attributable to the new lease contract.
- The projected utilization for the facility is 96% in Year One and Year Three. It is noted that utilization for the past three years has averaged around 96%.

- Utilization by payor source for the first year after the change in ownership is summarized below:

	<u>Current Year</u>	<u>Year One</u>
Commercial - FFS	0.00%	12.19%
Medicare - FFS	21.33%	19.68%
Medicaid - FFS	66.09%	50.98%
Medicaid - MC	0.00%	12.74%
Private Pay/Other	<u>12.58%</u>	<u>4.42%</u>
	100.00%	100.00%

- The breakeven utilization is projected at 93.2% or 54,408 patient days for the Year One.

Capability and Feasibility

There is no purchase price for the RHCF's operating interest as it will be assigned via an Operations Transfer and Surrender Agreement. There are also no project costs associated with this application. The realty will be purchased for \$16,000,000 funded via \$1,600,000 in the realty members' equity, and a \$14,400,000 ten-year loan at 5% interest. Greystone Funding Corporation has provided a letter of interest. BFA Attachment A is the realty members' net worth summaries, which shows sufficient liquid resources to meet the realty equity noted above.

The working capital requirement is estimated at \$2,852,173 based on two months of Year One expenses. The applicant indicated they will provide \$1,426,087 in working capital to be funded via members' equity with the remaining \$1,426,086 to be satisfied through a five-year term loan at 5% interest. Greystone Funding Corporation has provided a letter of interest. BFA Attachment A is the members' net worth summaries, which shows sufficient liquid resources to meet the working capital equity requirements.

The submitted budget projects net profit of \$46,481 in Year One after the change in ownership. Revenues are estimated to remain approximately the same, while overall expenses are expected to decrease by approximately \$800,000 due mostly to a \$520,735 decrease in rent/depreciation expense from a new lease agreement, and a decrease of \$455,263 in plant operations attributable to the expertise of the new owners. BFA Attachment D is the pro forma balance sheet of both GORNC Operating, LLC and GORNC Realty LLC, which shows the operation entity will start with positive members' equity. The budget appears reasonable.

Implementation of the transition of nursing home (NH) residents to Medicaid managed care is ongoing. Under the managed care construct, Managed Care Organizations (MCOs) negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the Medicaid FFS rate as a benchmark, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. The transition period has been extended out to 2020; hence, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment B is a Financial Summary of Gowanda Rehabilitation and Nursing Center, LLC's 2015-2016 certified financial statements and internal financial statements through August 31, 2017. As shown, the entity had an average positive working capital position, average positive net assets, and an average positive income for the periods shown.

BFA Attachment C is a financial summary of the NYS affiliated nursing homes of proposed members Yoel Zigelbaum and Yechiel Zigelbaum, which shows that all nursing homes having average positive working capital position, average positive net assets, and an average positive income for the periods presented.

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: GORNC Operating, LLC and GORNC Realty, LLC
- BFA Attachment B Financial Summary of Gowanda Rehabilitation and Nursing Center
- BFA Attachment C Proposed Members' Affiliated RHCFC Ownership Interest and Financial Summary
- BFA Attachment D Pro Forma Balance Sheet, GORNC Operating, LLC
- BFA Attachment E Organizational Chart



Project # 171392-E
ORRNC Operating, LLC d/b/a Orchard Manor Rehabilitation and Nursing Center

Program: Residential Health Care Facility
Purpose: Establishment

County: Orleans
Acknowledged: June 1, 2017

Executive Summary

Description

ORRNC Operating, LLC d/b/a Orchard Rehabilitation & Nursing Center, a New York limited liability company, requests approval to be established as the new operator of Orchard Manor Rehabilitation and Nursing Center, a 160-bed, proprietary, Article 28 Residential Health Care Facility (RHCF) located at 600 Bates Road, Medina (Orleans County). A separate entity, ORRNC Realty, LLC, will acquire the real property. OMOP LLC is the current RHCF operator and 600 Bates Road LLC is the current real property owner. There will be no change in beds or services provided.

On September 13, 2016, OMOP LLC, entered into an Operations Transfer and Surrender Agreement (OTSA) with ORRNC Operating, LLC wherein OMOP LLC assigned its sole rights to act as operator of the facility to ORRNC Operating, LLC for \$1,000,000. The OTSA transaction is effective upon approval by the Public Health and Health Planning Council.

Concurrently on September 13, 2016, 600 Bates Road LLC entered into a Contract of Sale (COS) with ORRNC Realty, LLC, a New York limited liability company, for the purchase of the real property and certain other assets for \$15,000,000. Closing of the property sale took place on March 1, 2017. In accordance with the COS, ORRNC Realty, LLC assumed the existing lease and became the landlord to OMOP, LLC. Upon approval of this application, ORRNC Operating, LLC will lease the premises from ORRNC Realty, LLC for an initial term of 10 years. There is a relationship between landlord

and tenant in that the members are identical.

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

Table with 2 columns: Members, %
Current Operator: OMOP, LLC
Members: Moshe Scheiner (76.0%), Batia Zaglebaum (9.0%), Esther Barth (8.0%), Chaya Walden (7.0%)

Table with 2 columns: Member, %
Proposed Operator: ORRNC Operating, LLC
Members: ORRNC Holdings, LLC (100%), Batia Zaglebaum (17.5%), Ester Barth (37.5%), Chaya Walden (15.0%), Yoel Zaglebaum (15.0%), Yechiel Zaglebaum (15.0%)

The members of ORRNC Realty, LLC are as follows:

Table with 2 columns: Members, %
ORRNC Realty, LLC
Members: Batia Zaglebaum (17.5%), Ester Barth (37.5%), Chaya Walden (15.0%), Yoel Zaglebaum (15.0%), Yechiel Zaglebaum (15.0%)

Concurrently under review is CON 171175 in which the same proposed members are seeking approval for ownership interest in Gowanda Rehabilitation & Nursing Center.

OPCHSM Recommendation
Contingent Approval

Need Summary
Orchard Manor Rehabilitation and Nursing Center's occupancy was 92.2% in 2012, 89.4% in 2013, 95.1% in 2014 and 92.3% in 2015.

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. The applicant does not intend to utilize any staffing agencies upon their assumption of ownership.

Financial Summary

There are no project costs associated with this application. ORRNC Operating, LLC will acquire the operations under the terms of the OTSA for a purchase price of \$1,000,000. ORRNC Realty, LLC has acquired the RHCF's real property for \$15,000,000 funded via \$2,200,000 equity from the realty members and a bank loan for \$12,800,000 from M&T Bank at 5.23% interest with a five-year term and 25-year amortization. The real property owner has informed the Department that it is their intention to pursue a HUD mortgage by the end of the five-year term. The real property closing took place on March 1, 2017. The proposed budget is as follows:

	<u>Year One</u>
Revenues	\$15,096,722
Expenses	<u>12,998,965</u>
Gain	\$2,097,757

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 and fully executed Operating Agreement, acceptable to the Department. [CSL]
2. Submission of a photocopy of the amended and fully executed Operating Agreement of ORRNC Holdings, LLC, acceptable to the Department. [CSL]
3. Submission of a photocopy of the applicant's fully executed Contract of Sale, 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]

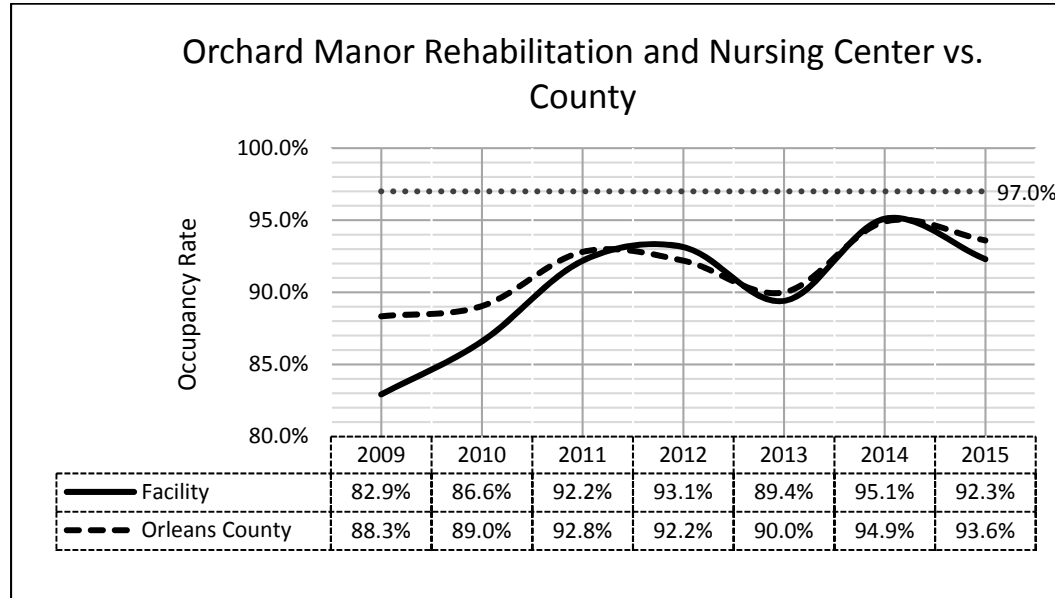
Council Action Date

February 8, 2018

Need Analysis

Analysis

In 2015 the overall occupancy for Orleans County was 93.6% and 92.3% for the facility.



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.

Orchard Manor Rehabilitation and Nursing Center's Medicaid admissions rate has consistently exceeded the threshold of 75% of the Orleans County rate, as demonstrated in the table below. In addition to maintaining a strong occupancy, the new ownership intends to maintain a high Medicaid admissions rate.

Percent of New RHCFA Admissions that are Medicaid	2013	2014	2015
Orleans County 75% Threshold	23.5%	29.6%	25.7%
Orchard Manor Rehabilitation and Nursing Center	41.6%	36.5%	37.1%

Conclusion

Although occupancy in Orleans County and at Orchard Manor Rehabilitation and Nursing Center has been below Department planning thresholds, there is a strong upward trend. Furthermore, Orchard Manor has maintained a high rate of new Medicaid admission.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Orchard Manor Rehabilitation and Nursing Center	Same
Address	600 Bates Road	Same
RHCF Capacity	160	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Same
Operator	OMOP, LLC	ORRNC Operating, LLC ORRNC Holdings, LLC 100% Batia Zagelbaum (17.5%) Esther R. Barth (37.5%) Chaya Walden (15.0%) Yechiel Zagelbaum (15.0%) Yoel Zagelbaum (15.0%)

Character and Competence - Background

Facilities Reviewed

Tarrytown Hall Care Center	04/2008 to present
Alpine Rehabilitation and Nursing Center	07/2009 to present
Norwich Rehabilitation and Nursing Center	01/2011 to present
Highland Rehabilitation and Nursing Center	02/2013 to present
Utica Rehabilitation and Nursing Center	02/2015 to present

Massachusetts Nursing Homes

Cambridge Rehabilitation and Nursing Center	09/2010 to present
Medford Rehabilitation and Nursing Center	04/2012 to present
Rehabilitation and Nursing Center at Everett	01/2013 to 07/2017

Individual Background Review

Batia Zagelbaum is currently employed as a Midwife for Maternal Resources OB, PC. She holds a Certified Nurse-Midwife License in both NY and NJ, a Nurse Practitioner Obstetrics/Gynecology in NY, and a RN license in NY and NJ. All are in good standing. Ms. Zagelbaum discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [9%]	03/2017 to present
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Esther Barth has no employment history for the past 10 years, and she holds no professional licenses. Ms. Barth discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [8%]	03/2017 to present
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Chaya Walden is employed in the Accounts Payable office at Windsor Healthcare Management. She holds no professional licenses. Ms. Walden discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [7%]	03/2017 to present
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Yechiel Zagelbaum has been a pediatrician in private practice in Brooklyn, NY since 2002. Dr. Zagelbaum is a New York State Physician with license in good standing; and current certification in general pediatrics. Mr. Zagelbaum discloses the following health facility ownership interests:

Tarrytown Hall Care Center [13.5%]	04/2008 to present
Alpine Rehabilitation and Nursing Center [5%]	07/2009 to present
Norwich Rehabilitation and Nursing Center [15%]	01/2011 to present
Highland Rehabilitation and Nursing Center [10%]	02/2013 to present
Utica Rehabilitation and Nursing Center [5%]	02/2015 to present

Delhi Rehabilitation and Nursing Center[2%]	01/2018 to present
Cambridge Rehabilitation and Nursing Center [10%](MA)	09/2010 to present
Medford Rehabilitation and Nursing Center [10%] (MA)	04/2012 to present
Rehabilitation and Nursing Center at Everett [5%] (MA)	01/2013 to 07/2017
Yorktown Rehabilitation & Nursing Center pending. PHHPC approval June 13, 2016.	

Yoel Zagelbaum is an Attorney with the NYS Bar Association and also a Patent attorney in good standing. Mr. Zagelbaum is currently the President at Riverside Abstract, LLC, which is a Title Insurance business. He discloses the following ownership interests:

Tarrytown Hall Care Center [13.5%]	04/2008 to present
Alpine Rehabilitation and Nursing Center [5%]	07/2009 to present
Norwich Rehabilitation and Nursing Center [15%]	01/2011 to present
Highland Rehabilitation and Nursing Center [10%]	02/2013 to present
Utica Rehabilitation and Nursing Center [5%]	02/2015 to present
Delhi Rehabilitation and Nursing Center [2%]	01/2018 to present
Cambridge Rehabilitation and Nursing Center [10%] (MA)	09/2010 to present
Medford Rehabilitation and Nursing Center [10%] (MA)	04/2012 to present
Rehabilitation and Nursing Center at Everett [5%] (MA)	01/2013 to 07/2017

Character and Competence - Analysis

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

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

- The facility was fined \$10,000 pursuant to a Stipulation and Order NH-17-055 issued for surveillance findings on September 12, 2017. A deficiency was found under 10 NYCRR 415.12 Quality of Care Highest Practicable Potential.
- The facility incurred a Civil Monetary Penalty of \$7,023.25 for the immediate jeopardy associated with the survey.

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

- The facility was fined \$2,000 pursuant to a Stipulation and Order NH-18-002 issued for surveillance findings on September 12, 2017. A deficiency was found under 10 NYCRR 415.5(h)(4) Environment Comfortable and Safe Temperature Level.

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 a reasonably prudent operator would take to prevent the recurrence of the violation.

A review of Utica Rehabilitation and Nursing Center for the period identified above revealed the following:

- The facility was fined \$6,000 pursuant to a Stipulation & Order #18-001 for surveillance findings on December 21, 2016, March 25, 2016 and June 30, 2017. Deficiencies were found under 10 NYCRR 415.12 Quality of Care- Highest Practicable Potential; 415.26 Administration; and 415.4(b)(3) Staff Treatment of Residents/ Investigate. The noted Stipulation & Order omitted F tags 415.12 Quality of Care- Highest Practicable Potential and 415.26 Administration.
- An assessment of the underlying causes of the above enforcement indicates that although the deficiency cited under 10NYCRR 415.4(b)(3) was recurrent in nature, they were for low level D deficiencies.
- The facility incurred a Civil Monetary Penalty of \$11,731.85 for the immediate jeopardy associated with the survey.

A review of operations for Alpine Rehabilitation and Nursing Center, Tarrytown Hall Care Center and Orchard Manor Rehabilitation and Nursing for the periods identified above revealed that there were no enforcements.

An affidavit submitted by the applicant for Medford Rehabilitation and Nursing Center, Massachusetts revealed that the facility paid an enforcement of \$96,785 for findings on 2/27/13. Deficiencies were cited under §483.25 – Quality of Care with a scope and severity of L. The affidavit submitted by the applicant revealed that a federal CMP was assessed for June 8, 2016 survey findings. This is still in the appeal process, and no fine has been paid.

An affidavit submitted by the applicant for Rehabilitation and Nursing Center at Everett, Massachusetts revealed that the facility paid an enforcement of \$49,400 for findings on 6/4/13. Deficiencies were cited under §483.10(b)(3) (d)(2)–Informed of Health Status / Medical Condition with a scope and severity of G.

An affidavit submitted by the applicant for Cambridge Rehabilitation and Nursing Center, Massachusetts for the period identified above revealed that the facility was fined \$2,275 pursuant to surveillance findings on 1/12/15. Deficiencies were cited under §483.20(k)(3)(ii) – Qualifications of Facility Staff with a scope and severity of G.

The affidavits provided by the applicant for the above facilities indicate that none of the Massachusetts facilities have repeat deficiencies.

Yechiel and Yoel Zagelbaum have an ownership interest in Delhi Nursing & Rehabilitation Center. The review of operations is not included since the facility opened on January 2, 2018.

Quality Review

Provider name	Overall	Health Inspection	Quality Measures	Staffing	Quintile
Highland Rehabilitation and Nursing Center	**	**	****	***	3
Utica Rehabilitation & Nursing Center	*	*	***	***	5
Tarrytown Hall Care Center	*****	*****	*****	***	4
Orchard Manor Rehabilitation and Nursing Center	*	*	**	*	5
Norwich Rehabilitation & Nursing Center	**	**	***	***	4
Alpine Rehabilitation and Nursing Center	**	**	**	***	5

MA

Cambridge Rehabilitation & Nursing Center	***	**	*****	
Medford Rehabilitation and Nursing Center	*	*	****	***

For the homes with quality ratings of one or two, the applicant noted the low ratings are mainly attributed to poor survey results, while in most cases quality measure ratings are higher. The applicant is working to make significant improvements to their older buildings, according to their statement. It is stated that new management personnel have been hired as well as clinical leadership, who have implemented new

policies and systems to increase the level of care and overall performance of their facilities. The applicant adds they have “high levels of direct care retention rates”.

It is noted that Utica Rehabilitation and Orchard Manor have been owned less than three years and the nursing homes had low ratings prior to the change of ownership.

Project Review

No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application. The applicant does not intend to utilize any staffing agencies upon their assumption of ownership.

Conclusion

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

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Operations Transfer and Surrender Agreement

The applicant has submitted an executed OTSA to acquire the operating interests of the RHCF. The agreement will become effectuated upon PHHPC approval of this CON. The terms are summarized below:

Date:	September 13, 2016
Transferor:	OMOP LLC
New Operator:	ORRNC Operating LLC
Purchased Assets:	All assets used in the operation of the facility. Facilities; 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.
Assumed Liabilities:	Any liability arising on or after the effective date of this agreement.
Purchase Price:	\$1,000,000
Payment of Purchase Price:	\$1,000,000 cash upon closing.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. Currently, there are no outstanding Medicaid overpayment liabilities as of October 3, 2017.

Lease Agreement

Facility occupancy is subject to an executed lease agreement, the terms of which are summarized as follows:

Date:	January 4, 2017
Premises:	A 160-bed RHCF located at 600 Bates Rd., Medina, New York 14103
Landlord:	ORRNC Realty, LLC
Tenant:	ORRNC Operating, LLC
Terms:	10 years commencing on execution of the lease with a year to year option to renew up to 20 years.
Rental:	An amount equal to the lessor's initial debt service in the amount of \$76,553 per month (\$918,633 annual) plus \$245,000 additional annual rent for property taxes and insurance.
Provisions:	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 the operating entity.

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:

	<u>Current Year (2016)</u>		<u>Year One</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>Revenues</u>				
Medicaid	\$209.89	\$7,677,495	\$213.80	\$8,818,059
Medicare	\$593.28	3,531,797	\$682.30	3,202,704
Commercial	\$256.61	2,279,692	\$298.11	1,916,250
Private Pay	\$276.59	483,757	\$276.59	586,647
Other operating revenue		8,363		0
Assessment revenue		0		<u>573,062</u>
Total Patient Revenues		\$13,981,104		\$15,096,722
Non-Operating Revenue		<u>2,052,405</u>		0
Total Revenues		\$16,033,509		\$15,096,722
<u>Expenses</u>				
Operating	\$252.62	\$13,430,160	\$211.49	\$11,735,332
Capital	<u>19.84</u>	<u>1,054,938</u>	<u>22.77</u>	<u>1,263,633</u>
Total Expenses	\$272.46	\$14,485,098	\$234.27	\$12,998,965
Net Income (Loss)		<u>\$1,548,411</u>		<u>\$2,097,757</u>
Total Patient Days		53,164		55,488
Occupancy %		90.63%		95.01%

The following is noted with respect to the submitted budget:

- The current year reflects the facility's 2016 payor and 2016 RHCF-4 cost report information. Historical utilization for base year 2016 was 90.63%.
- First year budgeted expenses will decrease due to the elimination of the current outside management company for administrative duties. These departmental activities will be performed internally under new management.
- First year budgeted utilization is expected to increase due to the use of a corporate admissions marketing team already in place within the region.
- Non-operating revenue in the current year is investment income and cancellation of Debt.
- Other operating revenue in 2016 represents medical record fees and beauty shop income.

- For budget year one, Medicaid revenues are projected based on the current operating and capital components of the facility's 2017 Medicaid FFS rate plus assessments. Medicare and Private Pay rates are based on average per diems experienced during 2016.
- Utilization by payor source is as follows:

	<u>Current Year</u>	<u>Year One</u>
Medicaid	68.91%	74.33%
Medicare	11.16%	10.26%
Commercial	16.67%	11.59%
Private	3.26%	3.82%

- Breakeven utilization is 81.81% for the first year.

Capability and Feasibility

There are no project costs associated with this application. ORRNC Operating, LLC will acquire the operations under the terms of the OTSA for \$1,000,000 via proposed members equity. ORRNC Realty, LLC acquired the RHCf's real property on March 1, 2017 for \$15,000,000 funded via \$2,200,000 equity from the realty members and a bank loan for \$12,800,000 from M&T Bank at 5.23% interest with a five-year term and 25-year amortization. The real property owner has informed the Department that it is their intention to pursue a HUD mortgage by the end of the five-year term.

The working capital requirement of \$2,166,494, based on two months of the first year's expenses, will be satisfied from proposed members' equity. Proposed members, Batia Zagelbaum, Yoel Zagelbaum and Yechiel Zagelbaum have submitted an affidavit stating that they will contribute a disproportionate share of their equity for any proposed member unable to meet the equity requirements for this project. BFA Attachment A, proposed members' net worth of ORRNC Operating LLC, reveals sufficient resources exist 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 \$1,000,000. It is noted that assets include \$1,000,000 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill, members' equity would be a \$0.

The submitted budget indicates that net income of \$2,097,757 will be generated for the first year. BFA Attachment F is the budget sensitivity analysis based on current utilization of the facility as of June 30, 2017, which shows the budgeted revenues would increase by \$290,881 resulting in a net income in year one of \$2,388,638. The budget appears reasonable.

Implementation of the transition of nursing home (NH) residents to Medicaid managed care is ongoing. Under the managed care construct, Managed Care Organizations (MCOs) negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the Medicaid FFS rate as a benchmark, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. The transition period has been extended out to 2020; hence, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment C, financial summary of Orchard Manor Rehabilitation & Nursing Center, indicates that the facility has maintained positive working capital, equity position and experienced a net loss of \$320,533 for 2016. The 2016 net operating loss is due to plant operation and maintenance expenses, which have been reduced since the new landlord took over the property. The 2014-2015 operating loss and the negative working capital are due to higher than expected accounts payable. The facility has been working toward paying down these payables in 2016 by improving administrative functions. As of June 30, 2017, Orchard Manor Rehabilitation & Nursing Center has maintained positive working capital, net equity and a net operating income of \$941,266.

BFA Attachments D, financial summary of the proposed members' affiliated RHCf's, shows the facilities have maintained positive net income from operations for the periods shown.

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	Proposed Members Net Worth Statement, ORRNC Operating, LLC and ORRNC Realty, LLC
BFA Attachment B	Organizational Chart
BFA Attachment C	Financial Summary, Orchard Manor Rehabilitation and Nursing Center
BFA Attachment D	Affiliated Residential Health Care Facilities
BFA Attachment E	Pro Forma Balance Sheet for ORRNC Realty, LLC and ORRNC Operating, LLC
BFA Attachment F	Budget Sensitivity Analysis



Project # 172031-E
**White Plains Nursing Home, Inc. d/b/a Bronx Park
Rehabilitation & Nursing Center**

Program: Residential Health Care Facility
Purpose: Establishment

County: Bronx
Acknowledged: July 21, 2017

Executive Summary

Description

White Plains Nursing Home, Inc. d/b/a Bronx Park Rehabilitation & Nursing Center (Bronx Park) is a New York proprietary business corporation that operates a 240-bed, Article 28 residential health care facility (RHCF) located at 3845 Carpenter Avenue in the Bronx. The current sole shareholder, David Loren, requests approval to assign and transfer 100% ownership interest (125 shares) in the RHCF to Craig Ari Loren, who is currently the facility's Executive Vice President responsible for overseeing all financial and management decisions of Bronx Park. There will be no change in beds or services provided.

The applicant has provided an executed stock purchase agreement (SPA) dated June 2, 2017, between David Loren (Seller) and Craig Ari Loren (Purchaser) for the sale and acquisition of the operating interest of the RHCF for a total consideration of \$7,073,781. The closing of the transaction is to be effectuated upon Public Health and Health Planning Council (PHHPC) approval. The realty ownership will not change as a result of this application and the existing lease will continue without any changes.

OPCHSM Recommendation
Contingent Approval

Need Summary

There will be no Need recommendation of this application.

Program Summary

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

No administrative services or consulting agreements are proposed in this application. The applicant does not intend to utilize any staffing agencies upon assumption of ownership.

Financial Summary

There are no project costs associated with this application. The total consideration for the stock purchase agreement is \$7,073,781 consisting of the following:

Stock Purchase Price	\$4,500,000
Assumption of existing note	\$1,200,000
Assumption of Tax liabilities	\$500,000
Assumption of Outstanding Loans	<u>\$873,781</u>
Total Consideration	\$7,073,781

The existing note was a personal loan made by the Purchaser to the Seller in 2015 that will be converted from debt to equity via a Purchaser's forgiveness at closing and will be used as consideration toward the purchase of the nursing home.

Tax liabilities are an estimate of what David Loren will owe from owning the shares of the company from 4/1/16 to closing. To date, Craig Ari Loren has paid \$390,000 for David Loren's tax liability.

The assumption of outstanding loans consists of two loans, \$147,781 and \$726,000, respectively, currently on the books of Bronx Park.

The stock purchase price is to be financed via a ten-year loan at 5.81% interest. InvestorsBank has provided a letter of interest. The projected budget is as follows:

	<u>Year One</u>
Revenues	\$23,382,630
Expenses	<u>21,958,079</u>
Net Income	\$1,424,551

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 loan commitment, acceptable to the Department of Health. [BFA]
2. Submission of a copy of the amended by-laws of the applicant 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 8, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Bronx Park Rehabilitation & Nursing Center	Same
Address	3845 Carpenter Ave. Bronx, NY 10467	Same
RHCF Capacity	240	Same
ADHC Program Capacity	0	Same
Type of Operator	Corporation	Same
Class of Operator	Proprietary	Same
Operator	White Plains Nursing Home, Inc. David Loren 100.00%	White Plains Nursing Home, Inc. Craig Ari Loren 100.00%

Character and Competence - Background

Craig Ari Loren has been employed by his father, David Loren, as the Executive Vice President at Bronx Park Rehabilitation & Nursing Center since October 2015. Previously Mr. Loren was the administrator of record at Bridgeport Health Care Center in Connecticut. Mr. Loren has a Connecticut nursing home license that expired in November 2010, and a Master's degree in International Business. Mr. Loren discloses no health facility ownership interests.

A review of Mr. Loren's current position indicates that Mr. Loren actively participates in the day to day operations of the nursing home.

Character and Competence - Analysis

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

Project Review

No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application. The applicant does not intend to utilize any staffing agencies upon their assumption of ownership.

Conclusion

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

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Stock Purchase Agreement (SPA)

The applicant has submitted an executed SPA for the operating interests of the RHCF. The transaction will be effectuated upon PHHPC approval. The terms of the agreement are summarized below:

Date:	June 2, 2017
Seller:	David Loren
Buyer:	Craig Ari Loren
Shares Acquired:	125 shares of stock (100%)
Purchase Price:	Total consideration of \$7,073,781
Payment of Purchase Price:	\$4,500,000 Loan; \$1,200,000 Assumption of existing note from Purchaser; \$500,000 Assumption of Tax liabilities (\$390,000 has been paid to date via equity, and \$873,781 Assumption of Outstanding Loans.

The applicant anticipates financing \$4,500,000 of the purchase price via a ten-year loan at 5.81% interest. InvestorsBank has provided a bank letter of interest for the loan. The existing note from the purchaser consists of a \$1,200,000 personal loan from Craig Ari Loren to David Loren that will be converted from debt to equity via a Purchaser's forgiveness at closing. The proposed sole shareholder will also assume \$873,781 of existing shareholder loans. The assumed tax liability of \$500,000 is based on the estimated taxes expected to be owed on the sale of the shares. Generally, the taxes are paid by the Seller, but a provision in the stock purchase agreement indicates that the Buyer will pay for the tax amount.

Lease Agreement

The current executed lease will not change. The terms are summarized as follows:

Date:	October 7, 1997
Premises:	A 240-bed RHCF located at 3845 Carpenter Avenue, Bronx, NY
Landlord:	Winn Care Inc. and Corona N.H. Realty Company
Tenant:	White Plains Nursing Home, Inc.
Terms:	25 years starting from October 7, 1997 with option to renew for an additional 25-years
Amount:	\$300,000 per annum. Increased to \$325,000 during the option to renew period.

The applicant has submitted an affidavit attesting that there is no relationship between the landlord and the operating entity.

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:

Revenue	Current Year (2016)		Year One	
	Per Diem	Total	Per Diem	Total
Commercial - MC	\$70.06	\$539,826	\$436.84	\$3,320,000
Medicare - FFS	\$626.34	3,460,509	\$660.00	3,960,000
Medicaid - FFS	\$252.25	17,708,983	\$220.53	15,657,630
Private Pay	\$543.39	198,880	\$500.00	200,000
Other		<u>247,343</u>		<u>245,000</u>
Total Revenue		\$22,155,541		\$23,382,630
<u>Expenses</u>				
Operating	\$245.09	\$20,538,725	\$250.81	\$21,318,629
Capital	<u>\$7.58</u>	<u>635,537</u>	<u>\$7.52</u>	<u>639,450</u>
Total Expenses	\$252.68	\$21,174,262	\$258.33	\$21,958,079
Net Income		<u>\$981,279</u>		<u>\$1,424,551</u>
Utilization (Pt Days)		83,800		85,000
Occupancy		95.66%		97.03%

The following is noted with respect to the submitted budget:

- In the Current Year, there was a significant write-off of approximately \$1.2 million for uncollectable Commercial Managed Care receivables, which is represented in the commercial revenue figures above.
- Medicaid and Medicare rates are based on the current year rates, which are the average per diems experienced during 2016.
- Other – Revenue represents amounts received for Medicare Part B income and is based on the current year.
- Operating expenses are based on the current year and are the average per diems experienced during 2016.
- The Medicaid admissions of 53.7% in 2015 and 40.4% in 2016 exceeded Bronx County's 75% threshold rates of 28.6% for 2015 and 28.0% for 2016.
- Utilization by payor source is as follows:

	<u>Current Year</u>		<u>Year One</u>	
	<u>Days</u>	<u>%</u>	<u>Days</u>	<u>%</u>
Commercial - MC	7,705	9.19%	7,600	8.94%
Medicare - FFS	5,525	6.59%	6,000	7.06%
Medicaid - FFS	70,204	83.78%	71,000	83.53%
Private Pay	<u>366</u>	<u>0.44%</u>	<u>400</u>	<u>0.47%</u>
Total	83,800	100.00%	85,000	100.00%

Capability and Feasibility

There are no project costs associated with this application. The total consideration for the stock purchase agreement is \$7,073,781 which consists of the following:

Stock Purchase Price	\$4,500,000
Assumption of existing note from Purchaser	\$1,200,000
Assumption of Tax liabilities	\$500,000
Assumption of Outstanding Loans	<u>\$873,781</u>
Total Consideration	\$7,073,781

The existing note was a loan made by the Purchaser to the Seller and is being converted from debt to equity via a Purchaser's forgiveness at closing and is being used as consideration toward the purchase of the nursing home.

Tax liabilities are an estimate of taxes David Loren will owe from owning the shares of the company from 4/1/16 to closing. To date, Craig Ari Loren has paid \$390,000 for David Loren's tax liability.

The assumption of outstanding loans consists of two loans, \$147,781 and \$726,000, respectively, currently on the books of Bronx Park.

BFA Attachment A, Proposed Member's Net Worth, reveals sufficient resources for stated levels of equity.

The working capital requirement of \$3,659,680 based on two months of the first year's expenses will be satisfied via current operations. BFA Attachment B indicates sufficient working capital to satisfy the working capital requirement.

The submitted budget indicates that net income of \$1,424,551 will be generated for the first year after the change in ownership. Revenues are estimated to increase from the current year by approximately \$1,200,000 based on the write-off of significant commercial managed care receivables in 2016. Overall expenses are expected to increase from the current year by \$800,000 due to an increase per annum for inflation to reflect 2018 dollars.

Implementation of the transition of nursing home (NH) residents to Medicaid managed care is ongoing. Under the managed care construct, Managed Care Organizations (MCOs) negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the Medicaid FFS rate as a benchmark, or a negotiated rate acceptable to both plans and NH, for three years

after a county has been deemed mandatory for NH population enrollment. The transition period has been extended out to 2020; hence, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment B, Financial Summary of White Plains Nursing Home, Inc., indicates that the facility has experienced positive working capital, net income, and equity position for the period 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 Proposed Member's Net Worth
BFA Attachment B Financial Summary, White Plains Nursing Home, Inc.



**Project # 171041-E
Shining Star Home Health Care**

Program: Certified Home Health Agency
Purpose: Establishment

County: Kings
Acknowledged: January 19, 2017

Executive Summary

Description

Shining Star Home Care, LLC (Shining Star), a proprietary, Article 36 certified home health agency (CHHA), requests approval for a three-year extension to its limited life operating certification. The agency was established as a special pilot program CHHA, certified to serve individuals at higher risk for hospitalization due to heart disease, stroke and diabetes. The agency is authorized to serve individuals in Bronx, Kings, New York and Queens Counties. The CHHA was approved through CON 072094 with a conditional five-year limited life and began operations effective January 17, 2012. The applicant notified the Department before their limited life expiration, requesting a three-year extension. The CHHA currently operates from leased office space located at 5922 18th Avenue, Brooklyn (Kings County).

Shining Star's services are limited to the special pilot program population authorized under its initial operating certificate. The CHHA is certified for the following services: home health aides, medical social services, medical supplies equipment and appliances, nursing, nutrition, occupational therapy, physical therapy, and speech language pathology

The current membership of Shining Star Home Care, LLC consists of Yechiel Landau (80%) and Yvette Henriquez (20%).

OPCHSM Recommendation
Disapproval

Need Summary

Utilization has been significantly below projected visits. In its original 2007 application, Shining Star projected in excess of 175,000 visits by Year Three. Shining Star reports that 2016 visits were only 2,999. The applicant reports some increase in utilization in October and November 2017, but it is only a marginal improvement. The applicant believes they can continue to increase visits over the next three years. Additionally, the agency did not meet their 2% charity care requirement in any of its five years of operation.

Program Summary

From its initial date of operation of January 17, 2012, through the present time, Shining Star Home Care, LLC d/b/a Shining Star Home Health Care has remained in compliance with all Conditions of Participation, with no history of any enforcement actions taken against this CHHA.

Financial Summary

The applicant demonstrated poor operating performance, failing to achieve projected breakeven utilization and sustaining operating losses in each of the five years it has been operating, including a reported loss of \$499,025 in 2016.

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

	<u>Year One</u>	<u>Year Three</u>
Revenue	\$735,600	\$757,662
Expenses	718,308	725,843
Net Income	\$17,292	\$31,819

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Disapproval

Council Action Date

February 8, 2018

Need Analysis

Background

Utilization	072094 Projected Year One	072094 Projected Year Three	Actual 2013 (1 st Full Year)	Actual 2014	Actual 2015 (3 rd Full Year)	Actual 2016
Nursing	7,199	21,783	240	1,773	3,176	2,261
Occupational Therapy	196	320	0	43	16	1
Physical Therapy	561	1,336	39	278	522	184
Speech/Language Pathology	27	57	0	17	37	1
Medical Social Services	21	307	2	14	4	12
Home Health Aide	26,748	151,465	1,788	3,618	2,924	540
Total	34,752	175,268	2,069	5,743	6,679	2,999

Source of Actual is Agency's Cost Reports

Utilization has been significantly below projected visits. Utilization has not grown significantly over the CHHA's five years of operations, however, in 2017 an increase of visits from approximately 346 per month to 430 per month for October and November was reported. The applicant believes it can continue to increase visits over the next three years, but has not demonstrated a viable plan to significantly increase volume. Additionally, the agency did not meet its 2% charity care requirement in any of its five years of operation.

Analysis

The original approval of this CHHA was to permit a special pilot program to serve those individuals at risk for hospitalization due to heart disease, stroke and diabetes in communities within Kings, Queens, Bronx and New York Counties. It is not clear that this CHHA has served a distinctly different special population from that of other CHHAs, nor has the program of care been found to be unique.

Program Analysis

Review Summary

This special needs population CHHA operates from its sole practice location in leased office space located at 5922 18th Avenue, Brooklyn, New York 12204. It serves mostly the approved special pilot program population of individuals identified as being at higher risk for hospitalization due to heart disease, stroke, and diabetes, will continue to serve the approved geographic service area of Bronx County, Kings County, New York County, and Queens County. Shining Star offers the services of home health aide, medical social services, medical supplies/equipment/appliances, nursing, nutritional services, occupational therapy, physical therapy, and speech language pathology.

As required in the PHHPC conditional approval, annual reports by an outside independent agency have been submitted to NYSDOH for years 2012/2013, 2014, and 2015. The 2016 and 2017 annual reports have not been submitted and the 2016 report is overdue.

In its establishment application, Shining Star Home Care, LLC, d/b/a Shining Star Home Health Agency, cited the NYSDOH Prevention Quality Indicators that reports that low income minority neighborhoods located in the four above named counties have up to two to three times more hospital admissions and readmissions due to heart disease, stroke, and diabetes than the statewide average. In its five years of operation, the CHHA reports that it has served predominantly the target population.

The applicant reports the following:

- In 2012 (total of three patients served) and 2013 (total of 24 patients served), the applicant reports that one patient visited an Emergency Department, and two patients were readmitted to a hospital. None of those Shining Star patients was readmitted due to diabetes, heart disease, or stroke. The statewide averages for Emergency Department visits, and potentially preventable hospital readmission rates for Bronx, Kings, New York, and Queens Counties, for years 2012 and 2013, were unreported.
- In 2014, the applicant reports that seven of Shining Star's 205 patients (3.4%) visited an Emergency Department, compared to a statewide average that year of 23.13%, and three of those seven visits were due to unrelated occurrences (one injury due to a fall, one urinary tract infection, and one decline in three or more activities of daily living). Seven of Shining Star's 205 patients (3.4%) were readmitted to a hospital, compared to a potentially preventable hospital readmission rate that year for Bronx, Kings, New York, and Queens Counties ranging from 6.1% to 7.54%. None of those Shining Star patients was readmitted due to diabetes, heart disease, or stroke.
- In 2015, the applicant reports that eight of Shining Star's 214 patients (3.7%) visited an Emergency Department, compared to a statewide average that year of 23.53%, and five of those eight visits were due to unrelated occurrences (four injuries due to a fall, and one urinary tract infection). Eight of Shining Star's 214 patients (3.7%) were readmitted to a hospital, compared to a potentially preventable hospital readmission rate that year for Bronx, Kings, New York, and Queens Counties ranging from 6.1% to 7.54%. One of those Shining Star patients was readmitted due to diabetes, and none were readmitted due to heart disease or stroke.
- In 2016, the applicant reports that 18 of Shining Star's 140 patients (12.8%) were readmitted to a hospital. Shining Star reports that in 2016 it abandoned its Allscripts clinical software medical record system which had proven to be overly expensive and unreliable for information reporting purposes. Shining Star instead invested in a new clinical software system called Home Care Home Base. The applicant states that implementing this new intake and clinical documentation software system during 2016 affected its ability to accept admissions, process intake data, and properly maintain clinical data during 2016, which was a factor in the decrease in admissions by 74 patients from 2015 to 2016, and the increase in hospital readmissions in 2016. Looking forward, Shining Star had also taken the following initiatives to both increase intake and utilization, and prevent future Emergency Department visits and hospital readmissions:
 - Renegotiating various HMO and MLTCP contracts, resulting in better reimbursement rates for services and improved financial stability
 - Partnering with Relias Learning to customize orientation and inservice education curriculum used to train the CHHA's skilled professionals
 - Creating an advanced wound care program with staff trained as specialists to treat complex wounds, providing an advantage over other CHHAs who typically do not accept such patients
 - Hiring a specialized Case Manager to provide extensive clinical oversight for patients who are at risk for hospital readmission
 - Engaging in weekly conference calls with patients, families, doctors, nurses, and case managers. Patients at higher risk for hospital readmission receive daily telephone calls at home from clinical professionals to ensure proper medications were taken in the proper dosages and at the proper times of day. If additional services or care are required, the clinical professional will immediately contact the patient's nurse to provide timely intervention before an emergency situation arises.
 - Partnering with a particular pharmacy that pre-packages patient medications in small packets, to help ensure the patient is taking the correct dose at the correct time, in order to alleviate medication errors, a leading reason for both Emergency Department visits and hospital readmissions.
- In 2017 (through December 20, 2017), the applicant reports that only 15 of Shining Star's 726 patients (2.1%) were discharged to a hospital or Emergency Department. The applicant reports that, per statistics published by the Agency for Healthcare Research and Quality, the average readmission rate for patients seven days after discharge from a hospital was 7.5%, and 30 days

after discharge from a hospital was 21.1%. The applicant contends it has demonstrated that it significantly increased its patient admissions during Year 2017, and significantly decreased its hospital readmission rate for Year 2017, which fell well below the above-cited hospital readmission averages.

It is noted that 2016 and 2017 data is self-reported and lacks the required verification of an outside independent entity. The failure to submit a timely 2016 annual report as required by the terms of the CHHA's Public Health Council approval represents a violation of a condition of the Certificate of Need approval for CON 072094.

The applicant reports that three of the three patients served in 2012, 18 of the 24 patients served in 2013, 168 of the 205 patients served in 2014, 161 of the 214 patients served in 2015, and 648 of the 726 patients served in 2017, had diagnoses that identified the patient as being at higher risk for hospitalization due to heart disease, stroke, or diabetes. (Year 2016 breakdown unavailable). The remaining patients had diagnoses that identified the patient as being at higher risk for hospitalization due to other chronic diseases, most notably chronic obstructive pulmonary disease. Accordingly, 100% in 2012, 75% in 2013, 82% in 2014, 75.23% in 2015, (2016 unavailable), and 89.26% in 2017 of the patients served by Shining Star Home Care, LLC, d/b/a Shining Star Home Health Agency, during its first five years of operation, had diagnoses that identified the patient as being at higher risk for hospitalization due to heart disease, stroke, or diabetes, with the remainder of the patients being at higher risk for hospitalization due to chronic obstructive pulmonary disease or other chronic diseases.

Per a check of the Medicare.gov Home Health Compare website on October 18, 2017 (website updated on July 21, 2017), quality measure ratings, both overall rating and ratings for individual quality measures, were provided for the patients whose end of care occurred during the 12-month reporting period April 1, 2016 through March 31, 2017. A minimum of 20 end-of-care episodes must have occurred during that particular reporting period in order for a specific quality measure to receive any rating. For quality measures for end-of-care episodes that occurred during the reporting period April 1, 2016 through March 31, 2017, Shining Star's overall rating was 3 out of 5 stars, compared to the New York State average of 3 out of 5 stars, and the national average of 3.5 out of 5 stars. For individual quality measures for end-of-care episodes that occurred during the reporting period April 1, 2016 through March 31, 2017, Shining Star:

- 1) performed above the NYS and national averages for the following Preventing Harm quality measures:
 - For patients with diabetes, how often the home health team got doctor's orders, gave foot care, and taught patients about foot care
 - How often the home health team checked patient for depression
- 2) performed at or very near the NYS and national averages for the following Preventing Harm quality measures:
 - How often the home health team began their patients' care in a timely manner
 - How often the home health team taught patients (or their family caregivers) about their drugs
 - How often the home health team checked patients' risk of falling
- 3) performed at or very near the NYS and national averages for the following Managing Pain and Treating Symptoms quality measures:
 - How often patients had less pain when moving around
 - How often patients' breathing improved (had less shortness of breath).

For the Preventing Unplanned Hospital Care quality measures, and for the Managing Pain and Treating Symptoms quality measure of how often patients' wounds improved or healed after an operation, Shining Star did not have a minimum of 20 end-of-care episodes that occurred during that particular reporting period that were applicable to that specific quality measure, and therefore could not receive a rating at that time.

For the remaining quality measures during that particular reporting period, Shining Star rated slightly below or moderately below the NYS and national averages.

CHHA Overall Quality of Patient Care Star Ratings
(per <https://www.medicare.gov/homehealthcompare/search.html>, as of 01/05/2018)
New York Average: 3 out of 5 stars **National Average:** 3.5 out of 5 stars

CHHA Name	Overall Quality of Care Rating
Shining Star Home Health Care	3 out of 5 stars

The NYSDOH Division of Home and Community Based Services reports that, from its initial date of operation of January 17, 2012, through the present time, Shining Star Home Care, LLC, d/b/a Shining Star Home Health Care, has remained in compliance with all Conditions of Participation, with no history of any enforcement actions taken against this CHHA.

Financial Analysis

Operating Budget

The applicant submitted their current year (2016) results, and their first and third year operating budgets subsequent to approval, in 2017 dollars, as shown below:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
<u>Revenues</u>			
Medicare	\$147,110	\$556,806	\$573,504
Medicaid	15,692	57,940	59,678
All Other	<u>33,344</u>	<u>120,854</u>	<u>124,480</u>
Total Revenues	\$196,146	\$735,600	\$757,662
<u>Expenses</u>			
Operating	\$672,194	\$691,449	\$693,675
Space Occupancy	<u>22,977</u>	<u>26,859</u>	<u>32,168</u>
Total Expenses	\$695,171	\$718,308	725,843
Net Income/(Loss)	<u>(\$499,025)</u>	<u>\$17,292</u>	<u>\$31,819</u>
Utilization (visits)	2,999	5,258	5,416
Cost per Visit	\$231.80	\$136.61	\$134.02

Budget observations:

- Medicare and Medicaid services are reimbursed on an episodic basis. The projected revenues for Year One are based on Shining Star's annualized revenues from October 1, 2017 through November 30, 2017. This amount was then increased by 3% for Year Three to account for inflation.
- All other revenue represents payments from other insurance payors including United Health Care, Fidelis, and HealthFirst. All other revenues are based on existing rates.
- The first and third year utilization projections are based on annualizing averages experienced during the October through November 2017 period (October at 429 visits, November at 430 visits).
- The applicant will continue to work with the local Department of Health including the New York City Department of Health and Mental Hygiene to target the special needs population they are certified to serve.
- Utilization by payor source to the submitted operating budget is as follows:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	Visits	%	Visits	%	Visits	%
Medicare	2,261	75.4%	3,882	73.8%	4,000	73.9%
Medicaid	243	8.1%	422	8.0%	435	8.0%
All Other	495	16.5%	850	16.2%	874	16.1%
Charity Care	<u>0</u>	<u>0%</u>	<u>104</u>	<u>2.0%</u>	<u>107</u>	<u>2.0%</u>
Total	2,999	100%	5,258	100%	5,416	100%

In its establishment application, the applicant committed to 2% Charity Care and 67% Medicaid utilization in Year One, and 2% Charity Care and 54% Medicaid utilization in Year Three. The applicant acknowledges that they did not fulfill that commitment. The decline in Medicaid utilization is attributed to lower than projected visits and a proportional increase in the number Medicare post-discharge hospital patients served by the agency.

To address the utilization issues and the financial results shown above, the applicant has identified Mr. Ari Goldberger as an individual who possesses home care experience and has been informally advising the operator regarding day-to-day operations and developing relationships with local hospitals and several Managed Care Organizations. The applicant indicated that they are realizing the benefit of Mr. Goldberger's experience and resources, and have begun to receive patient referrals. The applicant anticipates entering into a Consulting Agreement with Mr. Goldberger soon, and expects that Mr. Goldberger will become a majority owner.

The applicant cites the following recent activities as beneficial to the long-term performance of the facility: recently renegotiated various Managed Care contracts; increasing reimbursement; implementation of a new clinical software system; a partnership with Quality In Real Time; a partnership with Relias Learning for customized orientation and education curriculum; the creation of an advanced wound care program; hiring of a specialized case manager; and a partnership with a pharmacy to provide pre-packaged patient medication. Paul Rosenstock, M.D. and Robert Goodman, M.D. provide letters of support for the CHHAs mission. The applicant asserts that the requested extension will allow them to continue their mission.

Capability and Feasibility

There are no project costs associated with this application. To the extent necessary, the applicant members will provide equity from their personal resources to fund working capital.

The budget demonstrates net income in Year One and Year Three of \$17,292 and \$31,819, respectively. Year One projects a 75.3% increase in utilization over the Current Year (2016). As noted above, budgeted revenue and utilization projections were based upon actual results obtained during the two months of October and November 2017, expecting to build on the increased utilization reported for that period. The cost per visit is said to have declined 47% between the Current Year and 2017 annualized (going from \$232 in 2016 to \$157 in 2017). The budget expects a further decline to \$137 per visit or 15%.

The applicant projects an approximately 80% utilization increase from Current Year (2016) experience, the last year of cost report submitted data, presuming that increased visits it reports it provided during two months in late 2017 will continue and grow, while the applicant strives to reduce cost per visit. The projected budget appears unrealistic, especially based on historical experience during the CHHA's limited life. BFA Attachment C is a budget sensitivity analysis that incorporates actual patient days reported through December 20, 2017 annualized, while using the applicant's projected payer mix and expenses for the first year. Based upon this scenario, net profits would decline by \$173,500 going from \$17,292 in net income to a \$156,208 loss. For comparison, the internal financial summary for the ten months ending October 31, 2017, showed a net loss of \$211,594.

Working capital is estimated at \$119,719 based on two months of Year One expenses. However, as shown on BFA Attachments A and B, Shining Star's certified 2016 (draft) and internal 2017 financial statements as of October 31, 2017, the CHHA has been sustaining ongoing operating losses. Although they are projecting a small operating surplus going forward, the past losses and ongoing working capital needs must be funded for this agency to remain financially sustainable. The applicant has provided a letter of interest from New Capital Ventures, LLC expressing willingness to provide a personal loan to Mr. Yechiel Landau, a majority member of the applicant, in the amount of \$1,410,000 to be used to fund the agency's projected working capital needs. The letter states that this would be a personal loan between friends, with no interest charged and repayment of the principal amount to be provided whenever funds become available. Capital One bank statements for New Capital Ventures, LLC for the period ending September 30, 2017, indicates sufficient resources are available to fund this transaction. The applicant indicated that during its limited life, Mr. Landau has funded operating losses with his personal liquid

assets, as well as from the proceeds of other personal loans provided to him from Hiram Capital, LLC (an entity related to New Capital Ventures, LLC).

BFA Attachment A is the 2016 draft certified financial statements of Shining Star Home Care, LLC. As shown, the entity had a negative working capital position and a negative net asset position in 2016. Also, the entity demonstrated a net loss of \$488,717. BFA Attachment B provides the internal financial statements of Shining Star Home Care, LLC as of October 31, 2017. As shown, the entity had a negative working capital position and a negative net asset position and achieved a net loss of \$211,594 for the period shown. The applicant attributes the 2016 loss to low utilization, while results through October 2017 had improved based improved efficiency and increased utilization. The applicant asserts that its focus is on providing services to patients who required specialized services and, while they did not meet their utilization targets and their financial statements demonstrate the negative results referenced above, the applicant believes it achieved its primary mission of serving individuals at high-risk of ED visits and hospital readmission due to heart disease, stroke, and diabetes.

Conclusion

The applicant has failed to demonstrate financial feasibility during its limited life and its current Year One and Year Three utilization and financial projections appear very aggressive and unrealistic. A modest budget sensitivity analysis results in continued operational losses.

Recommendation

From a financial perspective, disapproval is recommended.

Attachments

BFA Attachment A	2015 Certified financial statement of Shining Star Home Care, LLC
BFA Attachment B	2016 Internal financial statement of Shining Star Home Care, LLC
BFA Attachment C	Budget Sensitivity Analysis

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: MLAP Acquisition III, LLC d/b/a Long Beach Home Care
Address: Long Beach
County: Nassau
Structure: Limited Liability Company
Application Number: 162315

Description of Project:

MLAP Acquisition III, LLC d/b/a Long Beach Home Care, a to be formed limited liability company, 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 Assisted Living Program to be operated by MLAP Acquisition III, LLC d/b/a Long Beach Assisted Living Program. The LHCSA and the ALP will have identical ownership.

The proposed membership of MLAP Acquisition III, LLC d/b/a Long Beach Home Care comprises the following individuals:

Michael Melnicke, Member/Manager – 25%

Affiliations:

- Park Nursing Home (NH, 1987-present)
- Rockaway Care Center (NH, 1992-present)
- Regency Extended Care Center (NH, 1993-present)
- Caton Park Rehabilitation and Nursing Center, LLC (NH, 1994-present)
- Hempstead Park Nursing Home (NH, 1998-present)
- Peninsula Nursing and Rehabilitation Center (NH, 2014-present)
- Providence Care Inc. d/b/a Brooklyn Gardens Nursing & Rehabilitation Center (NH, 2014-present)
- The Komanoff Center for Geriatric and Rehabilitative Medicine (nka Long Beach Nursing and Rehabilitation Center) (NH, 2014-present)
- Hendon Garden Center, LLC d/b/a Beach Gardens Rehabilitation & Nursing Center (NH, 2014-present)
- Regency Dialysis Center (ESRD, 2015-present)

Leopold Friedman, Member/Manager – 25%

Receiver/Operator, Peninsula Center for Extended Care and Rehabilitation

Owner/Operator, Advanced Care Staffing

Owner/Operator, Ultimate Care, Inc.

Affiliations:

- Cardiff Bay Center, LLC d/b/a Peninsula Nursing and Rehabilitation Center (NH, 1/2013-present)
- Hendon Garden Center, LLC d/b/a Beach Gardens Rehabilitation & Nursing Center (NH, 11/2014-present)
- Providence Care, Inc. d/b/a Brooklyn Gardens Nursing & Rehabilitation Center (NH, 9/2014-present)
- Highland View Care Center Operating Company, LLC d/b/a Citadel Rehabilitation and Nursing Center at Kingsbridge (NH, 2/2015-present)

- DeWitt Rehabilitation and Nursing Center, Inc. d/b/a Upper East Side Rehabilitation and Nursing Center (NH, 6/2015-present)
- Hudson Pointe Acquisition, LLC d/b/a Hudson Pointe at Riverdale Center for Nursing and Rehabilitation (NH, 6/2016-present)
- Ross Acquisition, LLC d/b/a Ross Center for Nursing and Rehabilitation (NH, 6/2016-present)
- MLAP Acquisition I, LLC, d/b/a Long Beach Nursing and Rehabilitation Center (NH, 8/2016-present)
- TCPRNC, LLC d/b/a The Plaza Rehabilitation and Nursing Center (NH, 9/2016-present)
- SBNH Acquisition, LLC d/b/a Bronx Gardens Rehabilitation and Nursing Center (NH, 11/3/2016-present)
- Peninsula Continuum Services, LLC, d/b/a Cassena Care Dialysis at Peninsula (ESRD, 11/2016-present)
- Ultimate Care, LLC (LHCSA, 2/2010-present)

Alex Solovey, PT, Member/Manager – 25%
 Director of Rehabilitation, Theradynamics
 Chief Operating Officer, Center for Nursing and Rehabilitation
 Director of Operations, Hillside Manor Rehabilitation and Extended Care Center, LLC d/b/a Hillside Manor Certified Home Health Agency

Affiliations:

- JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center (NH, 11/2003-present)
- PALJR, LLC d/b/a East Neck Nursing and Rehabilitation Center (NH, 2/2005-present)
- JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center (NH, 10/2010-present)
- JOPAL Sayville, LLC d/b/a Sayville Nursing and Rehabilitation Center (NH, 12/2012-present)
- JOPALS Bronx, LLC d/b/a Workmen's Circle MultiCare Center (NH, 7/2013-present)
- Shoreview Acquisition I, LLC d/b/a Shoreview Nursing and Rehabilitation Center (NH, 6/2014-present)
- Morningside Acquisition I, LLC d/b/a Morningside Nursing and Rehabilitation Center (NH, 7/2014-present)
- Cardiff Bay Center, LLC d/b/a Peninsula Nursing and Rehabilitation Center (NH, 8/2014-present)
- DeWitt Rehabilitation and Nursing Center, Inc. d/b/a Upper East Side Rehabilitation and Nursing Center (NH, 6/2015-present)
- Sea-Crest Acquisition I, LLC d/b/a Sea-Crest Nursing and Rehabilitation Center (NH, 7/2015-present)
- Terrace Acquisition II, LLC d/b/a Fordham Nursing and Rehabilitation Center (NH, 8/2016-present)
- MLAP Acquisition I, LLC, d/b/a Long Beach Nursing and Rehabilitation Center (NH, 8/2016-present)
- Mills Pond Dialysis Center, LLC d/b/a East Neck Dialysis Center (ESRD, 8/2015-present)
- Workmens Circle Dialysis Management, LLC d/b/a Workmens Circle Dialysis Center (ESRD, 8/2015-present)
- Peninsula Continuum Services, LLC, d/b/a Cassena Care Dialysis at Peninsula (ESRD, 11/2016-present)

- Norwalk Acquisition I, LLC d/b/a Cassena Care of Norwalk (Connecticut) (SNF, 7/2013-present)
- Stamford Acquisition I, LLC d/b/a Cassena Care at Stamford (Connecticut) (SNF, 2/2016-present)
- New Britain Acquisition I, LLC d/b/a Cassena Care at New Britain (Connecticut) (SNF, 2/2016-present)

Pasquale DeBenedictis, Member/Manager – 25%

Managing Member, Cassena Care, LLC

Chief Financial Officer, Center for Nursing and Rehabilitation

Controller, Hillside Manor Rehabilitation and Extended Care Center, LLC d/ba/ Hillside Manor

Certified Home Health Agency

Affiliations:

- JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center (NH, 11/2003-present)
- PALJR, LLC d/b/a East Neck Nursing and Rehabilitation Center (NH, 2/2005-present)
- JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center (NH, 10/2010-present)
- JOPAL Sayville, LLC d/b/a Sayville Nursing and Rehabilitation Center (NH, 12/2012-present)
- JOPALS Bronx, LLC d/b/a Workmen's Circle MultiCare Center (NH, 7/2013-present)
- Shoreview Acquisition I, LLC d/b/a Shoreview Nursing and Rehabilitation Center (NH, 6/2014-present)
- Morningside Acquisition I, LLC d/b/a Morningside Nursing and Rehabilitation Center (NH, 7/2014-present)
- Cardiff Bay Center, LLC d/b/a Peninsula Nursing and Rehabilitation Center (NH, 8/2014-present)
- DeWitt Rehabilitation and Nursing Center, Inc. d/b/a Upper East Side Rehabilitation and Nursing Center (NH, 6/2015-present)
- Sea-Crest Acquisition I, LLC d/b/a Sea-Crest Nursing and Rehabilitation Center (NH, 7/2015-present)
- Terrace Acquisition II, LLC d/b/a Fordham Nursing and Rehabilitation Center (NH, 8/2016-present)
- MLAP Acquisition I, LLC, d/b/a Long Beach Nursing and Rehabilitation Center (NH, 8/2016-present)
- Workmens Circle Dialysis Management, LLC d/b/a Workmens Circle Dialysis Center (ESRD, 8/2015-present)
- Mills Pond Dialysis Center, LLC d/b/a East Neck Dialysis Center (ESRD, 9/2015-present)
- Peninsula Continuum Services, LLC, d/b/a Cassena Care Dialysis at Peninsula (ESRD, 11/2016-present)
- Norwalk Acquisition I, LLC d/b/a Cassena Care of Norwalk (Connecticut) (SNF, 7/2013-present)
- Stamford Acquisition I, LLC d/b/a Cassena Care at Stamford (Connecticut) (SNF, 2/2016-present)
- New Britain Acquisition I, LLC d/b/a Cassena Care at New Britain (Connecticut) (SNF, 2/2016-present)

A search of the individuals and entities 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 indicate no issues with the licensure of the health professional associated with this application.

A seven (7) year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

- Caton Park Rehabilitation and Nursing Center, LLC (2010-present)
- Citadel Rehabilitation and Nursing Center at Kingsbridge (2015-present)
- Hempstead Park Nursing Home (2010-present)
- Hendon Garden Center, LLC d/b/a Beach Gardens Rehabilitation & Nursing Center (2014-present)
- JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center (2010-present)
- JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center (2010-present)
- PALJR, LLC d/b/a East Neck Nursing and Rehabilitation Center (2010-present)
- JOPAL Sayville, LLC d/b/a Sayville Nursing and Rehabilitation Center (2012-present)
- JOPALS Bronx, LLC d/b/a Workmen's Circle MultiCare Center (2013-present)
- Mills Pond Dialysis Center, LLC d/b/a East Neck Dialysis Center (2015-present)
- Morningside Nursing and Rehabilitation Center (2014-present)
- Park Nursing Home (2010-present)
- Peninsula Nursing and Rehabilitation Center (2013-present)
- Providence Care, Inc. d/b/a Brooklyn Gardens Nursing & Rehabilitation Center (2014-present)
- Regency Dialysis Center (2015-present)
- Regency Extended Care Center (2010-present)
- Rockaway Care Center (2010-present)
- Sea-Crest Nursing and Rehabilitation Center (2015-present)
- Shoreview Nursing and Rehabilitation Center (2014-present)
- The Komanoff Center for Geriatric and Rehabilitative Medicine (nka Long Beach Nursing and Rehabilitation Center) (2014-present)
- Ultimate Care, LLC (2010-present)
- Upper East Side Rehabilitation and Nursing Center (2015-present)
- Workmens Circle Dialysis Management, LLC d/b/a Workmens Circle Dialysis Center (2015-present)

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 Information provided by the Bureau of Quality and Surveillance has indicated that the following residential health care facilities have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations:

- Sea-Crest Nursing and Rehabilitation Center
- Morningside Nursing and Rehabilitation Center
- Shoreview Nursing and Rehabilitation Center
- JOPALS Bronx, LLC d/b/a Workmen's Circle MultiCare Center

- JOPAL Sayville, LLC d/b/a Sayville Nursing and Rehabilitation Center
- JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center
- Park Nursing Home
- Rockaway Care Center
- Regency Extended Care Center
- Caton Park Rehabilitation and Nursing Center, LLC
- Peninsula Nursing and Rehabilitation Center
- Providence Care, Inc. d/b/a Brooklyn Gardens Nursing & Rehabilitation Center
- The Komanoff Center for Geriatric and Rehabilitative Medicine
- Hendon Garden Center, LLC d/b/a Beach Gardens Rehabilitation & Nursing Center
- Upper East Side Rehabilitation and Nursing Center

The information provided by the Bureau of Quality and Surveillance has indicated that the residential health care facilities reviewed, for the periods identified above, reveals the following:

PALJR, LLC d/b/a East Neck Nursing and Rehabilitation Center was fined six thousand dollars (\$6,000) pursuant to a Stipulation and Order dated November 3, 2015 for findings on March 21, 2014 for violations IJ-Scope and Severity-L-Advance Directives. Deficiencies were found under 10 NYCRR 415.3(e)(1)(ii) Residents Rights: Right to Accept/Refuse Treatment, Right to Formulate, Advance Directives; 415.26 Administration; 415.27(a-c) Administration Quality: Assessment and Assurance.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated January 12, 2014 for findings on March 13, 2012. Violations include IJ past compliance, F-323-Free of Accidents and Hazards-K-resident eloped. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care: Accidents/Supervision. In addition, a federal Civil Monetary Penalty of \$3,250 was imposed and paid.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center was fined eighteen thousand dollars (\$18,000) pursuant to a Stipulation and Order dated November 3, 2015 for findings on February 1, 2013 and September 26, 2103. Violations include IJ-F-333-Significant Med Errors-K, F-490-Administration-K-IJ, F-520-QAA Committee-K-IJ, IJ-F 225 Investigate/Report/Allegations/Individuals-K-abuse by staff, F-309-Provide Care/Services for Highest Well Being-G. Deficiencies were found under 10 NYCRR 415.12(m)(2) Quality of Care: Significant Medication Errors; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.4(b)(1)(2)(3) Free From Mistreatment Neglect and Misappropriation of Property; 415.12 Quality of Care: Highest Practicable Potential.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center paid a CMP of \$3,250 for Immediate Jeopardy on 3/13/12.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center paid a CMP of \$5,000 for Immediate Jeopardy on 2/1/13.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center paid a CMP of \$8,000 for Immediate Jeopardy on 9/26/13.

JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center was fined \$10,000 pursuant to Stipulation and Order NH-17-050 issued September 18, 2017 for surveillance findings on July 12, 2017. Deficiencies were found under 10NYCRR 415.12(m)(2) Quality of Care: Medication Errors.

Hempstead Park Nursing Home was fined eight thousand dollars (\$8,000) pursuant to a Stipulation and Order dated December 16, 2011 for re-certification surveillance findings on

September 28, 2010. Immediate Jeopardy tags include 224-K, 225-K, 226-K, 250-K and 490-K. Deficiencies were found under 10 NYCRR 415.4(b) Mistreatment/Neglect: Policies and Procedures; 415.4(b)(1)(ii) Investigate/Report: Allegations; 415.5(g)(1)(i-xv) Medically Related Social Services; 415.26 Administration.

Hempstead Park Nursing Home had a Civil Monetary Penalty dated October 7, 2010 through November 26, 2010 in the amount of \$48,680. This payment status is pending appeal from the agency.

Highland View Care Center Operating Company, LLC d/b/a Citadel Rehabilitation and Nursing Center at Kingsbridge was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated November 29, 2016 for re-certification surveillance findings on August 1, 2016 with Immediate Jeopardy tags 323-K and 490-K. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care Accident: Free Environment and 415.26 Administration.

Highland View Care Center Operating Company, LLC d/b/a Citadel Rehabilitation and Nursing Center at Kingsbridge paid a CMP of \$20,737.60 for the survey dated August 1, 2016.

The information provided by the Division of Hospitals and Diagnostic & Treatment Centers 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 State of Connecticut has indicated that Stamford Acquisition I, LLC d/b/a Cassena Care at Stamford has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

New Britain Acquisition I, LLC, d/b/a Cassena Care at New Britain is currently in compliance, but was subject to an enforcement based on a survey conducted from September 15, 2016 through October 28, 2016, citing violations in Quality of Care: Necessary Care and Services for Highest Practicable Well Being; Quality of Care: Accidents / Hazards / Environment / Supervision / Devices; and Quality of Care: Sufficient Fluid to Maintain Hydration. A state civil penalty of \$1,730 was imposed and paid, a federal Civil Monetary Penalty of \$17,821.05 was imposed and paid, and a federal prohibition was imposed on Nurse Aide Training and Competency Evaluation programs offered by, or in, the facility for the time period September 15, 2016 through September 14, 2018.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in September, 2013, citing violations in Quality of Care: Necessary Care and Services for Highest Practicable Well Being; and Quality of Care: Accidents / Hazards / Environment / Supervision / Devices. A state civil penalty of \$1020 was imposed and paid, and a federal Civil Monetary Penalty of \$7,850 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in October, 2013, citing violations in Quality of Care: Accidents / Hazards / Environment / Supervision / Devices. A state civil penalty of \$360 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in December, 2013, citing violations in Quality of Care: Accidents / Hazards / Environment / Supervision / Devices. A state civil penalty of \$1,160 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in February 2014, citing violations in Quality of Care: Necessary Care and Services for Highest Practicable Well Being; and Quality of Care: Pressure Sores. A state civil penalty of \$1,370 was imposed and paid, and a federal Civil Monetary Penalty of \$13,650 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in January, 2016, citing violations in Quality of Care: Accidents / Hazards / Environment / Supervision / Devices; and Resident Behavior and Facility Practice: Resident Abuse. A state civil penalty of \$3,000 was imposed and paid, and a federal Civil Monetary Penalty of \$6,500 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in March, 2016, citing violations in Quality of Care: Necessary Care and Services for Highest Practicable Well Being; and Resident Behavior and Facility Practice: Staff Treatment of Residents. Two separate state civil penalties of \$3,000 and \$2,370 were imposed and paid, and a federal Civil Monetary Penalty of \$8,750 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in September, 2016, citing violations in Quality of Care: Significant Medication Errors. A federal Civil Monetary Penalty of \$2,315.95 was imposed and paid.

The applicant proposes to serve the residents of the following counties from an office located at 375 East Bay Drive, Long Beach, New York 11561:

Nassau Suffolk

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		

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

1. Submission of a copy of the operating agreement of the applicant, which is acceptable to the Department.
2. Submission of a copy of the Articles of Organization of the applicant, which are acceptable to the Department.
3. Submission of a copy of the Certificate of Assumed Name of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: November 2, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: PromptCare Home Infusion of New York, LLC
Address: Farmingdale
County: Nassau
Structure: Limited Liability Company
Application Number: 171276

Description of Project:

PromptCare Home Infusion of New York, LLC, a 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.

PromptCare Home Infusion of New York, LLC was previously approved as a home care services agency by the Public Health Council at its May 4th, 2007 meeting and subsequently assigned license number 1481L001, effective December 6, 2007. A secondary location in Queens County was approved by the Public Health Council at its May 4, 2007 meeting and subsequently assigned license number 1481L002, effective February 23, 2001. Both locations are included in this transaction.

The purpose of this application is to seek approval for PC Infusion Investments, Inc., a Delaware corporation, to acquire PromptCare Home Infusion, LLC (the LHCSA's current parent company) through an Asset Purchase Agreement.

PromptCare Home Infusion of New York, LLC (LHCSA) is a wholly owned subsidiary of PromptCare Home Infusion, LLC (100% membership).

PromptCare Home Infusion, LLC is a wholly owned subsidiary of PC Infusion Investments, Inc. (100% membership).

PC Infusion Investments, Inc., has authorized 1,000 shares of stock, which are owned solely by PC Investment Holdings, LLC.

The Board of Directors of PC Infusion Investments, Inc. comprises the following individuals:

Brent Williams – Member
Senior Partner, The Halifax Group

Andrew Masetti – Member
CFO, The PromptCare Companies, Inc.

Scott Van Duinen – Member
Partner, The Halifax Group

Michael Marshall – Member
Senior Partner, CFO, CCO - The Halifax Group

Joseph Poliseo – Member
COO, The PromptCare Companies, Inc.

Christopher Cathcart – Member
Partner, The Halifax Group

Molly Fitzpatrick – Member
Vice-President, The Halifax Group

Kenneth Doyle – Member
Senior Partner, The Halifax Group

Scott Plumridge – Member
Partner, The Halifax Group

David Dupree – Member
Senior Partner & Founder, The Halifax Group

Thomas Voorhees – Member
President & CEO, The PromptCare Companies, Inc

Affiliations:

- Mountain Vista Medical Center, LP d/b/a Mountain Vista Medical Center - AZ
- St. Luke's Behavioral Hospital, LP d/b/a St. Luke's Behavioral Health Center - AZ (2015-present)
- St. Luke's Medical Center, LP d/b/a St. Luke's Medical Center - AZ (2016-present)
- St. Luke's Medical Center, LP d/b/a Tempe St. Luke's Hospital, a campus of St. Luke's Medical Center - AZ (2015-present)
- Brim Holding Company, Inc. d/b/a Wadley Regional Medical Center at Hope - AR (2017-present)
- Brim Healthcare of Colorado, LLC d/b/a Pikes Peak Regional Hospital - CO (2016-present)
- IASIS Glenwood Regional Medical Center, LP d/b/a Glenwood Regional Medical Center - LA (2017-present)
- Odessa Regional Hospital, LP d/b/a Odessa Regional Medical Center - TX (2016-present)
- Southwest General Hospital, LP d/b/a Southwest General Hospital - TX (2015-present)
- SJ Medical Center, LLC d/b/a St. Joseph's Medical Center – TX (2016-present)
- The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas – TX (2015-present)
- Brim Healthcare of Texas, LLC d/b/a Wadley Regional Medical Center – TX (2017-present)
- Jordan Valley Medical Center, LP d/b/a Jordan Valley Medical Center – UT (2016-present)
- Jordan Valley Medical Center, LP d/b/a Jordan Valley Medical Center, West Valley Campus – UT (2016-present)
- Jordan Valley Medical Center, LP d/b/a Mountain Point Medical Center, a campus of Jordan Valley Medical Center – UT (2016-present)
- Davis Hospital & Medical Center, LP d/b/a Davis Hospital & Medical Center – UT (2015-present)
- Salt Lake Regional Medical Center, LP d/b/a Salt Lake Regional Medical Center – UT (2015-present)

The members of the PC Investment Holdings, LLC comprises the following individuals and Limited Partnership:

Halifax Capital Partners III, L.P. – 97.76%	Lynn Allen – 0.7% (affidavit submitted, no Schedule 1)
Thomas Voorhees – 0.5% (Previously Disclosed)	Scott Lea – 0.5% (affidavit submitted, no Schedule 1)
Andrew Masetti – 0.1% (Previously Disclosed)	Randy Matthews – 0.2% (affidavit submitted, no Schedule 1)
Joseph Poliseo – 0.2% (Previously Disclosed)	

Halifax Capital Partners III, L.P. comprises 46 Limited Partners and Limited Partnership:

Halifax GenPar III, L.P. – 3.25%	46 Limited Partners
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The 46 Limited Partners above include individuals and private entities. No individual Limited Partner exceeds 10% of the fund. The Limited Partners do not have the right to vote on individual investments of Halifax Capital Partners III, L.P. Halifax Capital Partners III, L.P. is controlled by its General Partner: Halifax GenPar III, L.P.

Halifax GenPar III, L.P. comprises 6 Limited Partners and Limited Liability Company:

The Halifax Group, LLC

6 Limited Partners

None of the 6 individual Limited Partners exceed 2% of the total fund. The Limited Partners do not have the right to vote on individual investments of Halifax GenPar III, L.P. Halifax GenPar III, L.P. is controlled by its General Partner: The Halifax Group, LLC.

The membership of the The Halifax Group, LLC is comprised the following seven (7) individuals, 4 of which who are senior partners/investors and 3 partners who are non-investors:

David Dupree – 25%
Senior Partner & Founder, The Halifax Group

Scott Van Duinen – Member
Partner, The Halifax Group

Michael Marshall – 25%
Senior Partner, CFO, CCO - The Halifax Group

Christopher Cathcart – Member
Partner, The Halifax Group

Kenneth Doyle – 25%
Senior Partner, The Halifax Group

Scott Plumridge – Member
Partner, The Halifax Group

Brent Williams – 25%
Senior Partner, The Halifax Group

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

Applicants Thomas Voorhees and Joseph Poliseo both disclosed a civil action lawsuit pending against them involving Medicaid or Medicare issues. The Civil Lawsuit was filed in the New Jersey Court System in 2014 by plaintiffs Karina and Andrew Parise, former employees of PromptCare Home Infusion. The lawsuit is currently in the Discovery Phase.

The applicant proposes to continue to serve the residents of the following counties from the offices located at:

Address	Counties Served
217 Central Avenue, Suite B Farmingdale, New York 11735	Nassau, Dutchess, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, Westchester, Queens
217-04 Northern Blvd., Suite 7 Bayside, New York 11361	Queens, Kings, Bronx, New York, Richmond

The applicant proposes to continue to provide Nursing services.

A seven (7) year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

Facility Name	State	Affiliation Dates
PromptCare Home Infusion of New York, LLC (LHCSA)	NY	
Mountain Vista Medical Center, LP d/b/a Mountain Vista Medical Center	AZ	
St. Luke's Behavioral Hospital, LP d/b/a St. Luke's Behavioral Health Center	AZ	(2015-present)
St. Luke's Medical Center, LP d/b/a St. Luke's Medical Center	AZ	(2016-present)
St. Luke's Medical Center, LP d/b/a Tempe St. Luke's Hospital, a campus of St. Luke's Medical Center	AZ	(2015-present)

Brim Holding Company, Inc. d/b/a Wadley Regional Medical Center at Hope	AR	(2017-present)
Brim Healthcare of Colorado, LLC d/b/a Pikes Peak Regional Hospital	CO	(2016-present)
IASIS Glenwood Regional Medical Center, LP d/b/a Glenwood Regional Medical Center	LA	(2017-present)
Odessa Regional Hospital, LP d/b/a Odessa Regional Medical Center	TX	(2016-present)
Southwest General Hospital, LP d/b/a Southwest General Hospital	TX	(2015-present)
SJ Medical Center, LLC d/b/a St. Joseph's Medical Center	TX	(2016-present)
The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas	TX	(2015-present)
Brim Healthcare of Texas, LLC d/b/a Wadley Regional Medical Center	TX	(2017-present)
Jordan Valley Medical Center, LP d/b/a Jordan Valley Medical Center	UT	(2016-present)
Jordan Valley Medical Center, LP d/b/a Jordan Valley Medical Center, West Valley Campus	UT	(2016-present)
Jordan Valley Medical Center, LP d/b/a Mountain Point Medical Center, a campus of Jordan Valley Medical Center	UT	(2016-present)
Davis Hospital & Medical Center, LP d/b/a Davis Hospital & Medical Center	UT	(2015-present)
UT Salt Lake Regional Medical Center, LP d/b/a Salt Lake Regional Medical Center	UT	(2015-present)

The information received from the State of Arizona indicates the facilities listed above are currently in compliance and that no enforcement actions have been taken against the facilities.

The information received from the State of Colorado indicates the facility listed above is currently in compliance and that no enforcement actions have been taken against the facility between 2016 and present.

The information received from the State of Louisiana indicates the facility listed above is currently in compliance and that no enforcement actions have been taken against the facility between 2017 and present.

The information received from the State of Arkansas indicates that the facility listed above is currently in compliance and that no enforcement actions have been taken against the facility between 2017 and present.

The information received from the State of Utah indicates that the facilities listed above are currently in compliance and that no enforcement actions have been taken against the facilities between 2015 and present.

SJ Medical Center, LLC d/b/a St. Joseph's Medical Center was fined forty four thousand, five hundred and fifty dollars (\$44,550) pursuant to a stipulation and order dated March 4, 2016 for inspection findings of October 12-15, 2015 for violations of Texas Administrative Code (TAC) Chapter 133.41 Hospital Functions and Services (f) -Governing Body (4) – Medical Staff (l) – Policies and Procedures (7)-Services (g)-Infection Control (l) Mental Health Services (3) Compliance (B) – Rights of Persons Receiving Mental Health Services (E) – Interventions in Mental Health Programs (t)- Renal Dialysis Services (4)- Water Treatment and Dialysate Concentrates (C) -Dialysate (ii)- hemodialysis machine concentrates; Chapter 133.42 Patient Rights (j)- Medical Records Services (6) Written Orders (7) Verbal Orders; Chapter 133.47 Abuse and Neglect Issues (c) - Abuse and Neglect of individuals with Mental Illness (2) – Posting Requirements.

The information received from the State of Texas indicates the facilities listed above are currently in compliance and that no enforcement actions have been taken against any of the facilities.

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.

Recommendation: Approval
Date: October 30, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Caring People NY Operating, LLC
Address: Forest Hills
County: Queens
Structure: Limited Liability Company
Application Number: 171333

Description of Project:

Caring People NY Operating, LLC, a 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.

Caring People, Inc. was previously approved as a home care services agency by the Public Health Council at its July 28, 2000 meeting and subsequently assigned license number 0949L001, effective November 2, 2001. A secondary location in Nassau County was approved by the Public Health Council at its July 28, 2000 meeting and subsequently assigned license number 0949L002, effective June 8, 2007. Both locations are included in this transaction.

Caring People NY Operating, LLC has proposed to enter into a management agreement with Caring People, Inc. which is currently under review by the Department of Health.

In this proposal, Silver Oak CP, LLC and Steven East propose to acquire the membership interests of Caring People, Inc.

The sole member of Caring People NY Operating, LLC is Caring People IntermediaryCoB, LLC. The sole member of Caring People IntermediaryCoB, LLC is Caring People Parent, LLC. The sole member of Caring People Parent, LLC is Caring People Parent Holdings, LLC. The sole member of Caring People Parent Holdings, LLC is Caring People HoldCo, LLC. The members of Caring People HoldCo, LLC are Silver Oak CP, LLC (60%) and Shalom East (40%).

The membership of Caring People NY Operating, LLC is comprised of the following individuals:

Shalom East – President CEO, Home Star, LLC	Amerisa Kornblum – CFO CFO, CP Employment Services Co., Inc.
Andrew Gustafson – Vice-President Vice-President, Silver Oak Services Partners, LLC	Gregory Barr – Manager Managing Partner, Silver Oak Services Partners, LLC

Affiliations

Caring People, LLC (LHCSA, Delray Beach FL)
Caring People of Pompano Beach, LLC (LHCSA, Pompano Beach, FL)
Caring People of Miami, LLC (Nurse Registry, FL)
Ultimate Angel's Home Health Care, Inc. (LHCSA, FL)
Amstaff Services Incorporated (LHCSA, Miami Lakes, FL)
Amstaff Services Incorporated (LHCSA, Pompano Beach, FL)
Caring People, Inc. (LHCSA, NY)
Caring People NJ Operating, LLC (Health Care Services Firm, NJ – 2 locations)
Caring People of NJ, LLC (Health Care Service Firm, NJ)
Caring People CT, LLC (Companion Care, CT)

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

Shalom East is exempt from a character and competence review due to the fact that he was previously approved by the Public Health Council for this Licensed Home Care Services Agency.

The applicant proposes to continue to serve the residents of the following counties from the indicated addresses:

Address	Counties Served
118-35 Queens Boulevard, Suite 1530 Forest Hills, New York 11375	Queens, Bronx, Kings, New York, Richmond, Westchester
175 Fulton Avenue Hempstead, New York 11550	Nassau, Suffolk, Rockland

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care Aide
Homemaker	Housekeeper	Medical Equipment, Supplies & Appliances

A seven (7) year review of the operations of the following facilities/ agencies was performed as part of this review (unless otherwise noted):

Caring People, LLC (LHCSA, Delray Beach FL)
 Caring People of Pompano Beach, LLC (LHCSA, Pompano Beach, FL)
 Caring People of Miami, LLC (Nurse Registry, FL)
 Ultimate Angel's Home Health Care, Inc. (LHCSA, FL 2014-present)
 Amstaff Services Incorporated (LHCSA, Miami Lakes, FL 2014-present)
 Amstaff Services Incorporated (LHCSA, Pompano Beach, FL 2014-present)
 Caring People, Inc. (LHCSA, NY)
 Caring People of NJ, LLC (Health Care Service Firm, NJ, 2010-present)
 Caring People NJ Operating, LLC (Health Care Services Firms, NJ, May 2017-present)
 Caring People CT, LLC (Companion Care, CT, April 2017-present)

The information received from the State of New Jersey indicates that the agencies noted above are currently in compliance and that no enforcement actions have been taken against the agencies.

The information received from the State of Connecticut indicates that the agency noted above is currently in compliance and that no enforcement actions have been taken against the agency.

The State of Florida's Agency for Health Care Administration did not respond to the applicant's request for a Schedule 2D. Therefore, the applicant submitted a notarized affidavit attesting that all Florida agencies noted above are currently licensed and in compliance with all applicable federal and Florida regulations, with the exception of the following actions, all of which have been resolved:

Agency	Description	Fine	Resolution
Caring People, LLC	Reporting fine for late submission of mandatory report, 11/03/2011	\$5000	Fine paid and report filed
Caring People, LLC	Application fine for late license renewal, 07/09/2008	\$500	Fine paid and renewal filed
Caring People of Pompano Beach, LLC	Reporting fine for late submission of mandatory report, 12/14/2011	\$5000	Fine paid and report filed

Caring People of Pompano Beach, LLC	Application fine for late license renewal, 12/07/2010	\$500	Fine paid and renewal filed
Amstaff Services Incorporated	Application fine for late license renewal, 05/21/2015	\$500	Fine paid and renewal filed
Amstaff Services Incorporated	Survey fine for deficiency relating to background screenings, 12/18/2014	\$1500	Deficiency corrected and fine paid
Ultimate Angel's Home Health Care, Inc.	Fine for late submission of quarterly report, 10/13/2014	\$200	Report filed and fine paid

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.

Contingency

1. Submission of a copy of the operating agreement of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: September 25, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: NY Home Care Select, LLC d/b/a Comfort Home Care
Address: Valley Stream
County: Nassau
Structure: Limited Liability Company
Application Number: 172061

Description of Project:

NY Home Care Select, LLC d/b/a Comfort Home Care, a 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.

Comfort Home Care, LLC was previously approved by the Public Health Council at its December 8, 2011 meeting and subsequently licensed as 1758L001 effective July 3, 2013. At that time the membership was as follows: Dawn V. Wickline - 50%, and Miriam Markowitz-Leonard – 50%.

Comfort Home Care, LLC has entered into a management agreement with NY Home Care Select, LLC which was approved by the Department of Health on August 7, 2017.

This application seeks Public Health and Health Planning Council approval for a change in ownership through an Asset Purchase Agreement.

The proposed members of NY Home Care Select, LLC d/b/a Comfort Home Care is comprised of the following individuals:

Murry Z. Englard, CPA – 50% membership
CEO, New York Health Care, Inc.
Accountant, Englard CPA, PC

Lisa Grossman – 50% membership
Accounts Receivable Manager, New York
Health Care, Inc.

Affiliation:

- New York Health Care, Inc.
(01/2007 – Present)

Affiliation:

- New York Health Care, Inc.
(02/2013 – Present)

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

The Office of the Professions of the State Education Department indicates no issue with the licensure of the professional associated with this application.

A seven (7) year review of the operations of the New York Health Care, Inc. (LHCSA) 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 33 West Hawthorne Avenue, Suite 33, Valley Stream, New York 11580:

- Nassau
- Westchester
- Queens
- Suffolk

The applicant proposes to continue to provide the following health care services:

- Nursing
- Physical Therapy
- Homemaker
- Home Health Aide
- Occupational Therapy
- Housekeeper
- Personal Care
- Speech-Language Pathology

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

1. Submission of a copy of the operating agreement of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval

Date: November 2, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Blossom Home Care, LLC
Address: Astoria
County: Queens
Structure: Limited Liability Company
Application Number: 172124

Description of Project:

Blossom Home Care, LLC, a 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.

Sephardic Home Care Services, Inc. d/b/a Sephardic Nursing and Rehabilitation Center, a not-for-profit corporation, was previously approved by the Public Health and Health Planning Council at its June 7, 2012 meeting and subsequently licensed as 1977L001 effective June 26, 2013.

Sephardic Home Care Services, Inc. has entered into a management agreement with Blossom Home Care LLC which was approved by the Department of Health on May 11, 2017.

This application seeks Public Health and Health Planning Council approval for a 100% change in ownership through an Asset Purchase Agreement.

The following individuals are the proposed members of Blossom Home Care, LLC:

Abraham I. Sieger, NHA – 50 % Membership
Administrator, Regeis Care Center

Naftali (Nathan) Z. Brachfeld, NHA – 50 % Membership
Administrator, New York Center for Rehabilitation and Nursing

Affiliations:

- Genesis Health Services (2014 – Present)
- Premier Health Services (2011-2012)
- Regeis Care Center (2016 – Present)
- Baychester Services, LLC d/b/a Regeis@Home (08/2017 – Present)

Affiliations:

- Genesis Health Services (2014 – Present)
- Baychester Services, LLC d/b/a Regeis@Home (08/2017 – Present)

A search of the individuals and entities 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 Abraham I. Sieger NHA license number 04871 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The Bureau of Professional Credentialing has indicated that Naftali Z. Brachfeld NHA license number 04720 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

A review of the operations of the following facilities was performed as part of this review:

- | | | |
|---------------------------|-----------------|----------------|
| • Genesis Health Services | Dialysis Center | 2014 – Present |
| • Premier Health Services | Dialysis Center | 2011-2012 |
| • Regeis Care Center | SNF | 2016 – Present |

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

The information provided by the Division of Hospitals and Diagnostic & Treatment Centers 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.

Baychester Services, LLC d/b/a Regeis@Home was contingently approved at the August 2017 PHHPC meeting as a LHCSA. This agency is not included in the character and competence review because the transaction for licensure has not been completed at this time.

The applicant proposes to continue to serve the residents of the following counties from an office located at 26-13 21st Street, Astoria, New York 11102:

- Bronx
- Kings
- Nassau
- New York
- Queens
- Richmond

The applicant proposes to continue to provide the following health care services:

- Nursing
- Home Health Aide
- Personal Care
- Medical Social Services
- Respiratory Therapy
- Speech-Language Pathology
- Occupational Therapy
- Physical Therapy
- Audiology
- Nutrition
- Housekeeper
- 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.

Recommendation: Approval
Date: October 19, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Passionate Home Care, LLC d/b/a LINK Home Care Service
Address: New York
County: New York
Structure: Limited Liability Company
Application Number: 172172

Description of Project:

Passionate Home Care, LLC d/b/a LINK Home Care Service, a 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.

Senior Home Care, Inc., was previously approved by the Public Health Council at its June 3, 1993 meeting and subsequently licensed as 9388L001 effective February 27, 1995. Two additional LHCSA office locations were added thereafter; 9388L002 effective August 3, 1999 and 9388L003 effective March 29, 2001

This application seeks Public Health and Health Planning Council approval for a 100% change in ownership through a Purchase and Sale Agreement.

The following individuals are the proposed members of Passionate Home Care, LLC d/b/a LINK Home Care Service:

Neal Einhorn – 50% Membership
Managing Member, San Souci Rehabilitation and Nursing Center

Mark Friedman – 50% Membership
Managing Member, San Souci Rehabilitation and Nursing Center

Affiliations:

- San Souci Rehabilitation and Nursing Center (10/2009 – Present)
- The Willows at Ramapo Rehabilitation and Nursing Center (07/2012 – Present)
- Livingston Hills Nursing and Rehabilitation Center (05/2006 – 09/2013)

Affiliations:

- San Souci Rehabilitation and Nursing Center (10/2009 – Present)
- The Willows at Ramapo Rehabilitation and Nursing Center (07/2012 – Present)
- Livingston Hills Nursing and Rehabilitation Center (05/2006 – 09/2013)

A search of the individual and entities 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 the following facilities was performed as part of this review (unless otherwise noted):

- | | | |
|---|-----|-------------------|
| • San Souci Rehabilitation and Nursing Center | SNF | 10/2009 – Present |
| • The Willows at Ramapo Rehabilitation and Nursing Center | SNF | 07/2012 – Present |
| • Livingston Hills Nursing and Rehabilitation Center | SNF | 05/2006 – 09/2013 |

Sans Souci Rehabilitation and Nursing Center was fined ten thousand dollars (\$10,000) pursuant to a Stipulation and Order dated March 16, 2012 for surveillance findings on February 11, 2011. Deficiencies were found under 10 NYCRR 415.12(j) Quality of Care Hydration. (S/O #: NH-12-015)

Livingston Hills Nursing & Rehabilitation Center, LLC was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated March 12, 2012 for surveillance findings on September 15, 2010. Deficiencies were found under 10 NYCRR 415.12(c)(2) Quality of Care Pressure Sores. (S/O #: NH-12-013)

Livingston Hills Nursing & Rehabilitation Center, LLC was fined sixteen thousand dollars (\$16,000) pursuant to a Stipulation and Order dated April 20, 2012 for surveillance findings on February 7, 2011 and July 6, 2011. Deficiencies were found under 10 NYCRR 415.12(j) Quality of Care Hydration; 415.12(h)(1)(2) Quality of Care Accidents; 415.26 Administration; and 415.27(a-c) Quality Assurance. (S/O #: NH-12-025)

- A federal CMP of thirty-six thousand nine hundred dollars (\$36,900.00) was assessed for the February 7, 2011 and July 6, 2011 survey findings.

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

The applicant proposes to continue to serve the residents of the following counties from the offices located at:

Address	Counties Served
305 West End Avenue New York, New York 10022	Bronx, Kings, Nassau, New York, Queens, Richmond
95 South Broadway, 4 th Floor White Plains, New York 10601	Bronx, Putnam, Rockland, Westchester
640 Oak Tree Road Palisades, New York 10964	Orange, Rockland, Ulster

The applicant proposes to continue to provide the following health care services:

- Nursing
- Medical Social Services
- Occupational Therapy
- Nutrition
- Durable Medical Supplies and Equipment
- Home Health Aide
- Respiratory Therapy
- Physical Therapy
- Housekeeper
- Personal Care
- Speech-Language Pathology
- Audiology
- 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.

Recommendation: Approval
Date: October 19, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Welcome Care, Inc.
Address: Brooklyn
County: New York
Structure: For-Profit Corporation
Application Number: 171242

Description of Project:

Welcome 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.

Welcome Care, Inc was previously approved as a home care services agency by the Public Health Council at its June 25, 1999 meeting and subsequently assigned license number 1222L001, effective April 15, 2003. At that time, Welcome Care, Inc. had authorized 200 shares of stock which were owned as follows:

Svetlana Yulchevskaya - 10 shares	Victor Rashkovich - 30 shares
Joseph Kleynerman - 30 shares	Karen Skalt - 30 shares
Unissued – 100 shares	

The applicant disclosed that in 2005, Welcome Care, Inc. underwent a stock transfer. Victor Rashkovich surrendered 30 shares of stock, leaving 130 shares unissued. In 2011, the 130 unissued stock were distributed changing the ownership as follows: Svetlana Yulchevskaya 40 shares, Joseph Kleynerman 80 shares, and Simon Skalt 80 shares.

The applicant also noted that in 2013, Welcome Care, Inc, underwent an additional stock transfer. Joseph Kleynerman sold his 80 shares to Svetlana Yulchevskaya. A stock sale agreement was executed, changing the shareholder composition to the following: Svetlana Yulchevskaya 120 shares and Simon Skalt 80 shares.

In this proposal, Welcome Care, Inc. is seeking approval of the undisclosed transfer of stock to Simon Skalt that occurred in 2011.

Welcome Care, Inc. has authorized 200 shares of stock which are owned as follows: Svetlana Yulchevskaya owns 120 shares and Simon Skalt owns 80 shares.

The Board of Directors of Welcome Care, Inc. will be comprised of the following individuals:

Simon Skalt – President CEO, Welcome Care, Inc.	Svetlana Yulchevskaya – Vice-President Secretary, Welcome Care, Inc.
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<u>Affiliation</u> Welcome Care, Inc. (LHCSA)	<u>Affiliation</u> Welcome Care, Inc. (LHCSA)
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A search of the individuals named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

Svetlana Yulchevskaya is exempt from character and competence review due to the fact that this individual was previously approved by the Public Health Council for this operator.

The applicant proposes to serve the residents of the following counties from an office located at 1090 Coney Island Avenue, 3rd Floor, Brooklyn, New York 11230:

Kings
Richmond

Queens
Nassau

New York

Bronx

The applicant proposes to provide the following health care services:

Nursing
Medical Equipment, Supplies & Appliances

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):

Welcome Care, Inc. (LHCSA)

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.

Contingency

1. A copy of the by-laws of the applicant, which is acceptable to the Department. (CSL)

Recommendation: Contingent Approval
Date: June 20, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: AZA Group Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 152031

Description of Project:

AZA Group Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

AZA Group Inc. has authorized 200 shares of stock, which are solely owned by Amy Monroe.

The Board of Directors of AZA Group Inc. is comprised of the following individual:

Amy Monroe, RN, Chairman/Director
RN/Director of Patient Services, Emanuel Services

The Office of the Professions of the State Education Department indicates no issues with the licenses of the healthcare professionals associated with this application.

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 the following counties from an office located at 328 Senator Street, Brooklyn, New York 11220:

Kings	Queens	New York
Bronx	Richmond	Nassau

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Respiratory Therapy
Speech-Language Pathology	Audiology	Medical Social Services
Nutrition	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

1. Submission of a copy of the by-laws of the applicant, which are acceptable to the Department.

Recommendation: Contingent Approval
Date: November 1, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: VIPatient Home Care, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 152270

Description of Project:

VIPatient Home Care, Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 200 shares of stock. The shareholders comprise the following individuals: Elena Lokshin owns 100 shares and Irina Pastina owns 100 shares.

The Board of Directors of VIPatient Home Care, Inc. is comprised of the following individuals:

Elena Lokshin – CEO
Human Resources Manager,
Always Home Care, Inc.

Irina Pastina, HHA – Vice-President
Payroll Manager/Compliance Officer,
Always Home Care, Inc.

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

A search of the individual named above on the New York State Home Care Registry revealed that the individual is certified as a HHA and has no convictions or findings.

The applicant proposes to serve the residents of the following counties from an office located at 7714 Bay Parkway, Suite 7E, Brooklyn, New York 11214:

Kings

Queens

New York

The applicant proposes to provide the following health care services:

Nursing

Home Health Aide

Personal Care

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

1. Submission of a copy of the by-laws of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: January 2, 2018

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Santry Home Care, Inc.
d/b/a Visiting Angels
Address: Yonkers
County: Westchester
Structure: For-Profit Corporation
Application Number: 152293

Description of Project:

Santry Home Care, Inc. d/b/a Visiting Angels, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Santry Home Care, Inc. d/b/a Visiting Angels has proposed to operate as a Franchisee of Living Assistant Services, Inc.

The applicant has authorized 200 shares of stock. The shareholders comprise the following individuals: Patrick Murphy owns 100 shares and Barbara Murphy owns 100 shares.

The Board of Directors of Santry Home Care, Inc. d/b/a Visiting Angels is comprised of the following individuals:

Patrick Murphy – President
Unemployed

Barbara Murphy, RN – Vice-President
RN, Memorial Sloan Kettering Cancer 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 73 Market Street, Suite 376, Yonkers, New York 10710:

Westchester

Bronx

The applicant proposes to provide the following health care services:

Nursing
Homemaker

Home Health Aide
Housekeeper

Personal Care

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

1. Submission of a copy of the certificate of amendment to the certificate of incorporation of the applicant, which is acceptable to the Department.
2. Submission of A copy of the franchise agreement of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: October 30, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: K Homecare Corporation
Address: Little Neck
County: Queens
Structure: For-Profit Corporation
Application Number: 152315

Description of Project:

K Homecare Corporation, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 200 shares of stock which are owned as follows:

Youngsoon Lee, RN – 200 Shares
Director of Patient Services, NU Home Care Corp.

The following individual is the sole member of the Board of Directors K Homecare Corporation:

Youngsoon Lee, RN – President
(Previously Disclosed)

The Office of the Professions of the State Education Department indicates no issues with the licensure of the health 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.

The applicant proposes to serve the residents of the following counties from an office located at 41-31 Little Pkwy, 2nd Floor, Little Neck, NY 11363:

- Bronx
- Kings
- Nassau
- New York
- Queens
- Richmond

The applicant proposes to provide the following health care services:

- Nursing
- Home Health Aide
- Personal Care
- Physical Therapy
- Occupational Therapy
- Speech-Language Pathology
- 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

1. Submission of A copy of the amended by-laws of the applicant, acceptable to the Department.

Recommendation: Contingent Approval
Date: October 26, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Wellness Registered Nursing, P.C.
Address: Bronx
County: Bronx
Structure: For-Profit Corporation
Application Number: 152335

Description of Project:

Wellness Registered Nursing, P.C. a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 200 shares of stock which are owned as follows:

Theodora Kwarteng - 30 shares	Joyce Mwangi -10 shares
Ibrahim Mahmood – 10 shares	unissued – 150 shares

The Board of Directors of Wellness Registered Nursing, P.C. is comprised of the following individuals:

Theodora Kwarteng, RN – President RN, NY Presbyterian Hospital	Joyce Mwangi, RN – Vice-President RN, NY Presbyterian Hospital
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Ibrahim Mahmood, RT – Secretary
Respiratory Therapist - NY Presbyterian Hospital
Respiratory Therapist – St. Joseph’s Medical Center
Respiratory Therapist – Wayne Nursing Home

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 professionals associated with this application.

The applicant proposes to serve the residents of the following counties from an office located at 945 East 174th Street, Apt. 307, Bronx, New York 10460:

Bronx	New York
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The applicant proposes to provide the following health care services:

Nursing	Home Health Aide
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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

1. Submission of a copy of the amended by-laws of the applicant, acceptable to the Department.

Recommendation: Contingent Approval
Date: October 30, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: Reginald Aumoithe d/b/a Safe & Sound Nursing Care Agency
Address: Medford
County: Suffolk
Structure: Sole Proprietorship
Application Number: 152340

Description of Project:

Reginald Aumoithe d/b/a Safe & Sound Nursing Care Agency, a sole proprietorship, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Reginald Aumoithe, LPN – Sole Proprietor
LPN, Lewin Services, Inc.
LPN, Christian Nursing Registry
LPN, Total Healthcare Agency

The Office of the Professions of the State Education Department indicate no issues with the licensure of the health 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.

The applicant proposes to serve the residents of the following counties from an office located at 2811 Watchill Avenue, Medford, NY 11763:

Nassau Suffolk Queens

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.

Contingency

1. Submission of a copy of the amended by-laws of the applicant, acceptable to the Department.

Recommendation: Contingent Approval
Date: December 12, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: Life Improvement Homecare, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 152369

Description of Project:

Life Improvement Homecare, Inc., a proposed business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has proposed to authorize 200 shares of stock which will be owned as follows:

Ning Chen – 60 Shares
Manager, Guangzhou Starzle Technologies Limited

Marcia Hu – 60 Shares
Brand Coordinator, COM New York

Affiliation:
• Wondercare, Inc. (01/2016-Present)

Affiliation:
• Wondercare, Inc. (01/2016-Present)

Feifei Li – 60 Shares
Training Manager, American Business Institute Corp.

Igor Rozhansky – 20 Shares
Optician, Euro Optika

The proposed Board of Directors of Life Improvement Homecare, Inc. comprises the following individuals:

Ning Chen – President
(Previously Disclosed)

Marcia Hu – Vice President
(Previously Disclosed)

Feifei Li – Vice President
(Previously Disclosed)

Igor Rozhansky – Member
(Previously Disclosed)

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

A review of the operations of the following facility was performed as part of this review:

- Wondercare, Inc. LHCSA 01/2016-Present

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 serve the residents of the following counties from an office located at 251 East 5th Street, Brooklyn, New York 11218:

- Bronx
- New York
- Kings
- Queens
- Nassau
- Richmond

The applicant proposes to provide the following health care services:

- Nursing
- Medical Social Services
- Occupational Therapy
- Nutrition
- Durable Medical Supplies and Equipment
- Home Health Aide
- Respiratory Therapy
- Physical Therapy
- Housekeeper
- Personal Care
- Speech-Language Pathology
- Audiology
- 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.

Recommendation: Approval
Date: October 26, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: Nurturing Angels Homecare, Inc.
Address: South Richmond Hill
County: Queens
Structure: For-Profit Corporation
Application Number: 152374

Description of Project:

Nurturing Angels Homecare, Inc., a proposed business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has proposed to authorize 200 shares of stock which are owned as follows:

Mana Masih, RN – 190 Shares President, Masih Home Care Incorporated	Janette Shtaynberg, HHA – 10 Shares Home Health Aide, Helping Hands
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Affiliation: <ul style="list-style-type: none">Masih Home Care Incorporated license (06/2016 – 08/2017)	Affiliation: <ul style="list-style-type: none">JS Homecare Agency of NY, Inc. (09/2013 – 01/2015)
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The proposed Board of Directors of Nurturing Angels Homecare, Inc. comprises the following individuals:

Mana Masih, RN, NHA – President (Previously Disclosed)	Janette Shtaynberg, HHA – Vice President (Previously Disclosed)
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The Office of the Professions of the State Education Department indicates no issue with the licensure of the health professional associated with this application.

A search of the individuals and entities 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 Mana Masih held a NHA license, license #05429, that expired on 12/31/2011. The Board of Examiners of Nursing Home Administrators never took disciplinary action against this individual or his license.

A search of the individual named above on the New York State Home Care Registry revealed that the individual is certified as a HHA, currently employed as a HHA and has no convictions or findings.

A review of the operations of the following facility was performed as part of this review:

- | | | |
|----------------------------------|-------|-------------------|
| • Masih Home Care Incorporated | LHCSA | 06/2016 – 08/2017 |
| • JS Homecare Agency of NY, Inc. | LHCSA | 09/2013 – 01/2015 |

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 serve the residents of the following counties from an office located at 94-36 114th Street, South Richmond Hill, New York 11419:

- | | | |
|------------|----------|------------|
| • Bronx | • Kings | • Nassau |
| • New York | • Queens | • Richmond |

The applicant proposes to provide the following health care services:

- Nursing
- Medical Social Services
- Occupational Therapy
- Nutrition
- Durable Medical Supplies and Equipment
- Home Health Aide
- Respiratory Therapy
- Physical Therapy
- Housekeeper
- Personal Care
- Speech-Language Pathology
- Audiology
- 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.

Recommendation: Approval
Date: November 8, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: HazMed Solution Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 152386

Description of Project:

HazMed Solution Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

HazMed Solution Inc. has authorized 200 shares which are owned solely by Amy L. Monroe, RN.

The Board of Directors of HazMed Solution Inc. is comprised of the following individual:

Amy L. Monroe, RN
Director of Patient Services, Emanuel Services

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

The Office of the Professions of the State Education Department indicates no issues with the licenses 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 328 Senator Street, Brooklyn, New York 11220:

Queens	Kings	Richmond
New York	Bronx	Nassau

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Respiratory Therapy
Speech-Language Pathology	Audiology	Medical Social Services
Nutrition	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

1. Submission of a copy of the by-laws of the applicant, which are acceptable to the Department.

Recommendation: Contingent Approval
Date: October 24, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: Eprine Home Care, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 161011

Description of Project:

Eprine Home Care, Inc., business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 200 shares of stock which are owned as follows:

Ernesto A. Pinder – 100 Shares President/CEO, Gloria B. Rose Center for Children, Inc. NYC Special Education School Improvement Specialist, Regional Special Education Technical Assistance Support Center	Luis Mota – 50 Shares Deputy Executive Director, Metropolitan Family Services, Inc. President/CEO, Eprine Community Services, Inc.
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Paul C. Allister – 50 Shares
Operations Associate, Highbridge Capital
Management

The Board of Directors of Eprine Home Care, Inc. comprises the following individuals:

Ernesto Pinder – President/CEO (Previously Disclosed)	Luis Mota – Vice President/COO (Previously Disclosed)
Paul C. Allister– Secretary/Treasurer/CFO (Previously Disclosed)	

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 the following counties from an office located at 61 Brandford Street, Brooklyn, New York 11207:

- Bronx
- New York
- Kings
- Queens
- Nassau
- Richmond

The applicant proposes to provide the following health care services:

- Nursing
- Medical Social Services
- Occupational Therapy
- Housekeeper
- Home Health Aide
- Physical Therapy
- Nutrition
- Personal Care
- Speech-Language Pathology
- 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

1. Submission of a copy of the by-laws of the applicant, which are acceptable to the Department.

Recommendation: Contingent Approval
Date: October 19, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Executive Home Care, Inc d/b/a Z Best Home Care
Address: Staten Island
County: Richmond
Structure: For-Profit Corporation
Application Number: 161053

Description of Project:

Executive Home Care, Inc d/b/a Z Best Home Care, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Executive Home Care, Inc d/b/a Z Best Home Care has authorized 200 shares of stock which are owned solely by David Modnyy.

The Board of Directors of Executive Home Care, Inc d/b/a Z Best Home Care is comprised of the following individual:

David Modnyy – President
Owner/Administrator, Prestige LHCSA Management, Inc d/b/a Hand in Hand Together Home Care

Affiliation

Prestige LHCSA Management, Inc d/b/a Hand in Hand Together Home Care (LHCSA) (5/01/2015 – Present)

A search of the individual 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 the following counties from an office located at 672 Britton Avenue, Staten Island, New York 10304:

Kings New York	Queens Bronx	Richmond Westchester
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The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Respiratory Therapy
Speech-Language Pathology	Audiology	Medical Social Services
Nutrition	Homemaker	Housekeeper

A seven (7) year review of the operations of the following facility/agency was performed as a part of this review:

Prestige LHCSA Management d/b/a Hand in Hand Together Home Care (LHCSA) (5/2015 – Present)

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

1. Submission of a copy of the by-laws of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: December 29, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Girgis Associates, Inc.
d/b/a ComForCare Home Care – Staten Island
Address: Staten Island
County: Richmond
Structure: For-Profit Corporation
Application Number: 161063

Description of Project:

Girgis Associates, Inc. d/b/a ComForCare Home Care – Staten Island, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Girgis Associates, Inc. d/b/a ComForCare Home Care – Staten Island has entered into a franchise agreement with ComForCare Health Care Holdings, Inc.

The applicant has authorized 200 shares of stock which are owned solely by Wagdy Girgis.

The Board of Directors of Girgis Associates, Inc. d/b/a ComForCare Home Care – Staten Island is comprised of the following individual:

Wagdy Girgis, MD – President
Owner, Girgis Associates, Inc. d/b/a ComForCare Home Care – Staten Island
Director of Wound Care & Hyperbaric Center, Maimonides Medical Center
Owner, Wagdy Girgis MD, PC

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

The Office of the Professions of the State Education Department, the New York State Physician Profile and the Office of Professional Medical Conduct, where appropriate, indicate no issues with the licensure of the health professional associated with this application.

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 answered yes to record of legal action and disclosed that a suit was brought against him in on June 21, 2005 by a patient for the development of decubitus ulcers. On January 8, 2015, a settlement in the amount of \$235,000 was reached and the suit was closed.

The applicant proposes to serve the residents of Richmond County from an office located at 1330 A. Rockland Avenue, Staten Island, New York 10314.

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

1. Submission of a copy of the by-laws of the applicant, which is acceptable to the Department.
2. Submission of a copy of the Franchise Agreement, acceptable to the Department.

Recommendation: Contingent Approval

Date: November 1, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Advent Homecare Agency Inc.
Address: Westbury
County: Nassau
Structure: For-Profit Corporation
Application Number: 161478

Description of Project:

Advent Homecare Agency Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Advent Homecare Agency Inc. has authorized 1,000,000 shares of stock, which are owned as follows:

Dr. Lesly Kernisant owns 130,000 shares	Frantz Pierre-Louis owns 130,000 shares
Betzy Bazelais owns 127,500 shares	Serge R. Pinard owns 127,500 shares
Dr. Gardith Duroseau owns 2,500 shares	Geralda Jean Pelissier owns 3,333 shares

The remaining 479,167 shares are unissued.

The Board of Directors of Advent Homecare Agency Inc. is comprised of the following individuals:

Dr. Lesly Kernisant - President Retired Physician/OBGYN Chief Medical Officer, Brooklyn Plaza Medical Center	Serge Pinard - Vice President Certified Financial Planner NYS Life, Health, Variable Annuity and Variable Life Broker NYS FINRA NYS Real Estate Agent CFP Consultant, AXA Advisors LLC
Frantz Pierre-Louis, CPA, EA - Treasurer Managing Director, Pierre-Louis & Associates CPA, PC	Betzy Bazelais - Secretary NYS Health Insurance Agent/Broker NYS Property & Casualty Insurance Agent/Broker NYS Real Estate Agent CEO, Bazelais Agency
Geralda Jean Pelissier, NP, RN - Member NYS Registered Nurse & Nurse Practitioner Delaware State Registered Nurse & Nurse Practitioner Clinical Supervisor, Visiting Nurse Services of New York	

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: The Rock Home Care, Inc.
Address: Staten Island
County: Richmond
Structure: For-Profit Corporation
Application Number: 2589-L

Description of Project:

The Rock Home Care, Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 100 shares of stock which are owned as follows:

Halimattu M. Foday-Kakpa, RN – 1 share
Registered Nurse, Northwell Health

99 shares of stock remain unissued.

The following individual is the sole member of the Board of Directors of The Rock Home Care, Inc.:

Halimattu M. Foday-Kakpa, RN
(Previously Disclosed)

The Office of the Professions of the State Education Department indicates no issues with the licensure of the health 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.

The applicant proposes to serve the residents of the following counties from an office located at 55 Bowen Street, Apt #325, Staten Island, New York 10304:

- Kings
- Richmond
- New York
- Queens

The applicant proposes to provide the following health care services:

- Nursing
- Medical Social Services
- Occupational Therapy
- Housekeeper
- Home Health Aide
- Respiratory Therapy
- Physical Therapy
- Homemaker
- Personal Care
- Speech-Language Pathology
- Nutrition

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: November 8, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Exclusive Home Care Services, Inc.
Address: Rego Park
County: Queens
Structure: For-Profit Corporation
Application Number: 2591L

Description of Project:

Exclusive Home Care Services, Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 200 shares of common stock which are owned as follows:

Erick Gavriyelov, RN – 200 Shares
Intake Registered Nurse, Fidelis Care

The following individual is the sole member of Board of Directors of Exclusive Home Care Services, Inc.:

Erick Gavriyelov, RN - President
(Previously Disclosed)

The Office of the Professions of the State Education Department indicates no issues with the licensure of the health professional associated with this application.

A search of the individual (and entity as appropriate) 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 the following counties from an office located at 63-53 Haring Street, Suite 307, Rego Park, New York 11374:

Bronx	Kings	Nassau	New York
Queens	Richmond		

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care	Medical Social Services
Occupational Therapy	Respiratory Therapy	Audiology	Speech-Language Pathology
Physical Therapy	Nutrition	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: June 20, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Igor Homecare, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 2535-L

Description of Project:

Igor Homecare, Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 200 shares of stock, which are owned as follows:

Igor Rozhansky – 180 Shares Natalya Chornaya, RN – 20 Shares

The Board of Directors of Igor Homecare, Inc. comprises the following individuals:

Igor Rozhansky – President Optician, Euro Optika

Natalya Chornaya, RN – Vice President Registered Nurse, Mount Sinai Beth Israel

Affiliation:

- MedPro Homecare Agency, Inc. (2016 – Present)
- NC Homecare Agency of NY, Inc. (August 2012 – Present)

The Office of the Professions of the State Education Department indicates no issues with the licensure of the health professional associated with this application.

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

A review of the operations of the following facilities was performed as part of this review:

- MedPro Homecare Agency, Inc. (2016 – Present)
- NC Homecare Agency of NY, Inc. (August 2012 – Present)

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 serve the residents of the following counties from an office located at 251 East 5th Street, Brooklyn, New York 11218

Bronx	Kings	New York	Richmond
Queens	Westchester		

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care	Medical Social Services
Occupational Therapy	Respiratory Therapy	Audiology	Speech-Language Pathology
Physical Therapy	Nutrition	Durable Medical Supplies and Equipment	
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.

Recommendation: Approval
Date: December 27, 2017



MEMORANDUM

To: Public Health and Health Planning Council (PHHPC)

From: Richard J. Zahnleuter
General Counsel 

Date: December 13, 2017

Subject: Cornerstone FH Charitable Foundation

Cornerstone Family Healthcare (the "Facility"), a licensed Article 28 diagnostic and treatment center, has decided to form a charitable foundation, to be named Cornerstone FH Charitable Foundation (the "Foundation"), with the purposes of the Foundation being to "receive, administer and expend funds" for the benefit of the Facility.

To legally do this type of fundraising, the Foundation must receive approval from PHHPC, and the Foundation must receive PHHPC consent to file the formational Certificate of Incorporation. Such approval and consent is required pursuant to NY PHL §2801-a (1), (6), and (8), as well as NY N-PCL §404 (o) and (t).

Attached for PHHPC's review is said Certificate, a list of the Foundation's initial directors, a description of the Foundation's proposed fundraising activities, and a letter from the Facility acknowledging that it will accept funds from the Foundation, among other attachments.

There is no legal objection to the formation of the Foundation. The proposed Certificate of Incorporation of the Foundation is in legally acceptable form, and there is no legal objection to the filing of the same with the New York State Secretary of State.

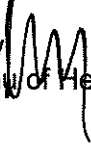
Attachments.



MEMORANDUM

To: Lisa Thomson
Division of Health Facility Planning

Colleen Leonard, Executive Secretary
Public Health and Health Planning Council

From: Eric J. Mantey, Senior Attorney 
Division of Legal Affairs, Bureau of Health Facility Planning and Development

Date: December 13, 2017

Subject: Cornerstone FH Charitable Foundation

This is to request that the above matter be included on the agendas for the next Establishment and Project Review Committee and Public Health and Health Planning Council (PHHPC) meetings.

The attachments relating to this matter include the following:

- 1) A memorandum to the Public Health and Health Planning Council from Richard J. Zahnleuter, General Counsel;
- 2) A photocopy of the Certificate of Incorporation of Cornerstone FH Charitable Foundation;
- 3) A photocopy of a letter from Linda S. Muller, President and CEO of Cornerstone Family Healthcare;
- 4) Photocopies of two letters from Catania, Mahon, Milligram & Rider, PLLC, the firm representing the Foundation;
- 5) A description of the fundraising activities that Cornerstone FH Charitable Foundation plans to undertake;
- 6) A list of the initial directors of the proposed foundation;
- 7) A photocopy of the Foundation's proposed By-laws.

Attachments

cc: C. Jolicoeur, B. DelCogliano

CERTIFICATE OF INCORPORATION
OF
CORNERSTONE FH CHARITABLE FOUNDATION

Under Section 402 of the Not-for-Profit Corporation Law

FIRST: The name of the corporation is:

CORNERSTONE FH CHARITABLE FOUNDATION

SECOND: The Corporation is a corporation as defined in subparagraph (5) of paragraph (a) of Section 102 of the Not-for-Profit Corporation Law.

THIRD: The Corporation is organized and shall be operated exclusively for the benefit of Cornerstone Family Healthcare ("Cornerstone"). Cornerstone is a not-for-profit corporation organized under New York State Law and is licensed to operate by the State of New York as an Article 28 Diagnostic and Treatment Center. Cornerstone is also recognized by the Federal Government as a Section 330 Federally Qualified Health Center. The purpose of Cornerstone is to provide high-quality, comprehensive and primary and preventative health care services for the medically underserved population in an environment of caring, respect and dignity, through the management and operation of a cost-effective and coordinated health facility.

Notwithstanding the foregoing, the Corporation shall not itself operate any program or programs for the benefit of those with medical conditions or intellectual or other developmental disabilities or their families, which program or programs require any license, certificate, or other governmental approval to operate.

The Corporation shall (a) receive, administer and expend funds exclusively for the benefit of Cornerstone and (b) perform any other act or thing incidental to, or in connection with, the foregoing purposes or in advancement thereof.

Nothing in this Certificate of Incorporation shall authorize the corporation within the State of New York, to (1) provide hospital services or health related services, as such terms are defined in the New York State Public Health Law (PHL); (2) establish operate or maintain a hospital, a home care services agency, a hospice, a managed care organization or a health maintenance organization, as provided for by Articles 28, 36, 40 and 44 respectively, of the PHL and implementing regulations; (3) establish and operate an independent practice association, (4) establish, operate, construct, lease, or maintain an adult home, an enriched housing program, a residence for adults, or an assisted living program, as provided for by Article 7 of the New York State Social Services Law (SSL); or (5) establish, operate, construct, lease or maintain an assisted living residence, as provided for by Article 46-B of the PHL. Additionally, nothing in this Certificate of Incorporation

shall authorize the corporation within the State of New York, to (a) hold itself out as providing or (b) provide any health care professional services that require licensure or registration pursuant to either Title 8 of the New York State Education Law, or the PHL, including, but not limited to, medicine, nursing, psychology, social work, occupational therapy, speech therapy, physical therapy, or radiation technology

FOURTH: The Corporation is formed to engage in an activity or for a purpose requiring consent or approval of a state official, department, board, agency or other body. Such consent or approval is attached.

FIFTH: The Corporation is a charitable corporation under Section 201 of the Not-for-Profit Corporation Law.

SIXTH: The office of the Corporation is to be located in the County of Orange, State of New York.

SEVENTH: The names and addresses of the three initial directors of the Corporation are:

Linda S. Muller, M.S.
5 Primrose Ct, Cornwall, NY 12518

Patrick R. Murphy, CPA
1 Courtney Ln, Brewster, NY 10509

Marcel Martino
2 Fletcher St., Goshen, NY 10924

EIGHTH: 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 mail a copy of any process accepted on behalf of the Corporation is:

2570 Route 9W, Suite10
Cornwall, NY 12518

NINTH: The following language relates to the Corporation's tax exempt status and is not a statement of purposes and powers. Consequently, this language does not expand or alter the Corporation's purposes or powers set forth in paragraph THIRD.

No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to, any member, trustee, director, officer or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Certificate of Incorporation.

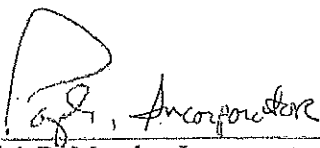
No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Section 501(h)) of the Internal Revenue Code of 1986 (the "Code"), and the Corporation shall not participate or intervene in (including the publication or distributions of statements) any political campaign on behalf of or in opposition to any candidate for public office.

Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for one or more of the purpose, as specified in Section 501(c)(3) of the Code, or corresponding section of any future federal tax law and shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from federal income tax under section 501(c)(3) of the Code, or the corresponding section of any future tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Code, or the corresponding section of any future federal tax code.

Upon the dissolution of the Corporation, all of the remaining assets and property of the Corporation shall after necessary expenses and satisfaction of all liabilities thereof be distributed to Cornerstone or an eligible affiliate of Cornerstone, or if Cornerstone and all of its affiliates are not then in existence then to one or more tax-exempt organizations that provides health care services to the indigent in the counties served by Cornerstone Family Healthcare.

In any taxable year in which the corporation is a private foundation as described in Section 509(a) of the Code, the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Section 4942 of the Code; and the corporation shall not (a) engage in any act of self-dealing as defined in Section 4941(d) of the Code; (b) retain any excess business holdings as defined in Section 4943(c) of the Code; (c) make any investments in such manner as to subject the corporation to tax under Section 4944 of the Code; or (d) make any taxable expenditures as defined in Section 4945(d) of the Code or corresponding provisions of any subsequent federal tax law.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Incorporation on this 5th day of June, 2017.



Patrick R. Murphy, Incorporator
2570 Route 9W, No.10
Cornwall, NY 12518

CERTIFICATE OF INCORPORATION
OF
CORNERSTONE FH CHARITABLE FOUNDATION

Under Section 402 of the Not-for-Profit Corporation Law

Filed by: Catania, Mahon, Milligram & Rider, PLLC
One Corwin Court
Newburgh, NY 12550

September 19, 2017

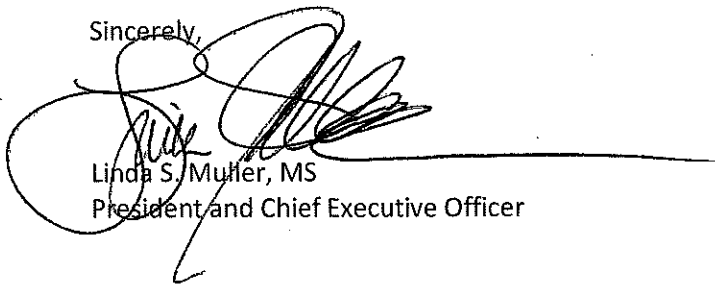
Eric J. Mantey
Senior Attorney
Bureau of Health Facility Planning and Development
Division of Legal Affairs
New York State Department of Health
Empire State Plaza
Corning Tower, Rm 2482
Albany, NY 12237-0031

RE: Certificate of Incorporation of Cornerstone FH Charitable Foundation

Dear Mr. Mantey:

As President and Chief Executive Officer of Cornerstone Family Healthcare, I am writing to acknowledge that Cornerstone Family Healthcare would be happy to accept all funds raised for the health center by the Cornerstone FH Charitable Foundation. Funds raised by the Foundation and donated to Cornerstone Family Healthcare will enable our organization to continue working towards our mission to provide the communities we serve with high-quality medical services, regardless of their insurance status or ability to pay.

Sincerely,



Linda S. Muller, MS
President and Chief Executive Officer



Corporate Headquarters:

2570 9w • Suite 10 • Cornwall, NY 12518 845-220-3100 • Fax 845-534-2490 • cornerstonefamilyhealthcare.org

Description of Fundraising Activities:

The Cornerstone FH Charitable Foundation plans to undertake the following activities in an effort to raise money on behalf of Cornerstone Family Healthcare:

- Golf tournament fundraiser (“Swing and Play for Health Invitational”)
- Annual gala dinner and award ceremony (“Pillars of the Community Awards Gala”)
- Cornerstone’s employee giving program
- Year-end donation appeal
- Submitting applications for grant funding
- Soliciting sponsorships
- Other external solicitations

1967-2017

A non-profit, multi-disciplinary community health center that believes that health care is a Right and not a Privilege.

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Corporate Headquarters:

2570 9w • Suite 10 • Cornwall, NY 12518 845-220-3100 • Fax 845-534-2490 • cornerstonefamilyhealthcare.org

Cornerstone FH Charitable Foundation Initial Directors:

Linda S. Muller, MS

Address: 5 Primrose Court, Cornwall, NY 12518

Occupation: Non-profit executive

Employer Name: Cornerstone Family Healthcare

Employer Address: 2570 U.S. Highway 9W, Ste. 10, Cornwall, NY 12518

Charitable Organization Affiliations: None

Patrick R. Murphy, CPA

Address: 1 Courtney Lane, Brewster, NY 10509

Occupation: Non-profit executive

Employer Name: Cornerstone Family Healthcare

Employer Address: 2570 U.S. Highway 9W, Ste. 10, Cornwall, NY 12518

Charitable Organization Affiliations: The Community Foundation of Orange and Sullivan

Marcel Martino

Address: 42 Revere Road, Newburgh, NY 12550

Occupation: Non-profit executive

Employer Name: Inspire, Inc.

Employer Address: 2 Fletcher Street, Goshen, NY 10924

Charitable Organization Affiliations: None

1967-2017

A non-profit, multi-disciplinary community health center that believes that health care is a Right and not a Privilege.

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CATANIA, MAHON, MILLIGRAM & RIDER, PLLC

ATTORNEYS AND COUNSELLORS AT LAW

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STEVEN I. MILLIGRAM (NJ)
MICHELLE F. RIDER, CPA (FL)
PAUL S. ERNENWEIN
JOSEPH G. MCKAY
MICHAEL E. CATANIA (NJ)
ARI I. BAUER
SEAMUS P. WEIR

RICHARD F. LIBERTH, *RETIRED*
HOBART J. SIMPSON (1975-2016)

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(FAX AND E-MAIL SERVICE NOT ACCEPTED)

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ERIC SANTOS
AIMEE M. NIENSTADT (NJ)
JENNIFER M. MCCAVE (VT)
EVE I. LINCOLN

(ALSO ADMITTED IN)

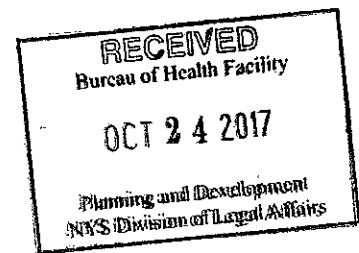
Writer's Direct No.
(845) 565-1100 x 270

(ALSO ADMITTED IN)

Writer's E-Mail
mroosa@cmmrlegal.com

October 19, 2017

Bureau of Health Facility Planning and Development
Division of Legal Affairs
New York State Department of Health
Empire State Plaza
Corning Tower, RM 2482
Albany, NY 12237-0031



RE: Certificate of Incorporation of Cornerstone FH Charitable Foundation
(the "Corporation")
Our File No.: 13330-64198

Dear Mr. Mantey:

Thank you for your letter of July 31, 2017, a copy of which is enclosed for your reference. In response to your letter I have enclosed the below responses:

- (1) Revised Certificate of Incorporation of the Corporation to include the language as referenced in your letter.
- (2) A copy of the proposed bylaws. Please be advised that these bylaws still have to be approved by the Board of Directors and have been provided in this form to negate any further delay in this reply.
- (3) An original signed dated letter from Linda Muller acknowledging that Cornerstone Family Healthcare will accept the funds raised.

CATANIA, MAHON, MILLIGRAM & RIDER, PLLC

NYS Department of Health

Page 2

- (4) Enclosed is a generalized description of the fundraising activities to be undertaken by the Corporation.
- (5) Enclosed is a list of the initial board of directors of the Corporation listing their occupation, employer name provided by the proposed corporation as requested.
- (6) The Corporation and the licensed supported organization, Cornerstone Family Healthcare ("Cornerstone"), are proposed to be affiliates. A majority, but less than all, of the Corporation's board is proposed to be comprised of directors, officers, and other key people from Cornerstone. This is to reflect the fact that the two organizations share a common charitable mission, namely, enabling medically underserved populations to receive high quality medical care, as well as the fact that the Corporation's focus is desired to be supporting populations currently served by Cornerstone.

The two organizations are also proposed to share some corporate audit/oversight functions, for efficiency and accountability purposes. These functions may also be shared in the future with other affiliates, should they come to exist. The Corporation is proposed, nevertheless, to have sufficient Independent Directors to also sit on a minimum three-person audit committee complying with the relevant sections of the Not-for-Profit Corporation Law, including but not limited to the annual retention of an Independent Auditor, review of potential conflicts of interest, and implementation of a whistleblower protection policy.

- (7) as noted in #6, the Corporation will be controlled by Cornerstone, via the latter's ability to appoint a majority of the directors on the former's board. Cornerstone is not itself controlled by any other entity. There are no other entities under common control with the Corporation. The Corporation does not control any other entity.

Thank you for your time and consideration in this matter and should you require anything further in order to consent to the filing of the Certificate of Incorporation, please do not hesitate to contact me.

Very truly yours,



MELANIE ROOSA
Corporate Paralegal

MR/1403126/Enclosures

CERTIFIED MAIL/RRR: 7014 1820 0000 7729 9234

CATANIA, MAHON, MILLIGRAM & RIDER, PLLC

ATTORNEYS AND COUNSELLORS AT LAW

JOSEPH A. CATANIA, JR.
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(ALSO ADMITTED IN)

Writer's Direct No.
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SPECIAL COUNSEL
JAY F. JASON (MA)
ROBERT E. DINARDO
SHAY A. HUMPHREY
JEFFREY S. SCULLEY (IL)

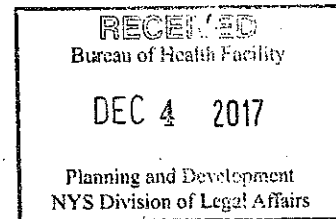
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EDWARD F. KEALY (NJ)
ERIC SANTOS
AIMEE M. NIENSTADT (NJ)
JENNIFER M. MCCAWE (VT)
EVE I. LINCOLN

(ALSO ADMITTED IN)

Writer's E-Mail
mroosa@cmmrlegal.com

December 1, 2017

Bureau of Health Facility Planning and Development
Division of Legal Affairs
New York State Department of Health
Empire State Plaza
Corning Tower, RM 2482
Albany, NY 12237-0031



RE: Revised Certificate of Incorporation of Cornerstone FH Charitable Foundation
(the "Corporation")
Our File No.: 13330-64198

Dear Mr. Mantey:

In response to your November 24th telephone call I have revised Paragraph 4 of the Certificate of Incorporation to correctly indicate the consent requirement.

Thank you for your time and consideration in this matter and should you require anything further in order to consent to the filing of the Certificate of Incorporation, please do not hesitate to contact me.

Very truly yours,

MELANIE ROOSA
Corporate Paralegal

MR/1436434/Enclosures

CERTIFIED MAIL/RRR: 7013 2630 0001 6268 6632

(PROPOSED)

BYLAWS
of
CORNERSTONE FH CHARITABLE FOUNDATION
(A New York Not-for-Profit Corporation)

Adopted: [•], 2017

BY-LAWS
OF
CORNERSTONE FH CHARITABLE FOUNDATION

ARTICLE I
NAME, TERRITORY AND OFFICE

Section 1. Name

The Corporation shall be known as: Cornerstone FH Charitable Foundation (hereinafter, the "Corporation").

Section 2. Territory

The Corporation shall conduct operations primarily in the Hudson Valley and Southern Tier Regions of the State of New York subject to changes by the Corporation.

Section 3. Office

The principal office of the Corporation shall be located in the County of Orange, State of New York. This office shall direct Corporation activities and be the depository for all Corporation records. The Corporation may also have offices at such other places within the State of New York as its Board of Directors (the "Board" or "Board of Directors") may from time to time determine or the business of the Corporation may require.

Section 4. Corporate Status

The Corporation: is a New York Not-for-Profit Corporation; is a "Charitable Corporation" as defined by the Not-for-Profit Corporation Law (the "N-PCL"); and is exempt from income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "IRS Code").

ARTICLE II
PURPOSE

The Corporation shall exclusively advance for charitable purposes, within the meaning of Section 501(c)(3) of the IRS Code, the charitable purposes and mission of Cornerstone Family Healthcare ("Cornerstone"), a New York not-for-profit corporation dedicated to providing high-quality health care services for the medically underserved population, as expressly set forth in the Third paragraph of the Corporation's Certificate of Incorporation, as may be amended from time to time (the "Certificate of Incorporation.")

ARTICLE III
MEMBERSHIP

The Corporation shall have no "Members," as said term is defined, or may be implied, by the N-PCL. Rather, it shall be governed solely by a self-perpetuating Board of Directors.

ARTICLE IV
BOARD OF DIRECTORS

Section 1. General Management

The general management of the affairs of the Corporation shall be vested in a Board of Directors (the "Board"). The Board of Directors shall have control of the property and other assets of the Corporation and shall determine its policies with the advice of its various committees. It shall have power to employ necessary staff and other help, authorize expenditures and take all necessary and proper steps to carry out the charitable purposes of the Corporation, to promote the Corporation's best interests, and to maintain its tax-exempt status under the IRS Code.

Section 2. Number

The Board of Directors shall consist of not less than nine (9) or more than twenty-one (21) voting members ("Directors"), the number of Directors to be determined from time-to-time by resolution of the Board. A majority of the Directors must be directors or officers of Cornerstone ("Cornerstone Directors"), and Cornerstone shall have the exclusive right to appoint the Cornerstone Directors. The immediate past Chair of the Board shall be an *ex officio* voting member of the Board of Directors for a period of one (1) year following the completion of his/her term.

Section 3. Qualifications

3.1 Each member of the Board of Directors must be at least eighteen (18) years of age and meet such other criteria as defined from time to time by the Board. Affiliate representatives and/or Cornerstone Directors, if any, shall be appointed and authorized by the Board of Directors (or appropriate governing body) of the respective Affiliate(s) and/or Cornerstone, meeting the same qualifications as other members of the Board of Directors of the Corporation.

3.2 Cornerstone Directors must maintain their employment, engagement, or position as a director of Cornerstone, as the case may be, to qualify for service on the Board. In the event that such Director is no longer employed, engaged, or serving as a director of Cornerstone, such Cornerstone Director will be deemed to have immediately resigned as a Director of the Corporation.

Section 4. Terms of Office, Selection Procedure, Newly Created Directorships & Vacancies

4.1. Terms of Office.

The term of office for a Board member shall be three (3) years unless otherwise provided in these By-Laws. One-third (1/3) of the members shall be selected every three (3) years. The terms of office for all future Directors shall begin on the day of their election and shall conclude upon the election of their successors; *provided, however, that*, except as otherwise provided by Article V of these By-Laws, no Director who is not a Cornerstone Director shall serve more than two (2) consecutive full terms. Cornerstone Directors may serve any number of consecutive terms.

4.2. *Selection Procedure.* At the Annual Meeting of the Corporation (as defined by these By-Laws), by a majority vote of the Entire Board (as defined by these By-Laws), additional Directors shall be elected for a term of three (3) years to replace those whose terms are expiring and to fill any vacancies as provided in Section 4.4 of this Article IV.

4.3. *Modification of Board Size.* Any increase or decrease in the number of Directors of the Corporation shall be adopted by resolution of the Entire Board.

4.4. *Vacancies.* A vacancy on the Board shall arise upon (i) the death, resignation or removal of a Director, (ii) an increase in the authorized number of Directors by resolution of the Board or (iii) the failure of the Directors, at any Annual Meeting (or, any other meeting of the Board at which any one (1) or more Directors are to be elected) to elect the full authorized number of Directors to be voted for at that meeting. Except in the case of the office of Chair, a vacancy on the Board of Directors occurring in the interim between Annual Meetings may be filled by an interim successor appointed by the Board. At the next Annual Meeting, following the vacancy, the Board of Directors may elect a permanent successor for the vacated position.

Section 5. **Resignation**

5.1. *Voluntary resignation.* A Director may resign at any time by giving written notice to the Board of Directors, the Chair, or the Secretary of the Corporation. The resignation shall take effect upon notification to the Board, and the acceptance of the resignation shall not be necessary to make it effective.

5.2. *Automatic resignation.* A Cornerstone Director will be deemed to have automatically resigned as set forth in Section 3 of this Article IV.

5.3. Notwithstanding any of the foregoing, no resignation shall discharge any accrued obligation or duty of any resigning Director.

Section 6. **Suspension & Removal**

6.1. *Suspension.* Any, or all, of the members of the Board of Directors may be suspended for cause by a two-thirds (2/3) majority vote of the Board; *provided that* there is a quorum for the meeting at which any such Action (as defined by these By-Laws) is adopted. The period of suspension shall last only until such time as the Board of Directors' next Annual Meeting or a Special Meeting called to consider the suspension, whichever is earlier. At any meeting where a vote is to be taken to suspend a member of the Board, the Director in question may attend and shall be given a reasonable opportunity to argue in his/her defense; *provided, however, that* he/she shall not be entitled to vote on his/her own suspension. Once suspended, a Director shall not vote on any matter unless and until he/she has been reappointed to serve on the Board. Following this same procedure, any *ex-officio*, non-voting representative of an Affiliate or Cornerstone serving on the Board may be suspended with cause.

6.2. *Removal.* Any or all of the Directors, including those *ex-officio*, non-voting representatives of an Affiliate may be removed with or without cause by a two-thirds (2/3) majority vote of the Board.

Section 7. **Meetings**

7.1. *Annual Meetings.* The Board of Directors shall convene an annual meeting of the Corporation (each, an "Annual Meeting") for the purpose of the election of Directors, appointment of Officers and the transaction of other business. Notice of the Annual Meeting must be given by the Secretary to all Directors to the postal and electronic mail addresses on file in the records of the Corporation. Adequate notice of the Annual Meeting shall be given and shall state the time and place of such meeting.

7.2. *Regular Meetings.* The Board of Directors shall convene regular meetings (each, a "Regular Meeting") no less than four (4) times annually, except as otherwise determined by the Board. Regular Meetings of the Board of Directors may be held with or without formal notice on such occasions as may be fixed from time-to-time by resolution of the Board of Directors. Any Notice of a Regular Meeting shall state the time and place of such meeting.

7.3. *Special Meetings.* Special meetings of the Board of Directors (each, a "Special Meeting") shall be held whenever called by the Chair, the Secretary or any three (3) voting Directors. Notice of Special Meetings shall be given under the direction of the Secretary and shall be given personally or by telephone,

telephone message, electronic mail, facsimile or first class mail and shall state the purposes, time and place of the meeting. If notice is given personally or by telephone, it shall be given not less than three (3) days before such meeting. By way of example, if a Special Meeting is to be called on a Thursday, notice must be given personally or by telephone not later than the preceding Monday. If it is given by telephone message, electronic mail, facsimile or first class mail, it shall be given not less than five (5) days before such meeting. By way of example, if a Special Meeting is to be called on a Thursday, notice must be given by telephone message, electronic mail, facsimile, or first class mail not later than the preceding Saturday.

Section 8. **Waiver of Notice**

Notice of a meeting need not be given to any Director who submits a waiver of notice whether before or after the meeting, or who attends the meeting without protesting prior thereto or at its commencement the lack of notice to him or her. If the Director's waiver is transmitted by electronic means, transmission of the waiver must be submitted with information from which it can reasonably be determined that the transmission was authorized by such Director.

Section 9. **Place of Meetings**

The Board of Directors may hold its meetings at the principal office of the Corporation, or at such place or places within the State of New York as the Board of Directors may from time-to-time determine.

Section 10. **Quorum**

A quorum shall be required for the legal and proper conduct of the business of the Board of Directors. A majority (50% +1) of the Entire Board shall constitute a quorum for the transaction of any business. When a quorum is once present to organize a meeting, it shall not be broken by the subsequent withdrawal of any Director(s), so long as at least one-third (1/3) of the Entire Board remain present. The "Entire Board" shall consist of: the total number of voting Directors that were elected as of the most recently held election of Directors, plus those Directors whose terms have not yet expired or for whom a successor has not been appointed/elected as the case may be.

Section 11. **Adjournment**

A majority of Directors present at a meeting of the Board of Directors, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the adjournment shall be given to all Directors along with the minutes of the meeting.

Section 12. **Organization**

12.1. *Chair*. At all meetings of the Board of Directors the Chair, or, in his/her absence the Vice-Chair or, in his/her absence another Director chosen by the Board, shall preside.

12.2. *Secretary*. At all meetings of the Board of Directors the Secretary, or, in his/her absence any Assistant Secretary or, in his/her absence another Director chosen by the Board, shall act as secretary of the meeting.

Section 13. **Parliamentary Law**

In all matters of parliamentary procedure that are not covered or contradicted by these By-Laws, the laws of the State of New York (in particular the N-PCL), the rules and regulations of the State of New York, as codified in the New York Code of Rules and Regulations, the IRS Code and the income tax regulations promulgated thereunder, and by the contracts entered into by the Corporation with government, foundation or other funding sources, Roberts Rules of Order, newly revised, shall be used as a guideline in answering all outstanding questions of parliamentary procedure.

Section 14. **Voting**

Each voting member of the Board of Directors shall have one (1) vote.

Section 15. **Action by the Board of Directors**

15.1. *Action Defined.* Except as otherwise provided by law or in these By-Laws, an "Action," or "Act," of the Board of Directors shall mean an action at a meeting of the Board authorized by vote of a majority (50% +1) of the Directors present at the time of the vote; *provided that* there was a quorum at the commencement of the meeting at which any such Act or Action is taken and at least one-third (1/3) of the Entire Board was present at the time of such vote.

15.2. *Written Unanimous Consent.* Any Action that is required or permitted to be taken by the Board of Directors, or any committee thereof, may be taken without a meeting if all voting members of the Board, or the committee, submit to the Secretary or his/her designee a written consent authorizing a resolution to permit the Action. Such a written consent shall be delivered to the Secretary or his/her designee by regular mail, electronic mail or facsimile. The resolution and the written consents thereto by the members of the Board, or committee, shall be filed with the minutes of the proceedings of the Board and such committee.

15.3. *Electronic Communication.* Any one (1) or more members of the Board of Directors or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone, electronic video screen communication equipment or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

Section 16. **Presumption of Assent**

A Director who participates in a meeting of the Board of Directors at which an Action on any corporate matter is taken shall be presumed to have assented to the Action taken unless said Director:

- i. ensures that his/her dissent is entered in the minutes of the meeting;
- ii. files a written dissent to such Action with the person acting as the Secretary of the meeting before the adjournment thereof; or
- iii. forwards a written dissent by certified mail or electronic mail with proof of transmission to the Secretary not later than one (1) day after the adjournment of the meeting.

Section 17. **Attendance**

A member of the Board of Directors who has missed the majority (50% +1) of the meetings of the Board within a calendar year shall be asked to resign. If the Board of Directors determines that a Director will not fulfill the majority meeting requirement if he/she is not present at the next scheduled Board meeting, the Secretary shall send a written notice to the subject Board member informing him/her that if he/she does not attend the meeting, a motion shall be made for his/her permanent removal.

Section 18. **Compensation of Directors.**

The Corporation shall not pay compensation to directors for services rendered to the Corporation in their capacity as directors, except that directors may be reimbursed for reasonable expenses incurred in the performance of their duties to the Corporation. A director may receive reasonable compensation for the performance of services provided to the Corporation in any capacity separate from his or her responsibilities as a director when so authorized by the Board of Directors.

ARTICLE V
OFFICERS

Section 1. Offices, Election, Terms

1.1. *Offices.* The Board of Directors shall appoint by majority vote a Chair, Vice-Chair, Secretary and Treasurer and such other Officers as it may determine, each of whom shall be given such duties, powers and functions as hereinafter provided. Any two (2) or more offices may be held by the same person, except for the offices of Chair and Secretary.

1.2. *Election.* Officers shall be appointed to hold office for two (2) years from the date of appointment. Each Officer shall hold office for the term for which he/she is appointed and until his/her successor has been appointed.

1.3. *Terms.* Directors selected to hold the offices of Chair, Vice-Chair, Secretary and Treasurer shall serve no more than three (3) consecutive terms in any one (1) office, but while in office shall not be subject to term limitation as members of the Board of Directors as otherwise required by Article IV of these By-Laws.

Section 2. Suspension, Removal, Resignation

Officers shall serve at the discretion of the Board of Directors. Any Officer appointed by the Board may be suspended or removed by the Board. With the exception of the Office of Chair, in the event of the death, incapacitation, resignation or removal of an Officer, the Chair of the Board shall appoint an acting successor to fill the unexpired term. This appointment shall be confirmed or disapproved by the Entire Board within the next two (2) Regular Meetings or a Special Meeting, whichever is earlier. Notwithstanding any of the foregoing, no resignation shall discharge any accrued obligation or duty of any resigning Officer.

Section 3. Duties

3.1. *Chair.* The Chair shall be the principal volunteer executive officer of the Corporation and shall in general supervise and control the business and affairs of the Corporation. In particular, the Chair shall:

- A. preside at all meetings of the Board of Directors and shall be an *ex officio* member of any and all Committees of the Board and of the Corporation.
- B. be authorized to sign any deeds, mortgages, bonds, contracts or other instruments that the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board, these By-Laws, or statute to some other Officer or agency of the Corporation.
- C. be the sole member of the Board of Directors who can speak on behalf of the Corporation, unless the Chair and/or the Board of Directors have otherwise delegated that authority or such authority is otherwise granted within these By-Laws.
- D. perform such other duties as may be prescribed by the Board of Directors from time-to-time.

Notwithstanding anything to the contrary contained herein, the Chair shall not be an employee of the Corporation.

3.2. *Vice-Chair.* In the absence of the Chair, or in the event of his/her inability or refusal to act, the Vice-Chair shall perform the duties of the Chair, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chair. Upon the death, incapacitation, resignation or removal of the Chair, the Vice-Chair shall fill the vacancy of the office of Chair and hold said office for the remainder of the past Chair's term and until his/her successor has been appointed and qualified by the Board. In the event that the Vice-Chair, as an interim successor, is subsequently appointed to serve as Chair, as a permanent successor,

the first year of his/her term shall be deemed to have commenced upon his/her appointment, without regard to the duration of interim service. He/she shall ordinarily, but need not necessarily, serve as a Chair of the Cornerstone Foundation Audit Committee, and in such capacity shall assume responsibility for regularly reviewing the governance documents, policies, procedures and contractual obligations of the Corporation and ensuring that the Corporation is in material compliance with the terms of all such documents. The Vice-Chair shall perform such other duties as from time-to-time may be assigned to him/her by the Chair and/or the Board of Directors.

3.3. *Secretary.* The Secretary shall generally be responsible for ensuring that the records of the Corporation are properly recorded, documented and stored and that all informal or formal notices that may be issued by the Corporation are tendered in compliance with all applicable statutes, regulations, contracts, ethical obligations, the Certificate of Incorporation and these By-Laws. In particular, the Secretary shall:

- A. ensure that the minutes of the meetings of the Board of Directors, and Committees of the Board or Corporation, if any, are properly recorded, documented and stored;
- B. keep a register of the post office address, telephone number and electronic mail address of each member of the Board of Directors, as well as those members of committees who do not serve on the Board;
- C. if applicable, notify members of the Board of Directors of their election and members of committees of their appointment; and
- D. serve as custodian of the records of the Corporation.

With the approval of the Board of Directors, the Secretary may delegate recording, documentation, record storage and other duties, as deemed appropriate, to other Directors, Officers or employees of the Corporation. The Secretary shall perform such other duties as from time-to-time may be assigned to him/her by the Chair and/or the Board of Directors.

3.4. *Treasurer.* The Treasurer shall be responsible for the supervision of, and account for, all monies received or expended by the by the Corporation, and shall keep the Board informed on all pertinent financial matters. He/she shall ordinarily, but need not necessarily, serve as the Chair of the Finance Committee and, if an Independent Director, as an *ex officio* member, but not Chair, of the Cornerstone Foundation Audit Committee. The Treasurer shall provide a financial report at all Regular Meetings of the Board of Directors in a format prescribed by the Board. In general, the Treasurer shall perform all the duties incidental to the office of Treasurer and such other duties as from time-to-time may be assigned to him/her by the Chair and/or by the Board of Directors.

3.5. *President.* The Board of Directors may employ a President who shall have general charge, oversight and direction of the affairs and business of the Corporation, and responsibility for the employment and discharge of its staff. As an at-will employee of the Corporation, the President shall not be subject to annual reappointment, but shall serve at the pleasure and discretion of the Board of Directors. Although an appointed Officer of the Corporation, the President shall not serve as a Director on the Board of Directors and shall not be an Officer of the Board. The Board of Directors shall have sole authority to hire, supervise, discipline and terminate the President. The appointment or termination of the President shall require a two-thirds (2/3) majority vote of the Board of Directors. The President shall act subject to overall control by the Board of Directors and shall regularly make reports to the Board, the Chair and Vice-Chair, as appropriate, or if so directed by the Board. He/she shall be the principal administrative Officer of the Corporation, charged with the duties of effectuating the purposes of the Corporation, carrying out the directives of the Board of Directors and performing any and all functions necessary and proper to ensure that the policies, objectives and aims of the Corporation are carried out. If so directed by the Board of Directors, he/she shall attend meetings of the Board and/or Committees of the Board and shall generally serve as a resource to both. Within the limits of the Corporation's programs, policies and budget, the provisions of these By-Laws and the Certificate of Incorporation and mandates of the law, the President shall have the authority to execute agreements, incur

obligations, perform administrative duties, and delegate assignments. The President shall perform such other duties as from time-to-time may be assigned to him/her by the Chair and/or the Board of Directors.

ARTICLE VI **COMMITTEES**

Section 1. Appointments

1.1. *Committees of the Board.* The Chair shall, subject to approval of the Board of Directors, appoint eligible Directors to the following Committees of the Board: (i) Finance Committee, (ii) Cornerstone Foundation Audit Committee, (iii) Affiliated Partners Audit Committee, and (iv) such other committees as the Board may from time to time establish to aid in the Corporation's operations.

1.2. *Ad Hoc Committees.* Additional Committees of the Board and/or the Corporation may be created and appointed by the Chair with the consent of the Board of Directors as needed for special purposes.

1.3. No Committee of the Corporation shall have any authority to bind the Corporation.

Section 2. Qualifications

Committee Chairs shall be voting members of the Board of Directors. The Board of Directors may establish or waive qualifications for committee membership at its discretion.

Section 3. Meetings

Unless otherwise provided by these By-Laws or a resolution of the Board of Directors, meetings of Committees of the Board, of which no notice shall be necessary, shall be held at such time and place as shall be fixed by the Chair of the committee or by a majority vote of all of the members of the committee.

Section 4. Quorum and Manner of Acting

Unless otherwise provided by these By-Laws or a resolution of the Board of Directors, a majority of all of the members of a committee shall constitute a quorum for the transaction of business, and the vote of a majority of all of the members of the committee shall be the act of the committee. The procedures and manner of acting of the Committees of the Board shall be subject at all times to the discretion of the Board of Directors.

Section 5. Finance Committee

The Finance Committee shall be comprised of at least three (3) members of the Board of Directors. The Treasurers of the Affiliates, if any, may attend the Finance Committee meetings, if so requested by the Chair of the Board. The Finance Committee shall be responsible for overseeing the fiscal affairs and procedures of the Corporation. It shall ensure the development, adoption and monitoring of the Corporation's annual budget, separately and inclusively of the Affiliates, if applicable. The Finance Committee shall also monitor and manage all of the Corporation's investments, ensuring that all the Corporation's institutional funds are deposited, invested and withdrawn in a manner consistent with all applicable statutes, regulations and contractual obligations. All actions of the Finance Committee shall be reported to the Board of Directors.

Section 6. Audit Committees

6.1. *Composition & Organization of Affiliated Partners Audit Committee.* The Affiliated Partners Audit Committee shall be a joint committee of the Corporation, Cornerstone, and the Corporation's other Affiliates, if any. The Affiliated Partners Audit Committee shall be comprised of at least three (3) members of the Corporation's Board of Directors, the members of Cornerstone's finance and/or audit committee(s), and the

members of the audit and/or finance committee(s) of any other of the Corporation's Affiliates, as applicable. Notwithstanding any of the foregoing, under no circumstances shall the Corporation's "Independent Auditor" (as defined by these By-Laws) or a partner, employee, business associate or "Relative" (as defined by these By-Laws) of the Independent Auditor's firm be permitted to serve on the Affiliated Partners Audit Committee. Provided that the Treasurer is found to be an "Independent Director," he/she shall serve on the Affiliated Partners Audit Committee but shall be precluded from serving as Chair. The Vice-Chair of the Corporation shall ordinarily, but need not necessarily, serve as the Chair of the Affiliated Partners Audit Committee if eligible.

6.2. *Composition & Organization of Cornerstone Foundation Audit Committee.* The Cornerstone Foundation Audit Committee shall be comprised of those members of the Affiliated Partners Audit Committee who are also Directors or Officers of the Corporation. Any Affiliate representatives shall not serve on the Cornerstone Foundation Audit Committee and shall be precluded from voting on any matter related to audits of the finances of the Corporation but may review materials and participate in deliberations concerning consolidated financial statements and related audits thereof. The Vice-Chair of the Corporation shall ordinarily, but need not necessarily, serve as the Chair of the Cornerstone Foundation Audit Committee if eligible.

6.3. *Audit-Related Duties & Responsibilities.*

- A. Affiliated Partners Audit Committee: The duties of the Affiliated Partners Audit Committee shall consist of establishing and reviewing financial policies and procedures for the operation of the Corporation and any of its Affiliates in consultation with the Independent Auditor (as defined by these By-Laws), the President (if any) and, other Officers and employees of the Corporation. The Affiliated Partners Audit Committee shall be specifically responsible for overseeing audits of the Corporation and any of its Affiliates, both internal and external, in a manner consistent with the Corporation's Audit Oversight Policy, which is annexed to these By-Laws as Attachment "E." Although the Affiliated Partners Audit Committee shall meet as a joint committee to consolidate resources and maximize corporate efficiencies, all financial and conflict of interest issues related to the Corporation shall be voted on only by the Cornerstone Foundation Audit Committee for purposes of the N-PCL.
- B. Cornerstone Foundation Audit Committee: The Cornerstone Foundation Audit Committee shall be responsible for annually retaining or renewing the retention of the Corporation's Independent Auditor, facilitating the annual audit process, reviewing with the Independent Auditor the results of the audit including the management letter, reviewing and discussing with the Independent Auditor any material risks and weaknesses in internal controls identified by the Independent Auditor, any restrictions on the scope of the auditors' activities or access to requested information, any significant disagreements between the auditor and management and the adequacy of the Corporation's accounting and financial reporting practices, overseeing the implementation of action taken as a consequence of the audit, annually considering the performance and independence of the auditor, and reporting the progress and results of all of the foregoing to the Affiliated Partners Audit Committee.

6.4. *Statutory Compliance Duties & Responsibilities.* With regard to responsibilities relative to conflicts of interest and whistleblower protection, as appropriate, the Cornerstone Foundation Audit Committee shall be responsible for strict adherence to, and enforcement of, the Corporation's Conflicts of Interest and Whistleblower Protection Policies, which are annexed to these By-Laws as Attachments "B" and "D," respectively. The Cornerstone Foundation Audit Committee shall also ensure that proper policies and

procedures are in place to ensure that all newly-received and annually-submitted Conflict Disclosure Statements, an unexecuted copy of which is annexed to these By-Laws as Attachment "C," as well as any case-specific reports of Related Party Transactions, together with the minutes of any related meetings, are promptly provided to the Chair of the Cornerstone Foundation Audit Committee and shall subsequently see to it that they are properly considered for auditing purposes. All actions of the Cornerstone Foundation Audit Committee shall regularly be reported to the Affiliated Partners Audit Committee and the Board of Directors of the Corporation.

ARTICLE VII

FISCAL YEAR, AUDITING & FINANCIAL REPORTING, FISCAL CONTROLS

Section 1. **Fiscal Year**

The fiscal year of the Corporation shall commence on the first (1st) day of January and conclude on the thirty-first (31st) day of December.

Section 2. **Annual Audit**

The accounts of the Corporation shall be audited each year by an "Independent Auditor," (as defined by these By-Laws), subject to policies and procedures to be established and maintained by the Board of Directors and the Cornerstone Foundation Audit Committee pursuant to all applicable statutory, regulatory, contractual, ethical and governance standards, requirements and obligations.

Section 3. **Annual Report**

The Board of Directors shall prepare an annual report certified by an Independent Auditor showing in appropriate detail the following:

- i. the assets and liabilities, including the trust funds, if any, of the Corporation as of the end of the twelve (12) month fiscal period terminating not more than six (6) months prior to said meeting;
- ii. the principal changes in assets and liabilities, including trust funds, if any, during said fiscal period;
- iii. the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, during said fiscal period and;
- iv. the expenses or disbursements of the Corporation, both general and restricted to particular purposes, during said fiscal period.

This report shall be presented at a meeting Board of Directors and filed with the records of the Corporation with a copy thereof entered in the minutes of the proceedings of said meeting.

Section 4. **Contracts**

Except as may otherwise be provided by statute, regulation or these By-Laws, the Board of Directors may authorize any Officer, Key Person or agent, in the name of the Corporation to enter into any contract or execute and deliver any instrument, and such authority may be general or confined to specific instances; *provided, that* unless so authorized by the Board of Directors, or expressly authorized by these By-Laws, no Officer, Key Person or agent shall have the power or authority to bind the Corporation by any contract or engagement or to pledge its credit or render it financially liable in any amount for any purpose; *provided, further that*, no contract or any other instrument required to be signed by more than one (1) Officer shall be signed by one (1) person in more than one (1) capacity.

Section 5. **Business Loans**

No loans shall be contracted on behalf of the Corporation unless specifically authorized by the Board of Directors.

Section 6. **Bank Checks and Drafts**

All bank checks and drafts and all other such orders for the payment of monies out of the funds of the Corporation, and all notes or other evidences of indebtedness of the Corporation, shall be signed on behalf of the Corporation in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 7. **Bank Deposits**

All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE VIII **FIDUCIARY DUTIES; PROHIBITIONS ON COMPENSATION; LOANS & PERMISSIBLE REIMBURSEMENT**

Section 1. **Duties of Care, Loyalty & Obedience**

1.1. *Duty of Care.* All Officers, Directors and Key Persons (as such terms are defined by these By-Laws) shall exercise that same care that a reasonable person, with similar abilities, acumen and sensibilities, would under similar circumstances at all times, and in so doing, shall endeavor to understand all, or substantially all, of the consequences of their actions or the omissions of their actions.

1.2. *Duty of Loyalty.* No Officer, Director or Key Person shall engage in, or condone, any conduct that is disloyal, disruptive, damaging or competes with the Corporation or take any action, or establish any interest, that compromises his/her ability to represent the Corporation's best interest.

1.3. *Duty of Obedience.* No Officer, Director or Key Person shall disobey a binding decision of the Board of Directors; *provided that* such obedience does not otherwise conflict with the Duty of Care and Loyalty or applicable law.

Section 2. **Compensation Prohibitions**

No elected Director, Officer or member of a Committee shall receive compensation for his/her services. The Board of Directors shall be empowered to provide reasonable compensation, together with reimbursement for reasonably incurred expenses, for Officers or positions not afforded voting privileges for purposes of corporate decision-making, such as the position of the President.

Section 3. **Loan Prohibitions**

No loans shall be made by the Corporation to its Directors, Officers or members of committees, or to any other corporation, firm, association or other entity in which one (1) or more of its Directors, Officers or committee members are Directors or Officers or hold a substantial financial interest, except for any entity, corporation or firm that is an Affiliate, if any. Disposal of any real property owned by the Corporation, or an Affiliate, if any, must be approved by the Board of Directors.

Section 4. **Permissible Reimbursement**

Notwithstanding the mandates of this Article, at the discretion of the Board of Directors, individual Directors, Officers, and members of Committees of the Board may be reimbursed in an amount determined by the Board for expenses reasonably incurred by them in the performance of their duties.

ARTICLE IX **EXECUTIVE COMPENSATION**

Section 1. Review and Analysis

1.1 At least, annually, the Board of Directors and/or the Executive Committee shall engage in a compensation analysis of the President (if any) and any other Key Person(s), to run concurrently with the annual performance evaluation of such employee(s). In order to determine the reasonableness of compensation as it applies to the Corporation, this compensation analysis shall confirm that:

- i. the compensation to be authorized and awarded is reasonable for the services to be provided to the Corporation;
- ii. there is no relationship between any of the Corporation's Directors or Officers and the President (if any) or any other Key Person(s), other than one of employment;
- iii. the President (if any) or any other Key Person(s), as appropriate, has met, or exceeded, performance expectations; brought value to the Corporation; and, provided significant contributions to its growth and development;
- iv. no Director or Officer is a Relative of, or employed by the President (if any) or any other Key Person(s), as appropriate, or any entity in which the President (if any) /Key Person(s) has/have, at least, a thirty-five percent (35%) controlling interest; and,
- v. no Director or Officer has a material financial interest affected by the outcome of the compensation review.

Section 2. Total Compensation Determination

2.1 A meeting where the compensation deliberation is being made by the Board of Directors shall take place without the President (if any) or any other Key Person(s) being present. The Board of Directors shall have described to it, in a form acceptable to the Board of Directors, the total compensation of the President (if any) or any other Key Person(s), as well as any changes that have been made throughout the year. The Board of Directors shall, after due deliberation and discussion regarding the total compensation, render a determination regarding whether the compensation is reasonable and whether sufficient, comparative information existed from like or similar entities, to conclude that the total compensation of the President (if any) or any other Key Person(s), is reasonable.

ARTICLE X **TRANSACTIONS CONCERNING TRANSFER OF REAL PROPERTY & OTHER CORPORATE ASSETS**

Section 1. Purchase, Mortgage, Sale, Exchange or Lease of Real Property

The purchase, mortgage, sale, exchange or lease (for a term of five (5) or more years) of real property, other than a disposition of all or substantially all assets, by the Corporation shall be authorized by the majority vote of the Board of Directors at any Annual Meeting, Regular Meeting or Special Meeting called for that purpose; *provided that* there is a quorum for the meeting at which any such Action is taken.

Section 2. Disposition of Other Assets

The disposition of all, or substantially all, of the assets of the Corporation, whether real property or otherwise, by sale, mortgage, lease, exchange or other disposal, shall only be authorized by a two-thirds

(2/3) majority vote of the Board of Directors at any Annual Meeting, Regular Meeting or Special Meeting called for that purpose; *provided that* there is a quorum for the meeting at which any such Action is taken and shall only occur upon subsequent procurement of all applicable regulatory approvals.

ARTICLE XI

STATUTORY COMPLIANCE

Section 1. Definitions

Should any term, phrase or understanding regarding any topic addressed in these By-Laws and/or the policies of the Corporation be specifically defined in a document entitled, "By-Law and Corporate Policy Definitions," a copy of which is annexed hereto, and made a part hereof as **Appendix A**, the stipulated definition of such term in said document shall govern for purposes of interpreting these By-Laws and/or the policies of the Corporation.

Section 2. Conflicts of Interest Protocols

2.1. *Compliance with Legal Requirements.* The Board of Directors shall adopt, and at all times honor, the terms of a written conflicts of interest policy to ensure that the Corporation's Directors, Officers and Key Persons act in the Corporation's best interest and comply with applicable legal, regulatory and ethical requirements. The conflicts of interest policy of the Corporation shall include, at a minimum, the following provisions:

- A. Definitions of circumstances that could constitute a Conflict of Interest.
- B. Procedures for the Board or authorized committee, as appropriate, to determine the existence of, disclose, address, and document real or potential Conflicts of Interest and Related Party Transactions.
- C. Stipulations that when the Board of Directors, or authorized committee, as appropriate, is considering a real or potential Conflict of Interest, the interested party shall not:
 - i. be present at, or participate in, any deliberations;
 - ii. attempt to influence deliberations; and/or
 - iii. cast a vote on the matter.
- D. Requirements that the existence and resolution of the conflict be documented in the records of the Corporation, including in the minutes of any meeting at which the conflict was discussed or voted upon.
- E. Protocols to ensure that the disclosures of all real or potential Conflicts of Interest are properly forwarded to the Cornerstone Foundation Audit Committee, as well as the Board of Directors of the Corporation.

Section 3. Conflicts of Interest Policy

The Conflicts of Interest Policy of the Corporation required in order to comply with the mandates of Section 2 of this Article is annexed hereto, and made a part hereof as **Appendix B**.

Section 4. Potential Conflicts Disclosure Statement

The Potential Conflicts Disclosure Statement of the Corporation required in order to comply with the mandates of Section 2 of this Article is annexed hereto, and made a part hereof as **Appendix C**.

Section 5. Parameters Regarding Disclosure and Resolution of Conflicts

As the Corporation may have one (1) or more Affiliates (as such term is defined by these By-Laws), any Officer, Director or Key Person of the Corporation serving as an officer, director or Key Person or volunteer of an Affiliate shall not, standing alone, constitute a material, or reportable, Conflict of Interest or "Related Party Transaction," (as defined by these By-Laws), when considering transactions, including financial dealings, between the Corporation and an Affiliate. Unless expressly proscribed by statute, regulation and/or these By-Laws, the fact that any current Officer, Director or Key Person of the Corporation is currently, or was formerly, affiliated with an Affiliate shall not prohibit, or otherwise impair, his/her ability to render binding determinations necessary to properly conduct business operations and/or advance the purposes of the Corporation.

Section 6. Whistleblower Protection Policy

The Corporation shall adopt, and at all times honor, the terms of appropriate written whistleblower protection policies in an effort to ensure that any Director, Officer, employee or volunteer who provides substantial services to the Corporation shall be free of fear of intimidation, harassment, discrimination or other forms of retaliation on the part of the Corporation, or any of its Directors, Officers, employees or volunteers, as a consequence of the good-faith filing of a report regarding possible violations of any statute, regulation, or applicable ethical standard, policy or procedure of the Corporation. The Whistleblower Protection Policy applicable to Officers and Directors of the Corporation required to comply with the mandates of this Section 6 of this Article XI is annexed hereto, and made a part hereof as **Appendix D**.

Section 7. Audit Oversight Policy

If required by statute, regulation or contract, if deemed necessary and practicable by the Board of Directors, and/or if mandated by any empowered governmental agency or required by binding contract, the accounts of the Corporation shall be subject to an annual audit report or audit review report prepared by an Independent Auditor (as defined by these By-Laws) to be overseen by the Cornerstone Foundation Audit Committee, said committee to be comprised solely of Independent Directors, as required pursuant to the specific provisions set forth in the Audit Oversight Policy of the Corporation, a copy of which is annexed hereto, and made a part hereof as **Appendix E**.

ARTICLE XII **NON-DISCRIMINATION**

Section 1. Non-Discrimination

In all of the Corporation's dealings, neither the Corporation nor any of its duly authorized Directors, Officers, Key Persons, agents or volunteers shall discriminate against any individual or group protected by Federal or State law for reasons of race, color, creed, sex, age, ethnicity, national origin, marital status, sexual orientation, disability, military status, domestic violence victim status or predisposing genetic characteristics.

ARTICLE XIII **INDEMNIFICATION OF DIRECTORS, OFFICERS & EMPLOYEES**

Section 1. Authorized Indemnification

Unless clearly prohibited by law or these By-Laws, the Corporation shall indemnify any person (an "Indemnified Person") made or threatened to be made a party in any action or proceeding, whether civil, criminal, administrative, investigative or otherwise, including any action by the Corporation, by reason of the fact that s/he (or her/his testator or administrator, if then deceased), whether before or after adoption of this Article: (a) is or was a Director or Officer of the Corporation, or; (b) is serving or served, in any capacity, at the request of the Corporation, as a Director or Officer of any other corporation, or any partnership, joint

venture, trust, employee benefit plan or other enterprise. The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided that the Corporation shall have consented to such settlement) and reasonable expenses, including attorneys' fees and costs of investigation, incurred by an Indemnified Person with respect to any such threatened or actual action or proceeding.

Section 2. **Prohibited Indemnification**

The Corporation shall not indemnify any person if a judgment, or other final adjudication, adverse to any Indemnified Person establishes, or the Board of Directors in good faith determines, that:

- A. such person's actions were committed in bad faith or were the result of active and deliberate dishonesty;
- B. such person acted outside the scope of his/her employment or other authority granted by or on behalf of the Corporation and such actions were material to the cause of action so adjudicated; or
- C. s/he garnered any financial profit or other advantage to which s/he was not legally entitled.

Section 3. **Advancement of Expenses**

The Corporation shall, on request of any person who is or may be entitled to be indemnified by the Corporation pursuant to Section 1 of this Article, pay or promptly reimburse such Indemnified Person's reasonably incurred expenses in connection with a threatened or actual action or proceeding prior to its final disposition; *provided, however, that*, no such advancement of expenses shall be made unless the Indemnified Person makes a binding, written commitment to repay the Corporation, with interest, for any amount advanced for which it is ultimately determined that s/he is not entitled to be indemnified under the law or these By-Laws. An Indemnified Person shall cooperate in good faith with any request by the Corporation that common legal counsel be used by the parties to such action or proceeding who are similarly situated unless it would be inappropriate to do so because of actual or potential conflicts between the interests of the parties.

Section 4. **Indemnification of Others**

Unless clearly prohibited by law or these By-Laws, the Board of Directors may approve indemnification by the Corporation, as set forth in Section 1 of this Article, or advancement of expenses as set forth in Section 3 of this Article, to a person (or her/his testator or administrator, if then deceased) who is or was employed by the Corporation or who is or was a volunteer for the Corporation, and who is made, or threatened to be made, a party in any action or proceeding, by reason of the fact of such employment or volunteer activity, including actions undertaken in connection with service at the request of the Corporation in any capacity for any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

Section 5. **Determination of Indemnification**

Indemnification mandated by a final order of a court of competent jurisdiction shall be paid. After termination or disposition of any actual or threatened action or proceeding against an Indemnified Person, if indemnification has not been ordered by a court, the Board of Directors shall, upon written request by an Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these By-Laws. Before indemnification can occur, the Board of Directors must expressly find that such indemnification will not violate the provisions of Section 2 of this Article. No Director with a personal interest in the outcome, or who is a party to such actual or threatened action or proceeding concerning which indemnification is sought, shall participate in this determination. If a quorum of disinterested Directors is not obtainable, the Board of Directors shall act only after receiving a written opinion from independent legal counsel that indemnification is proper in the circumstances under then applicable law and these By-Laws.

Section 6. **Binding Effect**

Any person entitled to indemnification under these By-Laws has a legally enforceable right to indemnification that cannot be abridged by amendment of these By-Laws with respect to any event, action or omission occurring prior to the date of such amendment.

Section 7. **Insurance**

The Corporation is required to purchase Directors and Officers liability insurance. To the extent permitted by law, such insurance shall insure the Corporation for any obligation it incurs as a result of this Article, or operation of law, and it may insure directly the Directors, Officers, employees or volunteers of the Corporation for liabilities against which they are not entitled to indemnification under this Article, as well as for liabilities against which they are entitled or permitted to be indemnified by the Corporation.

Section 8. **Nonexclusive Rights**

The provisions of this Article shall not limit or exclude any other rights to which any person may be entitled under law or contract. The Board of Directors is authorized to enter into agreements on behalf of the Corporation with any Director, Officer, employee or volunteer to provide them rights to indemnification or advancement of expenses in connection with potential indemnification in addition to the provisions therefor in this Article, subject in all cases to the limitations of Section 2 of this Article.

ARTICLE XIV FUNDAMENTAL CORPORATE CHANGES

Section 1. **By-Law Amendments**

These By-Laws may be amended, repealed or altered in whole, or in part, at any Annual Meeting, Regular Meeting or Special Meeting called for that purpose by a two-thirds (2/3) majority vote of the Entire Board; *provided that* there is a quorum for the Meeting at which any such Action is taken.

Section 2. **Certificate of Incorporation**

2.1. *Amendment.* An amendment, repeal or alteration, in whole or in part, of the Corporation's Certificate of Incorporation shall be authorized by a two-thirds (2/3) majority vote of the Entire Board, at any Annual Meeting, Regular Meeting or Special Meeting called for that purpose; *provided that* there is a quorum for the meeting at which any such Action is taken, and shall become effective once all statutory approvals are subsequently secured and the applicable Certificate of Amendment or Restated Certificate of Incorporation is accepted for filing by the New York Department of State.

2.2. *Governing Effect.* If there is any conflict between the provisions of the Certificate of Incorporation and these By-Laws, the provisions of the Certificate of Incorporation shall govern.

Section 3. **Formation of Parent/Subsidiary Relationship**

The Corporation may enter into, or form a new entity for purposes of creating, a Parent/Subsidiary Relationship (as defined by these By-Laws) by a two-thirds (2/3) majority vote of the Board of Directors at any Annual Meeting, Regular Meeting, or Special Meeting called for that purpose; *provided that* there is a quorum for the meeting at which any such Action is taken.

Section 4. **Merger or Consolidation**

The merger or consolidation of the Corporation shall be authorized by a two-thirds (2/3) majority vote of the Entire Board at any Annual Meeting, Regular Meeting, or Special Meeting called for that purpose; *provided that* there is a quorum for the meeting at which any such Action is taken, and shall become effective once all

statutory approvals are subsequently secured and the applicable Certificate of Merger or Consolidation is accepted for filing by the New York State Department of State.

Section 5. **Dissolution**

5.1. *Procedure.* The dissolution of the Corporation shall be authorized by a two-thirds (2/3) majority vote of the Entire Board at any Annual Meeting, Regular Meeting, or Special Meeting called for that purpose; *provided that* there is a quorum for the meeting at which any such Action is taken, and shall become effective once all statutory approvals are subsequently secured and the applicable Certificate of Dissolution is accepted for filing by the New York Department of State.

5.2. *Residual Assets.* As part of the process of obtaining a corporate dissolution, the Corporation shall endeavor to ensure that any residual corporate assets shall be donated to Cornerstone, or if Cornerstone shall not then be in existence or eligible to receive such assets, to one (1) or more tax-exempt organizations that provide healthcare services to the indigent in the communities served by Cornerstone and use its best efforts to have same authorized by all applicable regulatory agencies and the Courts.

APPENDIX A

By-Law & Corporate Policy Definitions

1. **Affiliate.** An "Affiliate" of the Corporation means any entity controlled by, in control of (a "Parent/Subsidiary Relationship"), or under common control with, the Corporation.
2. **Charitable Corporation.** Any not-for-profit Corporation formed, or deemed to be formed, for charitable purposes, including those formerly considered by the N-PCL to be Type "B" or "C" Corporations, as well as former Type "D" with charitable purposes.
3. **Conflict of Interest.** Any situation in which any Director, Officer or Key Person of the Corporation has a competing Interest that, from the perspective of an objective observer, may appear to compromise his/her ability to perform his/her respective duties as Director, Officer or Key Person.
4. **Director.** A "Director" means any member of the Board of Directors of the Corporation as defined by these By-Laws.
5. **Independent Auditor.** An "Independent Auditor" means any certified public accountant performing the audit of the financial statements of the Corporation who is not, nor is any member of his/her firm, an Officer, Director, Key Person or other employee, agent or volunteer of the Corporation or has a Relative who is such an individual.
6. **Independent Director.** An "Independent Director" means a Director WHO:
 - i. is not, and has not been within the last three (3) years, an employee or a Key Person of the Corporation or an Affiliate and does not have a Relative who is, or has been within the last three (3) years, a Key Person of the Corporation or an Affiliate;
 - ii. has not received, and does not have a Relative who has received, in any of the last three (3) fiscal years, more than ten thousand dollars (\$10,000) in direct compensation from the Corporation or an Affiliate (other than reimbursement for expenses reasonably incurred as a Director or reasonable compensation for service as a Director if permitted by statute and regulation); and,
 - iii. is not a current employee of or does not have a substantial financial interest in, and does not have a Relative who is a current Officer of or has a substantial financial interest in, any entity that has made payments, property or services to, or received payments, property or services from, the Corporation or an Affiliate if the amount paid by the corporation to the entity or received by the corporation from the entity for such property or services, in any of the last three fiscal years, exceeded the lesser of :
 - a. ten thousand dollars (\$10,000) or two percent (2%) of such entity's consolidated gross revenues if the entity's consolidated gross revenue was less than five hundred thousand dollars (\$500,000);
 - b. twenty-five thousand dollars (\$25,000) if the entity's consolidated gross revenue was five hundred thousand dollars (\$500,000) or more but less than ten million dollars (\$10 million); or
 - c. one hundred thousand dollars (\$100,000) if the entity's consolidated gross revenue was ten million (\$10 million) dollars or more; and
 - iv. is not and does not have a Relative who is a current owner, whether wholly or partially, director, officer or employee of the Corporation's outside auditor or who has worked on the Corporation's audit at any time during the past three (3) years.

For purposes of this definition of "Independent Director", the terms: "compensation" does not include reimbursement for expenses reasonably incurred as a Director or reasonable compensation for service as a Director as permitted by paragraph (a) of section 202 (General and special powers) of the New York Not-for-Profit Corporation Law; and "payment" does not include charitable contributions, dues or fees paid to the Corporation for services which the Corporation performs as part of its nonprofit purposes, or payments made by the Corporation at fixed or non-negotiable rates or amounts for services received, provided that such services by and to the Corporation are available to individual members of the public on the same terms, and such services received by the Corporation are not available from another source.

7. **Interest.** An "Interest" is a material individual economic benefit received, either directly or indirectly, as a consequence any transaction, agreement, compensation agreement, including direct or indirect remuneration as well as gifts or favors that are not insubstantial or any other arrangement between a Related Party and the Corporation.
8. **Key Person.** A "Key Person" means any person, other than a Director or Officer, whether or not an employee of the Corporation, who:
 - i. has responsibilities, or exercises powers or influence over the Corporation as a whole similar to the responsibilities, powers, or influence of Directors and Officers;
 - ii. manages the Corporation, or a segment of the Corporation that represents a substantial portion of the activities, assets, income or expenses of the Corporation; or
 - iii. alone or with others controls or determines a substantial portion of the Corporation's capital expenditures or operating budget.
9. **Officer.** An "Officer" means any director, trustee, manager, governor, or by any other title, any individual holding an office of the Corporation identified in the Certificate of Incorporation and/or By-Laws.
10. **Related Party.** A "Related Party" means (i) any Director, Officer or Key Person of the Corporation, or any Affiliate; (ii) any Relative of any Director, Officer or Key Person of the Corporation or any Affiliate; or (iii) any entity in which any individual described in clauses (i) and (ii) of this definition has a thirty-five percent (35%) or greater ownership or beneficial interest, or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent (5%).
11. **Related Party Transaction.** A "Related Party Transaction" means any transaction, agreement or any other arrangement in which a Related Party has a financial interest and in which the Corporation or any Affiliate is a participant, *except that a transaction shall not be a Related Party Transaction if:*
 - i. the transaction or the Related Party's financial interest in the transaction is de minimis;
 - ii. the transaction would not customarily be reviewed by the Board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms; or
 - iii. the transaction constitutes a benefit provided to a Related Party solely as a member of a class of the beneficiaries that the Corporation intends to benefit as part of the accomplishment of its mission which benefit is available to all similarly situated members of the same class on the same terms.

12. Relative. A “Relative” of an individual means his/her spouse, domestic partner, ancestors, brothers and sisters (whether whole or half- blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses or domestic partners of ancestors, brothers, sisters, children, grandchildren and/or great-grandchildren.

APPENDIX B

Conflicts of Interest Policy

1. *Policy Requirements.*

All real or potential "Related Party Transactions" (as defined by the By-Laws) and any other conflicted matter must be addressed in accordance with the terms of this Board of Directors Conflicts of Interest Policy. Any Related Party Transaction, or any other conflicted matter, authorized in a manner that is materially inconsistent with the terms of this policy may be subsequently rendered void or voidable by a vote of the majority (50% +1) of the Board of Directors, excluding any Directors with an interest in the subject Related Party Transaction or matter.

2. *General Disclosure.*

Prior to initial election, and annually thereafter, each Director shall be required to complete, sign and submit to the Secretary, or an authorized designee, as appropriate, a written statement identifying, to the best of the Director's knowledge:

- a. any entity of which such Director is an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or employee or Key Person and with which the Corporation has a relationship, and
- b. any transaction in which the Corporation is a participant and in which the Director might have a conflicting interest.

The Secretary shall provide a copy of all completed disclosure statements to the Chair of the Cornerstone Foundation Audit Committee. A copy of each disclosure statement shall be available to any Director on request.

3. *Specific Disclosure.*

If at any time during his/her term of service, a Director, Officer or Key Person (all as defined by the By-Laws) acquires an interest, or circumstances otherwise arise, which could give rise to a real or potential Related Party Transaction or any other conflicted matter, he/she shall promptly disclose, in good-faith, to the Board of Directors, or an authorized committee thereof, as appropriate, the material facts concerning such interest.

4. *Cornerstone Foundation Audit Committee Review.*

The Cornerstone Foundation Audit Committee shall review any real, or potential, Related Party Transaction, or any other matter that might be considered to constitute a conflict of interest for a particular Related Party (as defined by the By-Laws), as expressly permitted and required by the N-PCL.

5. *Standard of Review.*

In any instance where a Related Party Transaction or other potentially conflicted matter is being reviewed, and is so material that it would customarily warrant formal approval by the Cornerstone Foundation Audit Committee, said Committee shall thoroughly review the Related Party Transaction or matter and submit to the Board of a recommendation as whether or not it should be to approved.

6. *Authorization of Related Party Transactions*

The Corporation shall not enter into any Related Party Transaction, or any other conflicted matter, unless such a Related Party Transaction or matter is determined by the Cornerstone Foundation Audit Committee and the Board of Directors to be fair, reasonable and in the Corporation's best interest at the time of such determination.

7. *Authorization of Transactions Concerning Substantial Financial Interest.*

With respect to any Related Party Transaction or other conflicted matter, in which a Related Party has a substantial financial interest, the Board of Directors of the Corporation shall:

- i. prior to entering into such Related Party Transaction or matter, consider alternative transactions to the extent available;
- ii. approve the transaction or matter by not less than a majority vote of the directors present at the meeting; and
- iii. contemporaneously document the basis for approval by the Board of Directors, which shall include the preparation of a written report, to be attached to the minutes of any meeting where the transaction or matter was deliberated or authorized, identifying the details of the transaction or matter, alternate transactions considered, materials or other information reviewed, the Directors present at times of deliberations, names of those who voted in favor, opposed, abstained or were absent and the specific action authorized.

8. *Restrictions.*

With respect to any Related Party Transaction or any other conflicted matter considered by the Board, no Related Party shall:

- i. be present at, or participate in, any deliberations;
- ii. attempt to influence deliberations; and/or
- iii. cast a vote on the matter.

Nothing herein shall prohibit the Cornerstone Foundation Audit Committee or the Board of Directors from requesting that a Related Party present information concerning a Related Party Transaction, or any other conflicted matter, at a Committee and/or Board meeting prior to the commencement of deliberations or voting relating thereto.

9. *Nepotism.*

If a Relative or a household member or an employee or member of the Board of Directors is retained as an employee or contractor of the Corporation, the presumption of a Related Party Transaction is created and applicable. This Conflicts of Interest Policy shall govern the situation. In cases where a Related Party or household member is found to be the best candidate for a given position and is hired as an employee or a contractor of the Corporation, the Corporation shall document that the employee/contractor is qualified and paid a reasonable salary/rate in accordance with other provider employees and contractors. In addition, such employee or contractor shall not be supervised or be in the line of supervision by the related party or household member.

10. *Audit-Related Disclosure of Conflicts.*

It shall be the duty of the Secretary to see to it that all newly-received and annually-submitted Director interest disclosure statements and any case-specific Related Party Transaction reports, together with the minutes of any related meetings, are promptly provided to the Chair of the Cornerstone Foundation Audit Committee in an effort to ensure that they are properly considered for consolidated auditing purposes.

APPENDIX C
CODE OF ETHICAL CONDUCT
&
ANNUAL POTENTIAL CONFLICTS DISCLOSURE STATEMENT

1. Code of Ethical Conduct

Each member of the Board of Directors of the Corporation must maintain the highest standard of conduct in carrying out his/her fiduciary obligations in pursuit of the Corporation's tax-exempt mission and charitable purposes. Therefore, each and every Director, Officer and Key Person (to the extent applicable) shall endeavor in good faith and to the best of his/her ability to adhere to the following code of conduct:

By-Laws & Policies.

- be aware of and fully abide by the Corporation's Certificate of Incorporation, By-Laws, rules and regulations and policies pursuant to the New York not-for-profit Corporation Law (the "N-PCL").
- ensure the Corporation's compliance with all statutes, regulations and contractual requirements
- respect and fully support the duly-made decisions of the Board of Directors in accordance with his/her fiduciary duties of obedience and loyalty
- respect the work and recommendations of members of committees who are duly charged and have convened and deliberated accordingly, pursuant to the N-PCL
- work diligently to ensure that the Board fully assumes its role as a policy-making, governing body
- view and act towards the President (if any) as the chief administrative officer having sole responsibility for the day-to-day management of the Corporation, including personnel, and for implementation of Board policies and directives.

Informed Participation.

- endeavor to attend all meetings of the Board and assigned committees
- remain informed of all matters, including financial, that come before the Board and/or assigned committees
- respect and follow the "chain of command" of the Board and administration
- constructively and appropriately bring to the attention of the Board, Officers, Committee Chairs and/or appropriate staff any questions, personal views, opinions and comments of significance on relevant matters of governance, policymaking and his/her or the Corporation's constituencies
- oppose, on the record, Board actions with which he/she disagrees or is in serious
- appropriately challenge, within the structure and By-Laws of the Corporation, those binding decisions that violate the legal, fiduciary or contractual obligations of the Corporation and/or of any of its Directors

- do not fully commit to others or self to vote a particular way on an issue before participating in a deliberation session with fellow Board/committee members in which the matter is discussed and action may be taken
- avoid interference with the duties or authority of staff

Conflict of Interest, Representation & Confidentiality

- represent the best interests of the Corporation at all times and declare any and all duality of interests or conflicts of interests, material or otherwise, that may impede or be perceived as impeding the capacity to deliberate or act in the good faith, on behalf of the best interests of the Corporation
- conform to the procedures for such disclosure and actions as stated in the By-Laws or otherwise established by the Board, pursuant to the N-PCL
- not seek or accept, on your own behalf or on behalf of any other person, any financial advantage or gain that may be offered because, or as a result, of the Board member's affiliation with the Corporation
- publicly support and represent the duly made decisions of the Board
- speak positively of the Corporation to the general public and any and all of its current and potential Affiliates and constituencies
- not take any public position representing the Corporation on any issue that is not in conformity with the official position of the Corporation
- not use or otherwise relate his/her affiliation with the Board to independently promote or endorse political candidates or parties for the purpose of election
- maintain full confidentiality and proper use of information obtained as a result of Board and/or Officer service in accordance with Board policy or direction or as otherwise set forth in the By-Laws

Interpersonal.

- speak clearly, listen carefully to and respect the opinions of fellow Board members, Officers, employees and agents
- promote collaboration and partnership among all members of the Board, Officers and Key Persons
- maintain open communication and an effective partnership with the Board, Officers and committee leadership
- remain "solution-focused," offering criticism only in a constructive manner
- not filibuster or engage in activities during meetings that are intended to impede or delay the progress and work of the Board because of differences in opinion or other personal reasons
- always work to develop and improve his/her knowledge and skills that enhance his/her abilities as Director, Officer or key employee

Nothing contained in this Code of Ethical Conduct should be interpreted by any employee to restrict or inhibit any activity protected by Section 7 of the National Labor Relations Act, which grants to employees the right to act together to seek to improve their pay and working conditions.

2. Annual Potential Conflicts Disclosure Statement

Name: _____

As a Director, Officer or Key Person of the Corporation, prior to your being seated on the Board of Directors, appointed as an Officer, or commencing employment with the Corporation, as appropriate, and annually thereafter, you are required to truthfully, completely and accurately disclose all information requested herein and to promptly update all such information as factual circumstances may change from time-to-time. With regard to this Conflicts Disclosure Statement, please be advised that all material terms identified by quotation marks are defined by Appendix "A" of the By-Laws of the Corporation, which is entitled "By-Law & Corporate Policy Definitions."

(Please mark 'Yes' or 'No' & provide additional information when requested)

Financial Information Return Disclosure

Responses to the following questions are required in order to complete financial information returns annually submitted to the Internal Revenue Service and the New York State Office of the Attorney General.

1. Have you been provided with, properly reviewed and reasonably understand the terms of the Corporation's current written Conflicts of Interest Policy?

_____ _____
No Yes

If **No**, briefly describe below & attach a detailed explanation

2. During the current or last fiscal year, do you have or have you had one or more of the following types of relationship with any entity which had, or is reasonably anticipated to have, a direct or indirect business relationship with the Corporation or an Affiliate?
 - a. You served as director, officer, trustee, Key Person, partner or member of any such entity?

- b. You hold or held a thirty-five percent (35%) or greater ownership or beneficial interest in such an entity (e.g., corporation, LLC, or trust)?
- c. You had or have a direct or indirect ownership interest in excess of five percent (5%) in such an entity which is a partnership or professional corporation?

No Yes

If Yes, briefly describe below & attach a detailed explanation

- 3. Have you, individually, or through an entity where you hold a thirty-five percent (35%) or greater ownership or beneficial interest, or in the case of a partnership or professional corporation a direct or indirect ownership interest in excess of five percent (5%), during the most recently completed, or current, fiscal year, had, or are reasonably anticipated to have, a direct, or indirect, business relationship, with any individual who is a current or former "Officer," "Director" or "Key Person" of the Corporation or an Affiliate?

No Yes

If Yes, briefly describe below & attach a detailed explanation

- 4. Do you have a "Relative" who, during the most recently completed, or current, fiscal year, had, or is reasonably anticipated to have, a direct, or indirect, business relationship with the Corporation or an Affiliate?

No Yes

If Yes, briefly describe below & attach a detailed explanation

- 5. Have you, or did you have a "Relative" who, during the most recently completed, or current, fiscal year, had, or is reasonably anticipated to have, any transaction with the Corporation or an Affiliate that might reasonably be considered a real or potential conflict of interest pursuant to the Corporation's Conflicts of Interest Policy, which has not been otherwise disclosed herein?

No

Yes

If Yes, briefly describe below & attach a detailed explanation

Independent Director Assessment Disclosure Assessment

In order to qualify as an "Independent Director," as defined by the N-PCL, an Officer or a Director must respond in the negative to all of the following questions, although failure to respond in the negative to all questions shall not necessarily preclude such an Officer or a Director from serving on the Board of Directors.

1. Are you currently, or have you been within the last three (3) fiscal years, an employee of the Corporation or an "Affiliate" of the Corporation?

No Yes

If Yes, briefly describe below & attach a detailed explanation

2. Do you have a "Relative" who is, or has been within the last three (3) years, a "Key Person" of the Corporation or an Affiliate of the Corporation?

No Yes

If Yes, briefly describe below & attach a detailed explanation

3. Have you received, within the last three (3) fiscal years, more than ten thousand dollars (\$10,000) in total direct compensation from the Corporation or an "Affiliate" of the Corporation, other than reimbursement for out-of-pocket expenses?

No Yes

If Yes, briefly describe below & attach a detailed explanation

4. Do you have a "Relative" who has received, within the last three (3) fiscal years, more than ten thousand dollars (\$10,000) in direct compensation from the Corporation or an "Affiliate" of the Corporation, other than reimbursement for out-of-pocket expenses?

No Yes

If Yes, briefly describe below & attach a detailed explanation

5. Are you a current officer or employee of, or do you have a substantial financial interest in, any entity that has made "payments" to, or received "payments" from, the Corporation or an "Affiliate" of the Corporation, for property or services in an amount which, within the last three (3) fiscal years, exceeds the lesser of twenty-five thousand dollars (\$25,000) or two percent (2%) of such entity's consolidated gross revenue? For purposes of this question, the definition the term "payments" does not include charitable contributions.

No Yes

If Yes, briefly describe below & attach a detailed explanation

6. Do you have a Relative who is a current Officer or employee of, or has a substantial financial interest in, any entity that has made "payments" to, or received "payments" from, the Corporation or an "Affiliate," for property or services in an amount which, within the last three (3) fiscal years, exceeds the lesser of twenty-five thousand dollars (\$25,000) or two percent (2%) of such entity's consolidated gross revenue? For purposes of this question, the definition the term "payments" does not include charitable contributions.

No Yes

If Yes, briefly describe below & attach a detailed explanation

—*Certification*—

I, the undersigned, certify that I have read and understand this Code of Ethical Conduct & Annual Conflicts Disclosure Statement. I agree that my actions will comply with the disclosures found in this document. I further affirm that neither I, as a Related Party nor any Relative have, or had, an interest, or has taken any action, that contravenes, or is likely to contravene, the Conflicts of Interests Policy of the Corporation or, otherwise impedes my ability to act as a fiduciary and in the best interests of the Corporation, except those that may have been disclosed herein.

Director Signature

Date

Print Name

APPENDIX D

Whistleblower Protection Policy

1. Intent.

The Corporation shall endeavor to protect any "Director" and "Officer" (each, as defined by these By-Laws) from intimidation, harassment, discrimination or other forms of retaliation on the part of the Corporation, or any of its Directors, Officers, employees or volunteers, as a consequence of the good-faith filing of a report regarding possible violations of any statute, regulation, applicable ethical standard or policy or procedure of the Corporation.

2. Limitations.

This Board of Directors Whistleblower Protection Policy shall be binding upon each Officer and Director of the Corporation, but inapplicable to corporate employees, including any "Key Person" (as defined by these By-Laws), or volunteers, who instead shall receive comparable protections from retaliation pursuant to other policies to be adopted by the Corporation specific to the circumstances of the employment or community volunteer relationship with the Corporation.

3. Disclosure.

If any Director or Officer reasonably believes that some policy, practice, or activity of the Corporation, or of another individual or entity with whom the Corporation has a substantial business relationship exceeding ten thousand dollars (\$10,000), may violate any statute, regulation, applicable ethical standard or policy or procedure of the Corporation, such Director or Officer shall file a confidential written report summarizing his/her concerns with a member of the Cornerstone Foundation Audit Committee.

4. Investigation & Resolution Procedures.

The investigation of any alleged misconduct or omission governed by this policy shall be conducted in the following manner:

- a. upon receipt of a confidential written report submitted by a whistleblower to a member of the Cornerstone Foundation Audit Committee, the report shall ordinarily be forwarded to the Cornerstone Foundation Audit Committee Chair who shall be responsible for properly receiving, overseeing, investigating, assessing, rendering determinations concerning and ensuring for the proper documentation and recordation of any, and all, such reports in a manner consistent with the terms of this Policy. In instances where the Cornerstone Foundation Audit Committee Chair is him/herself a whistleblower, a subject of the whistleblower's claims or otherwise conflicted, he/she shall disclose to the Committee the existence of the whistleblower's claim and that he/she has a real, or potential, conflict of interest. The Committee, excluding the Audit Committee Chair, shall then appoint another Cornerstone Foundation Audit Committee member to oversee the Corporation's response to the whistleblower's report;
- b. within thirty (30) days of receipt of the written report of a whistleblower, the Cornerstone Foundation Audit Committee Chair, or other designated Committee member, as appropriate, shall act as follows:
 - i. maintain the confidentiality of the subject Officer or Director, Officer by not disclosing to other Directors, Officers, employees or volunteers of the Corporation, the existence of the alleged misconduct or omission, or the underlying factual circumstances of the filing of the written report, except as needed in order to properly investigate the matter;
 - ii. initiate and conduct an appropriate investigation;
 - iii. review the applicable policies and procedures of the Corporation;
 - iv. assess, in the most confidential manner possible, the concerns of the subject Officer or Director via written questionnaire and/or interview, as well as those of other Directors, Officers,

- employees or volunteers who may have an understanding of, or be complicit in, the alleged misconduct or omission, in order to form an informative opinion of the matter and, if necessary, potential recommendations for resolution;
- v. prepare and submit to the Cornerstone Foundation Audit Committee a written report summarizing the matter, together with recommendations as to resolution and a timeline for implementation of associated actions; and
 - vi. forward a copy of the written report to the "Entire Board" (as defined by the By-Laws).
- c. the Cornerstone Foundation Audit Committee shall act on the written report of the Chair, or other designated Committee member, as appropriate, review findings and recommendation identified therein, and submit to the Board of Directors a written assessment of the matter, recommendations as to resolution and a timeline for implementation of associated actions; and,
 - d. upon receipt of the written report of the Chair, or other designated Committee member, and the written assessment of the Cornerstone Foundation Audit Committee, the Board of Directors, at its next scheduled Regular Meeting, or a Special Meeting called for that purpose, shall consider the matter and render binding determinations as to resolution, up to, and including, the suspension or removal of the Officer or Director found to have engaged in the subject misconduct or omission.

5. *Retaliation Protections*

Upon filing a written report of alleged violation(s) of statute, regulation or applicable ethical standard, any such Officer or Director shall be protected, directly and indirectly, from intimidation, harassment, discrimination or other forms of retaliation on the part of the Corporation or any of its Directors, Officers, employees, agents or volunteers.

6. *Documentation*

The Cornerstone Foundation Audit Committee and the Board of Directors shall ensure that the matter is properly documented in the records of the Corporation, including minutes of any meeting of any Committee and the Board where the matter was considered and/or addressed, paying particular attention to the confidentiality of this Policy.

7. *Limitations*

This Policy does not protect any Officer or Director, Officer who, in filing any report hereunder, acts in bad faith, is deliberately dishonest, and/or has or may personally garner any profit or some other advantage to which he/she is not legally entitled. No Officer or Director should expect protection under this Policy if he/she is complicit in the misconduct or omission that is the subject of his/her concern, unless his/her complicity is, itself, prompted by duress or is motivated by reasonable fear of some form of intimidation, harassment, discrimination or other form of retaliation.

8. *Publication*

A copy of this Policy, or an analogous whistleblower protection policy, as appropriate, shall be distributed to all Officers and Directors of the Corporation.

APPENDIX E

Audit Oversight Policy

1. Auditing.

The accounts of the Corporation shall be subject to an annual audit report prepared by an independent certified public accountant, an "Independent Auditor" (as defined by the By-Laws). Once retained, neither the Independent Auditor, nor or a partner, associate or employee of the Independent Auditor's firm or practice; or, a "Relative" (as defined by these By-Laws), or a partner, associate or employee of a Relative's firm or practice, shall perform any assistance to the Corporation other than that directly related to auditing functions.

2. General Duties.

While working with the Independent Auditor, the Cornerstone Foundation Audit Committee, which shall be comprised solely of "Independent Directors" (as defined by these By-Laws), shall perform the following duties:

- i. oversee the accounting and financial reporting processes of the Corporation and the audit of the Corporation's financial statements;
- ii. annually retain or renew the retention of an Independent Auditor to conduct the audit and, upon completion thereof, review the results of the audit and any related management letter with the Independent Auditor; and
- iii. oversee the adoption, implementation of, and compliance with the Corporation's Conflicts of Interest Policy.

3. Revenue-Imposed Duties.

The Affiliated Partners Audit Committee and/or the Cornerstone Foundation Audit Committee shall also be required to perform the following duties:

- i. review with the Independent Auditor the scope and planning of the audit prior to the audit's commencement;
- ii. upon completion of the audit, review and discuss with the Independent Auditor:
 - a. any material risks and weaknesses in internal controls identified by the Independent Auditor;
 - b. any restrictions on the scope of the Independent Auditor's activities or access to requested information;
 - c. any significant disagreements between the Independent Auditor and management of the Corporation; and,
 - d. the adequacy of the Corporation's accounting and financial reporting processes;
- iii. annually consider the performance and independence of the Independent Auditor; and,
- iv. report on the Committee's activities to the Board of Directors.

4. Affiliate Corporations.

Should the Corporation control any "Affiliate" (as defined by these By-Laws) or subsidiary corporation, the Cornerstone Foundation Audit Committee, which shall be comprised solely of Independent Directors of the Corporation, may pursuant to state statute and these By-Laws, perform all audit oversight duties stipulated in this Policy for any such Affiliate or subsidiary corporation.

5. Restrictions.

For the avoidance of doubt, only Independent Directors shall be entitled to participate in any Cornerstone Foundation Audit Committee deliberations or voting relating to matters set forth in this Policy.



MEMORANDUM

To: Public Health and Health Planning Council (PHHPC)

From: Richard J. Zahnleuter
General Counsel

Date: December 19, 2017

Subject: Bronx-Lebanon Hospital New Directions Fund, Inc.: Corporate Name Change

Bronx-Lebanon Hospital New Directions Fund, Inc. (the "Foundation") is a licensed Article 28 foundation that raises funds for the benefit and support of the Bronx-Lebanon Hospital Center. The Foundation seeks to change its corporate name to BronxCare New Directions Fund in conjunction with renaming two other related entities, (these other changes are submitted to PHHPC under separate cover), in an effort to promote branding identity. Please see the attached letter from Michael M. Stone, Esq. of Garfunkel Wild, P.C. for further details. The Foundation seeks PHHPC approval of the proposed name change.

PHHPC approval of the corporate name change is required pursuant to 10 NYCRR § 600.11(a)(2) and Not-for-Profit Corporation Law § 804(a).

There is no objection to the corporate name change and the Certificate of Amendment of the Certificate of Incorporation of Bronx-Lebanon Hospital New Directions Fund, Inc. is in legally acceptable form.

Attachments

GARFUNKEL WILD, P.C.

ATTORNEYS AT LAW

677 BROADWAY • ALBANY, NEW YORK 12207

TEL (518) 242-7582 • FAX (518) 242-7586

www.garfunkelwild.com

MICHAEL M. STONE

Partner

Licensed in NY

Email: mstone@garfunkelwild.com

Direct Dial: (518) 242-7582

FILE NO.: 06238.3350

December 11, 2017

By E-mail

Colleen M. Leonard
Executive Secretary
Public Health and Health Planning Council
NYS Department of Health
Corning Tower, Room 1805, EPS
Albany, NY 12237

Re: Certificates of Amendments of Bronx-Lebanon Hospital Center, Bronx-Lebanon Special Care Center, Inc. and Bronx-Lebanon Hospital New Directions Fund, Inc.

Dear Ms. Leonard:

My firm is counsel to Bronx-Lebanon Hospital Center, Bronx-Lebanon Special Care Center, Inc. and Bronx-Lebanon Hospital New Directions Fund, Inc. Each is a New York not-for-profit corporation.

We are seeking approval to file Certificates of Amendment to the Certificate of Consolidation of Bronx-Lebanon Hospital Center and the Certificates of Incorporation of Bronx-Lebanon Special Care Center, Inc. and Bronx-Lebanon Hospital New Directions Fund, Inc. In addition to updating the corporate type for each in compliance with the Nonprofit Revitalization Act of 2013, the amendments will change the names of each corporation as follows:

- Bronx-Lebanon Hospital Center's Certificate of Consolidation is amended to change its name to "BronxCare Health System";
- Bronx-Lebanon Special Care Center, Inc.'s Certificate of Incorporation is amended to change its name to "BronxCare Special Care Center"; and
- Bronx-Lebanon Hospital New Directions Fund, Inc.'s Certificate of Incorporation is amended to change its name to "BronxCare New Directions Fund".

A primary reason for the name change of Bronx-Lebanon Hospital Center to BronxCare Health System is to better reflect the scope of health care services it provides to the community, which includes, in addition to hospital inpatient services, an extensive outpatient clinic program providing outpatient health, mental health and behavioral health services. Bronx-Lebanon Special Care Center, Inc. is a residential health care facility and Bronx-Lebanon Hospital New Directions Fund, Inc. raises funds to support the Hospital. Each is an affiliate of Bronx-Lebanon Hospital

**CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
BRONX-LEBANON HOSPITAL NEW DIRECTIONS FUND, INC.
(Under Section 803 of the Not-for-Profit Corporation Law)**

The undersigned, being the Treasurer of BRONX-LEBANON HOSPITAL NEW DIRECTIONS FUND, INC., hereby certifies:

FIRST: The name of the corporation is BRONX-LEBANON HOSPITAL NEW DIRECTIONS FUND, INC. (the "Corporation").

SECOND: The Certificate of Incorporation of the Corporation was filed by the Department of State on December 16, 1982, under the Not-for-Profit Corporation Law of the State of New York.

THIRD: The Corporation was formed under Section 402 of the Not-for-Profit Corporation Law (the "N-PCL").

FOURTH: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the N-PCL.

FIFTH: The Certificate of Incorporation is hereby amended to read as follows:

(a) Article FIRST of the Certificate of Incorporation of the Corporation, setting forth the name of the Corporation, is hereby amended in its entirety to read as follows:

"The name of the Corporation is BronxCare New Directions Fund."

(b) Article SECOND of the Certificate of Incorporation regarding the type of Corporation is amended to delete the reference to the Corporation being a type B corporation as defined in Section 201 of the N-PCL and to add that the Corporation is charitable. Accordingly Article SECOND shall be hereby amended in its entirety to read as follows:

"SECOND: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the N-PCL and is a charitable corporation under Section 201 of the N-PCL. The Corporation shall remain a charitable corporation after this Certificate of Amendment shall become effective.

SIXTH: The Secretary of State is designated as the agent of the Corporation upon whom process against the Corporation may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the Corporation is:

BronxCare New Directions Fund
1276 Fulton Avenue
Bronx, New York 10456
Attn: President and Chief Executive Officer

SEVENTH: This amendment to the Certificate of Incorporation of the Corporation was authorized by written consent of the sole member of the Corporation on November 10, 2017.

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
December 8, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
ALBANY, NEW YORK 12234

OFFICE OF THE SUPERVISOR

October 25, 1982

A930541

TO: Department of State
Division of Corporations

FROM: Office of Counsel and
Deputy Commissioner for Legal Affairs

By: Mary L. Gammon *Mary L. Gammon*
Legal Assistant - *Ms.*

SUBJECT: BRONX-LEBANON HOSPITAL NEW DIRECTIONS FUND, INC.

REFERENCE: Proposed Certificate of Incorporation

The attached document was submitted to this Office for review to determine whether the provisions of section 216 of the Education Law require the consent of the Commissioner of Education to its filing with the Department of State, or whether the Education Department would have any objections to its filing.

After review it is the opinion of this Office that there is no necessity for the Commissioner to consent to filing, and that we have no objection to such filing.

This waiver of consent to filing is granted with the understanding and upon the conditions set forth on the reverse side of this memorandum.

Att.

This waiver of consent to filing is granted with the understanding that nothing contained in the annexed document shall be construed as authorizing the corporation to engage in the practice of law, except as provided by subdivision 7 of section 495 of the Judiciary Law, or of any of the professions designated in Title VIII of the Education Law, or to use any title restricted by such law, or to conduct a school for any such profession, or to hold itself out to the public as offering professional services.

This waiver of consent to filing is granted with the further understanding that nothing contained in the annexed document shall be construed as authorizing the corporation to operate a nursery school, kindergarten, elementary school, secondary school, institution of higher education, cable television facility, educational television station pursuant to section 235 of the Education Law, library, museum, or historical society, or to maintain an historic site.

This waiver of consent to filing shall not be deemed to be or to take the place of registration for the operation of a private business school in accordance with the provisions of section 5002 of the Education Law, nor shall it be deemed to be, or to take the place of, a license granted by the Board of Regents pursuant to the provisions of section 5001 of the Education Law, a license granted by the Commissioner of Motor Vehicles pursuant to the provisions of section 394 of the Vehicle and Traffic Law, a license as an employment agency granted pursuant to section 172 of the General Business Law, or any other license, certificate, registration, or approval required by law.

2

USC

CERTIFICATE OF INCORPORATION
OF

USC

BRONX-LEBANON HOSPITAL NEW DIRECTIONS FUND, INC.

Under Section 402 of the Not-For-Profit Corporation Law

The undersigned, a natural person over the age of eighteen years, for the purpose of forming a corporation pursuant to the Not-For-Profit Corporation Law of the State of New York (hereinafter referred to as the "Not-For-Profit Corporation Law"), hereby certifies as follows:

FIRST: The name of the corporation is BRONX-LEBANON HOSPITAL NEW DIRECTIONS FUND, INC.

SECOND: The Corporation described herein is a corporation as defined in Section 102(a)(5) of the Not-For-Profit Corporation Law and shall be considered a Type B Corporation as that term is defined in Section 201 of the Not-For-Profit Corporation Law. The Corporation is formed exclusively for charitable, scientific and educational purposes within the meaning of Section 501(c)(3) of the United States Internal Revenue Code of 1954, as the same may be from time to time amended, (hereinafter referred to as the "Code") and not for pecuniary

profit or financial gain. No part of the assets, income or profits shall inure to the benefit of the Corporation's directors, officers or any other individual or person, except in conformity with the purposes set out hereunder as permitted by the Not-For-Profit Corporation Law.

THIRD: The purposes of the Corporation are:

a) to promote and support the following objectives through assistance to any corporation, community chest, fund, foundation, activity, agency or institution organized and operated exclusively for charitable, educational and scientific purposes within the meaning of Section 501(c)(3) of the Code, and in general to do everything necessary and useful for the furtherance thereof:

1. The promotion of community, medical and health care excellence for the residents of Bronx County.
2. The collection and dissemination of information concerning the symptoms, diagnosis, treatment and prevention of disease; cooperation with public and private societies, agencies, commissions and other authorized approved health organizations in the promotion of health care research and disease prevention studies within Bronx County.
3. The promotion of the health and welfare of the citizens of Bronx County through the support and stimulation of preventive health programs, consumer education programs and activities in areas affecting health by means of

~~use of the media for the publication and distribution of information, and any and all other means of community effort relating to health including programs to promote cooperation, coordination and understanding between consumers and providers of health services.~~

4. The promotion of scientific and technical advances in the health sciences including but not limited to the offering of grants, loans and subsidies to support and stimulate the development of patents and copyrights in this area.

5. The provision of financial support for the capital and operating programs of the Bronx-Lebanon Hospital Center.

6. Nothing herein contained shall authorize the Corporation to establish, operate, construct, lease or maintain a hospital or to provide a hospital service or health related service or to operate a drug maintenance program, a certified home health agency or a health maintenance organization or to provide a comprehensive health services plan as defined in and covered by Articles 28, 33, 36 and 44 respectively of the Public Health Law of the State of New York.

b) To, in order to support the objectives set forth above, solicit federal, state, city, private and any other types of grants and contributions and conduct

fund raising activities for any corporate purpose and to accept and receive, by gift, bequest, devise or benefit of trust, and to hold, own and administer, any property, real, personal, tangible or intangible, wherever located, and to receive and maintain a fund or funds, to have, hold, control, manage, sell and exchange the same, to change the investments thereof, to invest and reinvest the same and the income therefrom and the principal thereof to any of the purposes of the Corporation.

FOURTH: a) In furtherance of the foregoing purposes, the Corporation shall have all general powers enumerated in Section 202 of the Not-For-Profit Corporation Law together with the power to solicit grants and contributions for any corporate purposes and the power to maintain a fund or funds of real or personal property for any corporate purposes.

The Corporation shall have the power to exercise such other powers as are now, or hereafter may be, conferred by law upon a corporation organized for the purposes hereinabove set forth or necessary or incidental to the powers so conferred, or conducive to the furtherance thereof, subject to the limitation and condition that, notwithstanding any other provision of this Certificate of Incorporation the Corporation is organized exclusively for one or more of the purposes specified in Section 501(c)(3) of the Code.

b) The Corporation may carry on propaganda, or otherwise attempt to influence legislation, but only to the extent permitted to a public charity under the Code. No part of the activities of the Corporation shall be the participating in, or intervening in (including the publication or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

c) Nothing herein shall authorize the Corporation directly or indirectly to engage in or include among its purposes, any of the activities mentioned in Sections 404 (b) through (n) and 404(p) through (s) of the Not-For-Profit Corporation Law.

FIFTH: In the event of liquidation, dissolution or winding up of the Corporation, whether voluntary, involuntary or by operation of law, the property or other assets of the Corporation remaining after the payment, satisfaction and discharge of liabilities or obligations, shall be distributed, upon the approval of a Justice of the Supreme Court of the State of New York, entirely to the Bronx-Lebanon Hospital Center if it then qualifies as an organization described in Section 501(c)(3) of the Code. In the event that the Bronx-Lebanon Hospital Center should lose its status as an organization described in Section 501(c)(3) or should become an organization that is described in neither Section 509(a)(1) nor 509(a)(2) of the Code, or abandon its operations, or legally dissolve,

then, in the such event, the Corporation may, upon the approval of a Justice of the Supreme Court of the State of New York, substitute one or more other organizations described in Section 501(c)(3) and either Sections 509(a)(1) or 509(a)(2) of the Code which is organized and operated exclusively for purposes similar to the Corporation's purposes.

SIXTH: The principal office of the Corporation is to be located within the City and State of New York, Bronx County.

SEVENTH: The territory in which the operations of the Corporation are principally to be conducted is the City and State of New York.

EIGHTH: The name and addresses of the persons to constitute the Corporation's initial Board of Directors are as follows:

<u>Name:</u>	<u>Address</u>
Luis Alvarez	120 West 97th Street, Apt. 9J New York, New York 10025
Ronald Benjamin	555 Kappock Street Bronx, New York 10463
Barry Perlman	4 Trails End Rye, New York 10580
Fred Silverman	28 Clubway Hartsdale, New York 10530
Myron Strober	3043 Grand Avenue Baldwin, New York 11510

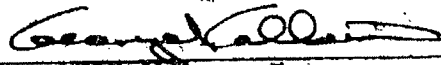
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NINTH: The Secretary of State, pursuant to Section 402(a)(7) of the Not-For-Profit Corporation Law, is hereby designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary shall mail a copy of any process against the Corporation served upon him is:

George Kalkines, Esq.
c/o Rosenman, Colin, Freund, Lewis & Cohen
575 Madison Avenue
New York, New York 10022

TENTH: Prior to delivery to the Department of State for filing, all necessary consents required by law will be endorsed upon or annexed to this Certificate of Incorporation.


IN WITNESS WHEREOF, I subscribe the Certificate of Incorporation and affirm that the statements made herein are true under penalties of perjury this 15 day of October, 1982


George Kalkines, Esq.
c/o Rosenman, Colin, Freund,
Lewis & Cohen
575 Madison Avenue
New York, New York 10022

CERTIFICATE OF APPROVAL

I, the undersigned, a Justice of the Supreme Court of the State of New York in the First Judicial District, in which the principal office of Bronx-Lebanon Hospital New Directions Fund, Inc. is to be located, do hereby approve of the foregoing Certificate of Incorporation of Bronx-Lebanon Hospital New Directions Fund, Inc. and the filing thereof.

Dated: New York, New York
December 7th 1982


Justice of the Supreme Court of
the State of New York

IRWIN M. SILBOWITZ

The undersigned has no objection to the approval of the foregoing Certificate of Incorporation.

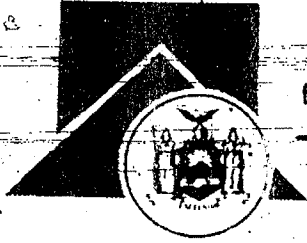
By:

Assistant Attorney General
of the State of New York

THE UNDERSIGNED HAS NO OBJECTION
TO THE GRANTING OF JUDICIAL
APPROVAL HEREON AND WAIVES
STATUTORY NOTICE.

December 3, 1982
ROBERT ABRAMS, ATTORNEY GEN.
STATE OF NEW YORK

by: *[Signature]*
Associate Attorney



STATE OF NEW YORK
DEPARTMENT OF HEALTH
ALBANY 12237

PUBLIC HEALTH COUNCIL

November 1, 1982

Barbara D. Katz
Rosenman, Colin, Freund
Lewis & Cohen
575 Madison Avenue
New York, New York 10022

Dear Ms. Katz:

Pursuant to review by Public Health Council staff, it has been determined that the revised Certificate of Incorporation of Bronx-Lebanon Hospital New Directions Fund, Inc., dated October 15, 1982, does not require additional formal action by vote of a majority of the members of said Council at a regular meeting thereof, but may be filed, with this letter and the Council's letter of September 20, 1982, in the office of the Secretary of State.

An earlier version of the Certificate, dated June 21, 1982, was previously approved by the Council on September 17, 1982. This approval is reflected in their letter of September 20, 1982. The attached Certificate includes changes in the contents of paragraphs "Fifth" and "Ninth" which were required by the Attorney General, and which do not affect the Article 28 powers of the Corporation as approved by the Council. Therefore, additional approval by the full Council is unnecessary.

Sincerely yours,

Shirley M. Patham
Executive Secretary

Attachment

COUNCIL

KENNETH G. JOHNSON, M.D.

CHAIRMAN

John F. Conlon, D.O.

ROBERT F. COLLINS, M.D.

THOMAS P. HOWLING

MR. CHARLES J. BAHEY

JOSEPH R. FONTANETTA, M.D.

WILLIAM LEE FROST

MORTON D. HYMAN

JEANNE P. JONAS

HOWARD J. KESSELER, M.D.

MARY C. McLAUGHLIN, M.D.

ROBERT H. HANCOCK, M.D.

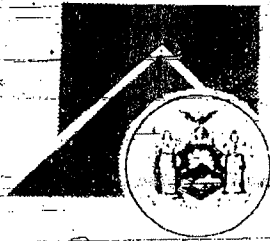
HOWARD A. HUSA, M.D.

KENNETH W. WOODWARD, M.D.

COMMISSIONER OF HEALTH

DAVID ANGLER, M.D.

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STATE OF NEW YORK
DEPARTMENT OF HEALTH

PUBLIC HEALTH COUNCIL

September 20, 1982

KNOW ALL MEN BY THESE PRESENTS:

After inquiry and investigation, and in accordance with action taken at a meeting of the Public Health Council held on the 17th day of September, 1982, I hereby certify that the Certificate of Incorporation of Bronx-Lebanon Hospital New Directions Fund, Inc. dated June 21, 1982 is APPROVED.

Public Health 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.

SHIRLEY M. PARHAM
Executive Secretary

Sent to: George Kalkines, Esq.
Roseman, Colin, Freund,
Lewis and Cohen
575 Madison Avenue
New York, New York 10022

cc: Mr. Fred Silverman, President
The Bronx-Lebanon Hospital Center

COUNCIL

13

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STATE OF NEW YORK
DEPARTMENT OF STATE

FILED DECLARATION

AMT. OF CHECK	268.50
FILING FEE	5.00
TAX	
COUNTY FEE	
COPY	8.50
CERT	
REFUND	
SPEC. HANDLE	10

4930541

USC

USC

2nd
1 copy B

CERTIFICATE OF INCORPORATION

OF

BRONX-LEBANON HOSPITAL NEW DIRECTIONS FUND, INC.

Under Section 402 of the Not-for-Profit Corporation Law

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Company not needed

12/15/2

Dec 15 11 AM '92

RECEIVED

7 (10) 34

Rosenman, Colin, Freund Lewis & Cohen
575 Madison Avenue
New York, New York 10022

109695

FILED
28 NOV 1992

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STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
December 8, 2017.



A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

CERTIFICATE OF CHANGE

OF

THE BRONX-LEBANON HOSPITAL NEW DIRECTIONS FUND, INC.

(the "Corporation")

UNDER SECTION 803-A OF THE
NOT-FOR-PROFIT CORPORATION LAW

UNI

We, the undersigned, being the President and the Secretary of the Corporation, do hereby certify:

FIRST: The name of the Corporation is the Bronx-Lebanon Hospital New Directions Fund, Inc.

SECOND: The Certificate of Incorporation of the Corporation was filed by the Department of State on the 16th day of December, 1982. The Corporation was formed under Section 402 of the Not-for-Profit Corporation Law.

THIRD: The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him, pursuant to paragraph Ninth of the Certificate of Incorporation, which currently reads:

George Kalkines, Esq.
c/o Rosenman, Colin, Freund, Lewis & Cohen
575 Madison Avenue
New York, New York 10022

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E 12330

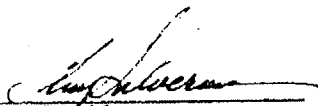
0030 0142


is hereby amended to read as follows:

Office of the President
Bronx-Lebanon Hospital New Directions Fund, Inc.
1276 Fulton Avenue
Bronx, New York 10456

FOURTH: The manner in which this change to the Certificate of Incorporation of the Corporation was authorized was by obtaining from all members of the Board consent in writing to the adoption of a resolution authorizing the action. Such consent was obtained in accordance with Section 708 of the Not-For-Profit Corporation Law and the Corporation's By-Laws.

IN WITNESS WHEREOF, we hereunto sign our names and affirm that the statements made herein are true under the penalties of perjury this 5th day of June, 1984.


Fred Silverman
President
The Bronx-Lebanon
Hospital New Directions
Fund, Inc.


Ronald Benjamin
Secretary
The Bronx-Lebanon
Hospital New Directions
Fund, Inc.

B 112500

STATE OF NEW YORK
DEPARTMENT OF STATE

CERTIFICATE OF CHANGE

OF

THE BRONX-LEBANON HOSPITAL
NEW DIRECTIONS FUND, INC.

(the "Corporation")

UNDER SECTION 903-A OF THE

NOT-FOR-PROFIT CORPORATION LAW

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STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JUN 15 1984

AMT. OF CHECK \$ 23.50
FILING FEE \$ 2.00
TAX \$
COUNTY FEE \$ 3.50
COPY \$
CERT \$
RETURN \$
SPEC HANDLE \$ 1.00

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Page B

WOOD, LUCKSINGER & EPSTEIN
Attorneys for The Bronx-Lebanon Hospital
New Directions Fund, Inc.
101 PARK AVENUE
NEW YORK, N.Y. 10178
(212) 687-6444

All communications should be referred to
William S. Bernstein



MEMORANDUM

To: Public Health and Health Planning Council (PHHPC)

From: Richard J. Zahnleuter
General Counsel

Date: December 19, 2017

Subject: Bronx-Lebanon Special Care Center, Inc.: Corporate Name Change

Bronx-Lebanon Special Care Center, Inc. (the "RHCF") is a licensed Article 28 nursing home. The RHCF seeks to change its corporate name to BronxCare Special Care Center, in conjunction with renaming two other related entities, (these other changes are submitted to PHHPC under separate cover), in an effort to promote branding identity. Please see the attached letter from Michael M. Stone, Esq. of Garfunkel Wild, P.C. for further details. The RHCF seeks PHHPC approval of the proposed name change.

PHHPC approval of the corporate name change is required pursuant to 10 NYCRR § 600.11(a)(1) and Not-for-Profit Corporation Law § 804(a).

There is no objection to the corporate name change and the Certificate of Amendment of the Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc. is in legally acceptable form.

Attachments

GARFUNKEL WILD, P.C.

ATTORNEYS AT LAW

677 BROADWAY • ALBANY, NEW YORK 12207
TEL (518) 242-7582 • FAX (518) 242-7586

www.garfunkelwild.com

MICHAEL M. STONE

Partner

Licensed in NY

Email: mstone@garfunkelwild.com

Direct Dial: (518) 242-7582

FILE NO.: 06238.3350

December 11, 2017

By E-mail

Colleen M. Leonard
Executive Secretary
Public Health and Health Planning Council
NYS Department of Health
Corning Tower, Room 1805, EPS
Albany, NY 12237

Re: Certificates of Amendments of Bronx-Lebanon Hospital Center, Bronx-Lebanon Special Care Center, Inc. and Bronx-Lebanon Hospital New Directions Fund, Inc.

Dear Ms. Leonard:

My firm is counsel to Bronx-Lebanon Hospital Center, Bronx-Lebanon Special Care Center, Inc. and Bronx-Lebanon Hospital New Directions Fund, Inc. Each is a New York not-for-profit corporation.

We are seeking approval to file Certificates of Amendment to the Certificate of Consolidation of Bronx-Lebanon Hospital Center and the Certificates of Incorporation of Bronx-Lebanon Special Care Center, Inc. and Bronx-Lebanon Hospital New Directions Fund, Inc. In addition to updating the corporate type for each in compliance with the Nonprofit Revitalization Act of 2013, the amendments will change the names of each corporation as follows:

- Bronx-Lebanon Hospital Center's Certificate of Consolidation is amended to change its name to "BronxCare Health System";
- Bronx-Lebanon Special Care Center, Inc.'s Certificate of Incorporation is amended to change its name to "BronxCare Special Care Center"; and
- Bronx-Lebanon Hospital New Directions Fund, Inc.'s Certificate of Incorporation is amended to change its name to "BronxCare New Directions Fund".

A primary reason for the name change of Bronx-Lebanon Hospital Center to BronxCare Health System is to better reflect the scope of health care services it provides to the community, which includes, in addition to hospital inpatient services, an extensive outpatient clinic program providing outpatient health, mental health and behavioral health services. Bronx-Lebanon Special Care Center, Inc. is a residential health care facility and Bronx-Lebanon Hospital New Directions Fund, Inc. raises funds to support the Hospital. Each is an affiliate of Bronx-Lebanon Hospital

**CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF**

BRONX-LEBANON SPECIAL CARE CENTER, INC.
(Under Section 803 of the Not-for-Profit Corporation Law)

The undersigned, being the Senior Vice President and Chief Financial Officer of BRONX-LEBANON SPECIAL CARE CENTER, INC., hereby certifies:

FIRST: The name of the corporation is BRONX-LEBANON SPECIAL CARE CENTER, INC. (the "Corporation").

SECOND: The Certificate of Incorporation of the Corporation was filed by the Department of State on August 28, 1989.

THIRD: The Corporation was formed under Section 402 of the Not-for-Profit Corporation Law (the "N-PCL").

FOURTH: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the N-PCL.

FIFTH: The Certificate of Incorporation is hereby amended to read as follows:

(a) Article FIRST of the Certificate of Incorporation of the Corporation, setting forth the name of the Corporation, is hereby amended in its entirety to read as follows:

"The name of the Corporation is BronxCare Special Care Center."

(b) Article SECOND of the Certificate of Incorporation regarding the type of Corporation is amended to delete the reference to the Corporation being a type B corporation as defined in Section 201 of the N-PCL and to add that the Corporation is charitable. Accordingly Article SECOND shall be hereby amended in its entirety to read as follows:

"SECOND: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the N-PCL and is a charitable corporation under Section 201 of the N-PCL. The Corporation shall remain a charitable corporation after this Certificate of Amendment shall become effective.

SIXTH: The Secretary of State is designated as the agent of the Corporation upon whom process against the Corporation may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the Corporation is:

BronxCare Special Care Center
1276 Fulton Avenue
Bronx, New York 10456
Attn: President and Chief Executive Officer

SEVENTH: This amendment to the Certificate of Incorporation of the Corporation was authorized by written consent of the sole member of the Corporation on November 10, 2017.

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
December 7, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

CERTIFICATE OF INCORPORATION

OF

BRONX-LEBANON SPECIAL CARE CENTER, INC.

Under Section 402 of the Not-For-Profit Corporation Law and the Public Health Law

C049320

I, the undersigned, being a natural person over the age of eighteen years of age, for the purpose of forming a Nursing Home Corporation pursuant to the Not-For-Profit Corporation Law and the Public Health Law of the State of New York, do hereby certify:

FIRST: The name of the proposed Corporation is ~~BRONX-LEBANON SPECIAL CARE CENTER, INC.~~ (hereinafter referred to as the "Corporation").

SECOND: The Corporation is a corporation as defined in Subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law and is a Type D corporation as defined in Section 201 of said Not-For-Profit Corporation.

THIRD: The purpose for which the Corporation is formed is to plan, construct, erect, build, acquire, alter, reconstruct, rehabilitate, own, maintain and operate one or more nursing home projects pursuant to the terms and provisions of Articles 28 and 28-A of the Public Health Law to care for elderly patients and/or patients with Acquired Immune Deficiency Syndrome and related

0007 3246

diseases; and to do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, which may be lawfully undertaken by the Corporation.

FOURTH: The number of directors of the Corporation shall be not less than three nor more than twenty-five. One additional director may be designated by the Commissioner of Health of the State of New York (hereinafter referred to as the "Commissioner"). In the absence of fraud or bad faith, said additional director appointed by the Commissioner shall not be personally liable for the debts, obligations or liabilities of the Corporation.

FIFTH: The names and residences of the initial Directors are:

<u>Name</u>	<u>Address</u>
Mrs. Martin G. Loeb	1770 Grand Concourse, Bronx, New York 10457
Mr. Miguel A. Puentes, Jr.	240 Route 303, #1A Tappan, New York 10963
Ms. Gloria Goldstein	108 River Run Greenwich, Connecticut 06930
Mr. Marvin York	164 West 174th Street Bronx, New York 10453

SIXTH: The Corporation has been organized exclusively to serve a public purpose and it shall be and remain subject to the supervision and control of the Commissioner pursuant to the

provisions of Articles 28 and 28-A of the Public Health Law. All income and earnings of the Corporation shall be used exclusively for its corporate purposes.

SEVENTH: In furtherance of the purposes set forth herein, the Corporation shall have the powers conferred on corporations by Section 202 of the Not-For-Profit Corporation Law and shall have the powers and be subject to the limitations set forth in Section 2856 of the Public Health Law.

Notwithstanding anything contained in this Certificate of Incorporation to the contrary, however, the following provisions shall apply:

(a) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its directors, officers, or any private individual, firm or corporation, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein;

(b) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in

(including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office;

(c) The Corporation shall not directly or indirectly engage in or include among its purposes any of the activities set forth in subsections (b) through (o), (q), (s), and (u) of Section 404 of the Not-For-Profit Corporation Law of the State of New York without having the approvals or consents required by such subsections;

(d) The Corporation shall not exercise any power or authority, nor shall it engage in any activity that would prevent the Corporation from qualifying (and continuing to qualify as) an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended.

(e) The real property of the Corporation shall not be sold, transferred, encumbered or assigned except as permitted by the provisions of Article 28-A of the Public Health Law.

EIGHTH: Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the Corporation, dispose of all of the assets of the Corporation exclusively for the purposes of

the Corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c) (3) of the Internal Revenue Code of 1986 as amended, as the Board of Directors shall determine. Any of such assets not so disposed of shall be disposed of by the Supreme Court of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

NINTH: The office of the Corporation shall be located in the County of the Bronx, State of New York.

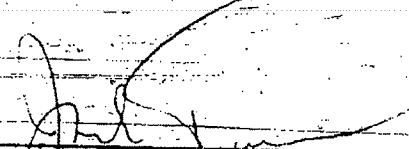
TENTH: The duration of the Corporation shall be for a period of one (1) year from the date of filing of this Certificate of Incorporation by the Secretary of State.

SEVENTH: The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him as agent of the Corporation is

BRONX-EBANON SPECIAL CARE CENTER, INC., c/c George Malkines,
Malkines, Arky, Zall & Bernstein, 885 Third Avenue, New York, New
York 10022.

I, **JACK TURRET**, a Justice of the Supreme Court of the State of New York, Twelfth Judicial District, do hereby approve the foregoing Certificate of Incorporation of **BRONX-ELI SAMON SPECIAL CARE CENTER, INC.** and consent that the same be filed.

Dated: August 21, 1989
New York, New York


Justice, Supreme Court of the
State of New York
12th Judicial District

JACK TURRET

The undersigned has no objection to the granting of judicial approval to the attached Certificate of Incorporation and waives statutory notice:

Robert Abrams
Attorney General
State of New York

Aug. 18, 1989
THE UNDERSIGNED HAS NO OBJECTION TO THE GRANTING OF JUDICIAL APPROVAL HEREON AND WAIVES STATUTORY NOTICE.

ROBERT ABRAMS, ATTORNEY GEN.
STATE OF NEW YORK

By: _____

by Howard Holt

HOWARD HOLT
Associate Attorney

Dated: _____

7.20.5:16

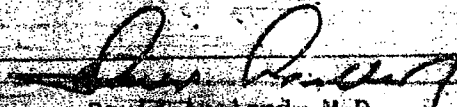


STATE OF NEW YORK
DEPARTMENT OF HEALTH
ALBANY

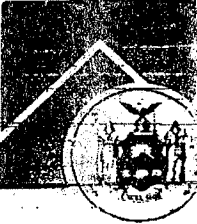
DAVID AXELROD, M.D.
Commissioner

CONSENT
TO FILING A CERTIFICATE OF INCORPORATION
BY THE
COMMISSIONER

I, DAVID AXELROD, M.D., Commissioner of Health of
the State of New York, do this 11th day of August, 1989,
consent to be filed with the Secretary of State of the
Certificate of Incorporation of Bronx-Lebanon Special Care
Center, Inc., as executed on the 20th day of July, 1989
pursuant to Section 104(e) of the Not-for-Profit Corporation
Law and Section 4402(2)(a) of the Public Health Law.


David Axelrod, M.D.
Commissioner of Health

8



STATE OF NEW YORK
 DEPARTMENT OF HEALTH
 CORNELL TOWER BUILDING
 ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

August 3, 1989

Mr. Enrol C. Schneer
 Vice-President
 Bronx-Lebanon Special Care Center
 1276 Fulton Avenue
 Bronx, NY 10456

Re: Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc.

Dear Mr. Schneer:

AFTER INQUIRY and INVESTIGATION, and in accordance with action taken at a meeting of the Public Health Council held on the 28th day of July, 1989, I hereby certify that the Public Health Council consents to the filing of the Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc., dated July 20, 1989 for a limited-life of one year. Approval of the Certificate of Incorporation "into perpetuity", or beyond July 27, 1990 will be required by the Public Health Council.

Sincerely,

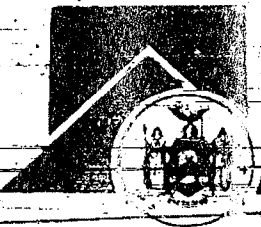
Karen S. Westervelt

Karen S. Westervelt
 Executive Secretary

Attachment

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STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

August 3, 1989

Mr. Errol C. Schnee
Vice-President
Bronx-Lebanon Special Care Center
1278 Fulton Avenue
Bronx, NY 10456

Re: Application No. 880491 - Bronx-Lebanon Special Care Center, Inc.
(Bronx Co.)

Dear Mr. Schnee:

I HEREBY CERTIFY THAT AFTER INQUIRY and investigation, the application of Bronx-Lebanon Special Care Center, Inc. is APPROVED for a limited-life of one year, the contingencies having now been fulfilled satisfactorily. Approval of the Certificate of Incorporation "into perpetuity" or beyond July 27, 1990 will be required by the Public Health Council. This approval is conditioned upon the applicant's continued compliance with the Medicaid access condition, as included in the Public Health Council's approval of the project. The Public Health Council had considered this application and imposed the contingencies/conditions at its meeting of February 24, 1989.

Public Health 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 New York City Area Office of the New York State Office of Health Systems Management, 116 West 32nd Street, 16th Floor, New York, NY 10001, (212) 502-0700, within 30 days of receipt of this letter.

Sincerely,

Karen S. Westervelt
Karen S. Westervelt
Executive Secretary

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CERTIFICATE OF INCORPORATION

OF

BEONX-LEBANON SPECIAL CARE CENTER, INC.

STATE OF NEW YORK
DEPARTMENT OF STATE

Under Section 402 of the Not-For-Profit
Law of the State of New York

FILED AUG 28 1989

AMT. OF CHECK \$ 60

FRONT FEE \$ 50

TAXES _____

COUNTY FEE \$ _____

COPIES 10

CERTS _____

REFUND \$ _____

SPEC HANDBOOK none

BY [Signature]

Bronx
typed

1 yr duration

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Kalkines Arky Zall & Bernstein
885 Third Ave - 8th floor
New York, New York 10022

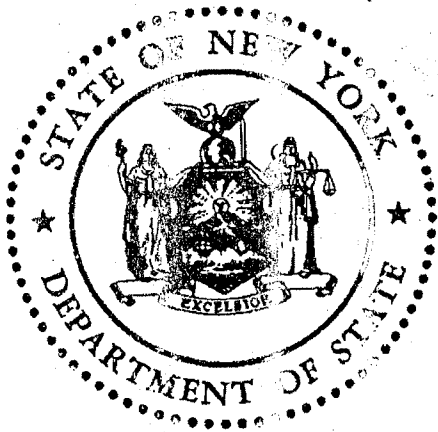
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STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
December 7, 2017.



A handwritten signature in black ink, appearing to read "B. Fitzgerald", is written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

CERTIFICATE OF AMENDMENT OF THE
CERTIFICATE OF INCORPORATION OF
BRONX-LEBANON SPECIAL CARE CENTER, INC.
UNDER SECTION 803 OF THE NOT-FOR-PROFIT CORPORATION LAW

UNI

We the undersigned, being the majority of directors of the
Bronx-Lebanon Special Care Center, Inc. do hereby certify:

1. The name of the corporation is the Bronx-Lebanon
Special Care Center, Inc. (hereinafter referred to as the
"Corporation").

2. The Certificate of Incorporation of the Corporation was
filed by the Department of State on the 28th day of August, 1989.
The Corporation was formed under the Not-for-Profit Corporation
Law and the Public Health Law of the State of New York.

3. The Corporation is a corporation as defined in
subparagraph (a) (5) of Section 102 of the Not-for-Profit
Corporation Law and is a Type D corporation under Section 201 of
the Not-for-Profit Corporation Law.

4. Paragraph Ten of the Certificate of Incorporation of
the Corporation which sets forth the duration of the Corporation
is hereby amended to read as follows: ~~"The duration of this
Corporation shall be perpetual."~~

5. This amendment to the Certificate of Incorporation of
the Corporation was authorized by an affirmative vote of a

C074382

majority of the entire board of directors of the Corporation—
pursuant to Section 802(a)(2) of the Not-for-Profit Corporation

6. The Secretary of State of the State of New York is hereby designated as the agent of the Corporation upon whom process may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him as agent of the Corporation is: Bronx-Lebanon Special Care Center, Inc. c/o George Malkin, Esq., Malkin, Arky, Zall & Bernstein, 885 Third Avenue, New York, New York 10022.

IN WITNESS WHEREOF the undersigned have executed this Certificate of Amendment this 11th day of October, 1989. It is hereby affirmed that the statements made herein are true under the penalties of perjury.

BRONX-LEBANON SPECIAL CARE CENTER, INC.

By: 
Miguel A. Fuentes, Jr.
Director

STATE OF NEW YORK)
COUNTY OF BROMFIELD) SS:

On the 11th day of October, 1989 before me personally came Miguel A. Fuentes, Jr. to me known, who, being by me duly sworn, did depose and say that he resides in Tappan, New York and that he is the director of Bronx-Lebanon Special Care Center, Inc., the corporation described in and which executed the above instrument, and that he signed his name thereto by order of the board of directors of said corporation.


Notary Public

B: Olga G. Soeb
Olga Leeb
Director

STATE OF NEW YORK]
COUNTY OF BRONX] SS:

On the 11th day of October, 1989 before me personally came Olga Leeb to me known, who, being by me duly sworn, did depose and say that she resides in Bronx NY; that she is the director of Bronx-Lebanon Special Care Center, Inc., the corporation described in and which executed the above instrument; and that she signed her name thereto by order of the board of directors of said corporation.

[Signature]
Notary Public

ELBA TREARNEY
Notary Public, State of New York
No. # 4372188
Qualified in Bronx County
Commission Expires December 18, 1990

B: Marvin York
Marvin York
Director

STATE OF NEW YORK]
COUNTY OF BRONX] SS:

On the 11th day of October, 1989 before me personally came Marvin York to me known, who, being by me duly sworn, did depose and say that he resides in Bronx NY; that he is the director of Bronx-Lebanon Special Care Center, Inc., the corporation described in and which executed the above instrument; and that he signed his name thereto by order of the Board of directors of said corporation.

[Signature]
Notary Public

ELBA TREARNEY
Notary Public, State of New York
No. # 4372188
Qualified in Bronx County
Commission Expires December 18, 1990

1/3.3: W6



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

October 27, 1989

Wandee Wange
Kalkines, Arky, Zall & Bernstein
685 Third Avenue
New York, N.Y. 10022-4802

Re: Certificate of Amendment of the Certificate of Incorporation of
Bronx-Lebanon Special Care Center, Inc.

Dear Applicant:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 27th day of October, 1989, I hereby certify that the Public Health Council consents to the filing of the Certificate of Amendment to the Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc., dated October 11, 1989.

Sincerely,

Karen S. Westervelt
Executive Secretary

RESOLUTION

RESOLVED, that the Public Health Council, on this 27th day of
October 1989, approves the filing of the Certificate of Amendment of
Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc., dated
October 11, 1989.

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Bertram Katz

I, Bertram Katz, a Justice of the Supreme Court of the State of New York, Twelfth Judicial District do hereby approve the foregoing Certificate of Amendment of the Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc. and consent that the same be filed.

Dated: NOV 1 1989
Bronx, New York

BK

Justice, Supreme Court of the State of New York
Twelfth Judicial District

Bertram Katz

The undersigned has no objection to the granting of judicial approval to the attached Certificate of Amendment of the Certificate of Incorporation and waives statutory notice.

Robert Abrams
Attorney General
State of New York

By: _____

Date: _____

THE UNDERSIGNED HAS NO OBJECTION TO THE GRANTING OF JUDICIAL APPROVAL HEREON AND WAIVES STATUTORY NOTICE.

ROBERT ABRAMS, ATTORNEY GEN.
STATE OF NEW YORK

10/31/89

by Laura Kerner
October 30, 1989
ASSISTANT ATTORNEY GENERAL

7




STATE OF NEW YORK
DEPARTMENT OF HEALTH
ALBANY

DAVID AXELROD, M.D.
COMMISSIONER

CONSENT
TO FILING A CERTIFICATE OF AMENDMENT OF
THE CERTIFICATE OF INCORPORATION
BY THE
COMMISSIONER

I, DAVID AXELROD, M.D., Commissioner of Health of the State of New York, do this *25th* day of October, 1989, consent to the filing with the Secretary of State of the Certificate of Amendment of the Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc., as executed on the 11th day of October, 1989 pursuant to Section 104(e) of the Not-for-Profit Corporation Law and Section 2854 of the Public Health Law.


David Axelrod, M.D.
Commissioner of Health

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5/28/59

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CIVIL DIVISION
CLERK'S OFFICE

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The NTRP
KATKINS CONY
NRY 2A

Certificate of Amendment of the
Certificate of Incorporation of
BRONX-LEBANON SPECIAL CARE CENTER, INC.
Under Section 803 of the Not-for-Profit Corporation Law

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED NOV 9 1959

AMT. OF CHECKS \$ 50
FILING FEES \$ 30
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STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
December 7, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

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AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

BRONX-LEBANON SPECIAL CARE CENTER, INC.

UNDER SECTION 805 OF THE NOT-FOR-PROFIT CORPORATION LAW

The undersigned, being an authorized person of Bronx-Lebanon Special Care Center, Inc. (the "Corporation"), a New York not-for-profit corporation, does hereby certify as follows:

FIRST: The name of the Corporation is BRONX-LEBANON SPECIAL CARE CENTER, INC.

SECOND: The Certificate of Incorporation of the Corporation was filed by the Department of State of the State of New York under Section 402 of the Not-For-Profit Corporation Law and the Public Health Law on August 28, 1989. The Corporation was filed as a Type D Corporation as defined in Section 201 of the Not-For-Profit Corporation Law.

THIRD: The Corporation is a corporation as defined in subparagraph (a)(5) of section 102 of the Not-for-Profit Corporation Law. The Corporation was a Type D Corporation under Section 201 of said law and after the filing of this Amended and Restated Certificate of Incorporation, shall be a Type B Corporation.

FOURTH: The Certificate of Incorporation of the Corporation is hereby amended to effect the following changes, as authorized by the Not-For-Profit Corporation Law of the State of New York:

- a) Article **FIRST** which states the name of the proposed corporation is modified by deleting the reference to proposed.
- b) Article **SECOND** which states that the Corporation is a Type D corporation is modified to state that the Corporation is a Type B corporation.
- c) Article **THIRD** which states the purposes for which the Corporation is formed is modified by deleting the reference to nursing home "projects" and the requirement that the Corporation comply with the provisions of 28-A of the Public Health Law.
- d) Article **FOURTH** which sets forth the number of directors of the Corporation is modified by deleting the provision that permits one additional director to be designated by the Commissioner of Health of the State of New York.
- e) In accordance with §805 of the Not-For-Profit Corporation Law, Article **FIFTH** which identifies the initial directors of the Corporation, is omitted. The subsequent articles in the amended and restated certificate of incorporation are renumbered accordingly.

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- f) Article **SIXTH** which provides, in part, that the Corporation is organized exclusively to serve a public purpose and is subject to the supervision and control of the Commissioner of Health pursuant to the provisions of 28 and 28-A of the Public Health law is modified by deleting the statement that the Corporation shall be and remain subject to the supervision and control of the Commissioner pursuant to the provisions of 28-A of the Public Health Law.
- g) The first paragraph of Article **SEVENTH** which states the powers of the Corporation is modified by deleting the statement that the Corporation shall have the powers and be subject to the limitations set forth in Section 2856 of the Public Health Law.
- h) Section (c) of Article **SEVENTH** which sets forth the covenant of the Corporation not to engage in certain activities without certain consents is modified by including reference to §404(a),(p), (r) and (v) of the Not-For-Profit Corporation Law and deleting reference to §404(o) of the Not-For-Profit Corporation Law.
- i) Section (e) of Article **SEVENTH** which restricts the sale, transfer, encumbrance and assignment of the Corporation's real property is modified by deleting such restriction.
- j) Article **ELEVENTH** setting forth the address for service of process is deleted and replaced with the following:

The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him as an agent of the Corporation is Bronx-Lebanon Special Care Center, Inc., c/o Fredrick I. Miller, Esq., Garfunkel, Wild & Travis, P.C., 111 Great Neck Road, Suite 503, Great Neck, New York 11021.

FIFTH: The amendments to and the restatement of the Certificate of Incorporation were authorized by a majority of all of the Members entitled to vote thereon at a duly convened meeting.

SIXTH: The text of the Certificate of Incorporation, as amended by this Amended and Restated Certificate of Incorporation, is hereby restated to read as follows:

**"CERTIFICATE OF INCORPORATION
OF
BRONX-LEBANON SPECIAL CARE CENTER, INC.**

Under Section 402 of the Not-for-Profit Corporation Law and the Public Health Law

I, the undersigned, being a natural person over the age of eighteen years of age, for the purpose of forming a Corporation pursuant to the Not-For-Profit and the Public Health Law of the State of New York, do hereby certify:

1. The name of the Corporation is BRONX-LEBANON SPECIAL CARE CENTER, INC. (hereinafter referred to as the "Corporation").
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation as defined in Section 201 of said Not-for-Profit Corporation Law.
3. The purpose for which the Corporation is formed is to plan, construct, erect, build, acquire, alter, reconstruct, rehabilitate, own, maintain and operate a nursing home pursuant to the terms and provisions of Article 28 of the Public Health Law to care for elderly patients and/or patients with Acquired Immune Deficiency Syndrome and related diseases; and to do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, which may be lawfully undertaken by the Corporation.
4. The number of directors of the Corporation shall be not less than three nor more than twenty-five.
5. All income and earnings of the Corporation shall be used exclusively for its corporate purposes.
6. In furtherance of the purposes set forth herein, the Corporation shall have the powers conferred on corporations by Section 202 of the Not-for-Profit Corporation Law.

Notwithstanding anything contained in this Certificate of Incorporation to the contrary, however, the following provisions shall apply:

(a) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its directors, officers, or any private individual, firm or corporation, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein;

(b) No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office;

(c) The Corporation shall not directly or indirectly engage in or include among its purposes any of the activities set forth in subsection (a) through (n), (p) through (s), (u) and (v) of Section 404 of the Not-for-Profit Corporation Law of the State of New York without having the approvals or consents required by such subsections;

(d) The Corporation shall not exercise any power or authority, nor shall it engage in any activity that would prevent the Corporation from qualifying (and continuing to qualify as) an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

7. Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all liabilities of the Corporation, dispose of all of the assets of the Corporation exclusively for the purposes of the Corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended, as the Board of Directors shall determine. Any of such assets not so disposed of shall be disposed of by the Supreme Court of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.
8. The office of the Corporation shall be located in the County of the Bronx, State of New York.
9. The duration of the Corporation shall be perpetual.
10. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him as an agent of the Corporation is Bronx-Lebanon Special Care Center, Inc., c/o Fredrick I. Miller, Esq., Garfunkel, Wild & Travis, P.C., 111 Great Neck Road, Suite 503, Great Neck, New York 11021.

IN WITNESS WHEREOF, I have made, subscribed and acknowledged this Amended and Restated Certificate of Incorporation 17 day of October, 2005.

BRONX-LEBANON SPECIAL CARE CENTER, INC.

Antonio R. Sivert
Name: Antonio Sivert
Title: Secretary

Steven Anderman
Name: Steven Anderman
Title: Treasurer

STATE OF NEW YORK)
) ss:
COUNTY OF BRONX)

On the 17 day of October year 2005, before me, the undersigned, a notary public in and for said State, personally appeared Antonio R. Sivert, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Peter Kennedy
Notary Public

PETER KENNEDY
NOTARY PUBLIC, State of New York
No. 01KE4688969
Qualified in Dutchess County
Commission Expires February 23, 2006

STATE OF NEW YORK)
) ss:
COUNTY OF BRONX)

On the 17 day of October year 2005, before me, the undersigned, a notary public in and for said State, personally appeared Steven Anderman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Linda Rivera
Notary Public

LINDA RIVERA
NOTARY PUBLIC STATE OF NEW YORK
NO. 03-499137
QUALIFIED IN BRONX COUNTY
COMMISSION EXPIRES NOV 20, 2005



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

January 23, 2006

Mr. Andrew J. Schulson
Garfunkel, Wild & Travis, P.C.
111 Great Neck Road
Great Neck, New York 11021

Re: Amended and Restated Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc.

Dear Mr. Schulson:

AFTER INQUIRY and INVESTIGATION, and in accordance with action taken at a meeting of the Public Health Council held on the 20th day of January, 2006, I hereby certify that the Public Health Council consents to the filing of the Amended and Restated Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc., dated October 12, 2005.

Sincerely,

Donna W. Peterson
Executive Secretary

/md



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

March 23, 2006

Andrew J. Shulson
Garfunkel, Wild & Travis, P.C.
111 Great Neck Road
Great Neck, New York 11021

Re: Proposed Amended and Restated Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc.

Dear Mr. Shulson:

Enclosed herewith is the Commissioner's Consent document for the Amended and Restated Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc., issued pursuant to Public Health Law §2854. The Public Health Council's consent was be sent to you from the Council's office under separate cover dated January 23, 2006.

Sincerely,

Leslie J. Moyer
Senior Attorney
Bureau of House Counsel

Enclosure



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

CONSENT

TO FILING AN AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION

BY THE
COMMISSIONER

I, Antonia C. Novello, M.D., M.P.H., Dr. P.H., Commissioner of Health of the State of New York, do this 26 day of ^{March} 2006, consent to the filing with the Secretary of State of the State of New York of the Amended and Restated Certificate of Incorporation of Bronx-Lebanon Special Care Center, Inc., as executed on the 12th day of October, 2005, pursuant to section 2854 of the Public Health Law.

BY: David Wollner
David Wollner, Director
Office of Health Systems Management

STATE OF NEW YORK)
)
COUNTY OF BRONX)
Suffern)

The undersigned, Victor G. DeMarco, being duly sworn, deposes and says:

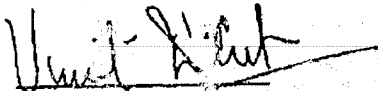
1. I am the duly elected and acting Chief Financial Officer of Bronx-Lebanon Special Care Center, Inc., a New York State not-for-profit corporation (the "Corporation").
2. The documents attached hereto, all of which comprise the Certificate of Incorporation and all subsequent Amendments to the Certificate of Incorporation, have been examined by me and to the best of my knowledge and belief, the contents thereof are true, correct and complete.
3. The Corporation's current assets will be used for current purposes and powers and future assets will be used for purposes and powers as stated in the Corporation's Amended and Restated Certificate of Incorporation.

Dated: January 21, 2007.



Name: Victor G. DeMarco
Title: Chief Financial Officer

Sworn to before me this
31 day of Jan 2007.


Notary Public

VINCENT COSTA
Notary Public, State of New York
No. 414856182
Qualified in Queens County
Commission Expires September 11, 2009

The undersigned has no objection to the granting of Judicial approval hereon and waives statutory notice.

THE ATTORNEY GENERAL HAS NO OBJECTION TO THE GRANTING OF JUDICIAL APPROVAL HEREON, ACKNOWLEDGES RECEIPT OF STATUTORY NOTICE AND DEMANDS SERVICE OF THE FILED CERTIFICATE. SAID NO OBJECTION IS CONDITIONED ON SUBMISSION OF THE MATTER TO THE COURT WITHIN 30 DAYS HEREAFTER.

CCCL Sutter - 3/16/2007
ASSISTANT ATTORNEY GENERAL DATE

ANDREW M. CUOMO
ATTORNEY GENERAL
STATE OF NEW YORK

by:

Date: _____

NELSON S. ROMAN

, a Justice of the Supreme Court of the State of

New York for the TWELFTH Judicial District do hereby approve of the foregoing

Restated Certificate of Incorporation of BRONX-LEBANON SPECIAL CARE CENTER, INC.

_____ and consent that the same be filed.

Date: APRIL 10, 2007

N.S.R.
J.S.C.
NELSON S. ROMAN

070501000345

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION

OF

BRONX-LEBANON SPECIAL CARE CENTER, INC.

UNDER SECTION 805 OF THE NOT-FOR-PROFIT CORPORATION
LAW

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2007 APR 11 PM 12:08

Filer:

GARFUNKEL WILD & TRAVIS
ATTORNEYS AT LAW
111 GREAT NECK ROAD
GREAT NECK, NY 11021

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DRAWDOWN

GT - typed B

ICC
STATE OF NEW YORK
DEPARTMENT OF STATE

MAY 01 2007

FILED
TAXS
BY: *W. W. W.*
Bronx

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MEMORANDUM

To: Public Health and Health Planning Council (PHHPC)

From: Richard J. Zahnleuter
General Counsel

Date: January 11, 2018

Subject: Certificate of Amendment of the Certificate of Incorporation of The New York Eye and Ear Infirmary

The New York Eye and Ear Infirmary (NYEEI) desires to amend its Certificate of Incorporation so that the Certificate complies with the New York Not-For-Profit Corporation Law, the Internal Revenue Code, and to modernize and clarify provisions in the Certificate.

NYEEI has submitted the Certificate of Amendment to PHHPC and asks for approval to file such with the New York Secretary of State. Public Health and Health Planning Council approval for the changes made to the Certificate of Amendment is required by New York Not-for-Profit Corporation Law § 804(a).

There is no legal objection to the proposed Certificate of Amendment of the Certificate of Incorporation of The New York Eye and Ear Infirmary and it is in legally acceptable form.

Attachments

SheppardMullin

Sheppard, Mullin, Richter & Hampton LLP
30 Rockefeller Plaza
New York, New York 10112-0015
212.653.8700 main
212.653.8701 fax
www.sheppardmullin.com

Amanda Zablocki
212.634.3082 direct
azablocki@sheppardmullin.com

January 4, 2017

File Number: 46RZ-218940

VIA ELECTRONIC MAIL

Colleen Leonard
Executive Secretary
Public Health and Health Planning Council
NYS Department of Health
Corning Tower
Rm 1805
Empire State Plaza
Albany, New York 12237
PHHPC@health.ny.gov

Re: Request for Consent to Amend the Certificate of Incorporation of
The New York Eye and Ear Infirmary

Dear Ms. Leonard:

We represent The New York Eye and Ear Infirmary (“NYEEI”). Enclosed herewith for the review and approval of the Public Health and Health Planning Council of the New York State Department of Health (“PHHPC”) is the proposed Certificate of Amendment of NYEEI’s Certificate of Incorporation, to, *inter alia*, update, modernize, and clarify provisions in NYEEI’s Certificate of Incorporation, including the purposes and powers provisions, to ensure it is in compliance with requirements of the NPCL and the Internal Revenue Code of 1986. NYEEI’s current Certificate of Incorporation and all prior amendments thereto are annexed hereto as Exhibit A. The proposed Certificate of Amendment of NYEEI’s Certificate of Incorporation is annexed hereto as Exhibit B. Upon approval of the Certificate of Amendment, NYEEI proposes to file the proposed form of Restated Certificate of Incorporation (with no further amendments) annexed hereto as Exhibit C.

Pursuant to Section 804(a) of the NPCL, “[a] certificate of amendment shall not be filed if the amendment adds, changes or eliminates a purpose, power or provision the inclusion of which in a certificate of incorporation requires consent or approval of a governmental body or officer or any other person or body, . . . unless such consent or approval is no longer required or is endorsed on or annexed to the certificate of amendment.” One of the proposed changes to

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Colleen Leonard
Division of Legal Affairs
New York State Department of Health
January 4, 2017
Page 2

NYEEI's Certificate of Incorporation is to modify the provision of the Certificate of Incorporation that sets forth NYEEI's purposes and powers, which is not currently numbered, to (a) number the provisions as subparagraphs (i), (ii) and (iii) of paragraph (A) of "Article THIRD" of the Certificate of Incorporation, and (b) set forth additional provisions as subparagraphs (A)(iv), (B) and (C) regarding the purposes and activities of the Corporation consistent with the NPCL. Specifically, the Certificate of Amendment proposes to amend Article THIRD to state as follows:

"THIRD: (A) The Corporation is organized, and shall be operated exclusively for the charitable, educational and scientific purposes of:

(i) establishing and maintaining a hospital in the City and County of New York for the examination, diagnostic and medical and surgical aid, care and treatment on both an inpatient and outpatient basis of persons suffering from acute illnesses, including diseases of the eye, ear, nose and throat, performing general plastic surgery, and conducting medical research;

(ii) conducting post-graduate medical education instruction, independently and/or in affiliation with some other education institution;

(iii) acquiring by grant, gift, purchase, devise or bequest, and to hold, convey, sell, exchange, and disposing of all property, real or personal; of whatsoever kind or nature for the uses and purposes of the corporation, without limitations as to the amount or value; and

(iv) subject to the limitations set forth in this Certificate of Incorporation, engaging in any and all other lawful acts or activities, and exercising all such powers, rights and privileges applicable to not-for-profit corporations organized under the NPCL that are incidental to and/or in furtherance of accomplishing the foregoing charitable, educational and scientific purposes.

(B) The Corporation is organized, shall be operated and shall engage in activities in furtherance of the purposes set forth in Paragraph (A) of this Article THIRD exclusively for charitable, scientific and educational purposes in the United States and abroad within the meaning of Section 170(c)(2)(B) and Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The Corporation shall not operate for the purpose of carrying on a trade or business for profit.

(C) Nothing herein shall authorize the Corporation, directly or indirectly, to engage in or include among its purposes any of the activities

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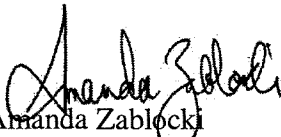
Colleen Leonard
Division of Legal Affairs
New York State Department of Health
January 4, 2017
Page 3

mentioned in NPCL Section 404(a) – (v), without the Corporation having first obtained the consent or approval from the appropriate governmental authority with respect thereto.”

As the proposed Certificate of Amendment of NYEEI’s Certificate of Incorporation amends the provision setting forth NYEEI’s purposes and powers, PHHPC’s consent is required for NYEEI to file the proposed Certificate of Amendment with the New York Department of State. Accordingly, on behalf of NYEEI, we respectfully request PHHPC’s consent to the filing of the proposed Certificate of Amendment with the New York Department of State.

We greatly appreciate your prompt consideration and attention to this matter. Please do not hesitate to contact me at (212) 634-3082 if you need additional information.

Very truly yours,



Amanda Zablocki
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:227201484.1
Encl.

**CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
THE NEW YORK EYE AND EAR INFIRMARY**

Under Section 803 of the Not-for-Profit Corporation Law

The undersigned, Donald Scanlon, certifies that he is the Executive Vice President and Chief Financial Officer of The New York Eye and Ear Infirmary (the "Corporation"), and does hereby further certify as follows:

1. The name of the Corporation is "The New York Eye and Ear Infirmary." The Corporation was originally formed under the name "New York Eye Infirmary."
2. The Corporation was created by a special law, Chapter 128 of the Laws of 1822, as amended and supplemented (the "Certificate of Incorporation").
3. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the New York Not-for-Profit Corporation Law ("NPCL").
4. The Corporation's Certificate of Incorporation is hereby amended to effect the following changes authorized under Section 803 of the NPCL:
 - (a) Paragraph 1 [*sic*] of the Certificate of Incorporation, which sets forth the Corporation's name, membership, and the powers, franchises, rights and privileges conferred upon the Corporation, is hereby amended to (i) be renumbered as "Article FIRST", (ii) delete the text describing the Corporation's membership, powers, franchises, rights and privileges, and (ii) state only the name of the Corporation. Accordingly, Article FIRST shall read in its entirety as follows:

"FIRST: The name of the corporation is New York Eye and Ear Infirmary (hereinafter referred to as the "Corporation")."
 - (b) Paragraph II of the Certificate of Incorporation, which describes the composition of the Board of Directors and the manner in which directors and officers of the Corporation are elected and vacancies are filled, is hereby deleted in its entirety and replaced with a new provision numbered "Article SECOND" that states that the Corporation is a corporation as defined Section 102(a)(5) of the NPCL and is a charitable corporation pursuant to Section 402 and Section 201 of the NPCL. Accordingly, Article SECOND shall read in its entirety as follows:

"SECOND: The Corporation is a corporation as defined in subparagraph (5) of paragraph (a) of Section 102 of the New York Not-

for-Profit Corporation Law (the "NPCL"). The Corporation is a charitable corporation under Section 201 of the NPCL.

- (c) Paragraph III of the Certificate of Incorporation, which set forth the initial directors and officers of the Corporation, is hereby omitted in its entirety.
- (d) The provision of the Certificate of Incorporation setting forth the Corporation's purposes and powers, which, as set forth in the Certificate of Amendment of the Certificate of Incorporation of the Corporation filed with the New York State Department of State on June 17, 1983, is not currently numbered, is hereby amended to number the provisions thereof as subparagraphs (i), (ii), and (iii) of paragraph (A) of "Article THIRD," and to add new paragraphs (A)(iv), (B), and (C) to Article THIRD to set forth certain additional provisions regarding the purposes and activities of the Corporation consistent with the NPCL. Accordingly, Article THIRD shall read in its entirety as follows:

"THIRD: (A) The Corporation is organized, and shall be operated exclusively for the charitable, educational and scientific purposes of:

(i) establishing and maintaining a hospital in the City and County of New York for the examination, diagnostic and medical and surgical aid, care and treatment on both an inpatient and outpatient basis of persons suffering from acute illnesses, including diseases of the eye, ear, nose and throat, performing general plastic surgery, and conducting medical research;

(ii) conducting post-graduate medical education instruction, independently and/or in affiliation with some other education institution;

(iii) acquiring by grant, gift, purchase, devise or bequest, and to hold, convey, sell, exchange, and disposing of all property, real or personal; of whatsoever kind or nature for the uses and purposes of the corporation, without limitations as to the amount or value; and

(iv) subject to the limitations set forth in this Certificate of Incorporation, engaging in any and all other lawful acts or activities, and exercising all such powers, rights and privileges applicable to not-for-profit corporations organized under the NPCL that are incidental to and/or in furtherance of accomplishing the foregoing charitable, educational and scientific purposes.

(B) The Corporation is organized, shall be operated and shall engage in activities in furtherance of the purposes set forth in Paragraph (A) of this Article THIRD exclusively for charitable, scientific and educational purposes in the United States and abroad within the meaning of Section 170(c)(2)(B) and Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The Corporation shall not operate for the purpose of carrying on a trade or business for profit.

(C) Nothing herein shall authorize the Corporation, directly or indirectly, to engage in or include among its purposes any of the activities mentioned in NPCL Section 404(a) – (v), without the Corporation having first obtained the consent or approval from the appropriate governmental authority with respect thereto.”

- (e) The first Paragraph IV of the Certificate of Incorporation, which sets forth certain powers and authority of the Corporation’s Board of Directors, is hereby deleted in its entirety and replaced with a new provision numbered “Article FOURTH,” which sets forth the rights, powers and privileges of the Corporation. Accordingly, Article FOURTH shall read in its entirety as follows:

“**FOURTH:** In furtherance of the foregoing purposes, the Corporation shall have all the general rights, powers and privileges enumerated in the NPCL, including, in particular Section 202 of the NPCL, together with the power to solicit and receive grants, bequests and contributions for the purposes of the Corporation, the power to maintain a fund or funds of real or personal property in furtherance of the Corporation’s purposes and the power to accept subventions from members and non-members of the Corporation, and to issue subvention certificates therefor, as authorized by resolution of the Corporation’s Board of Directors and as consistent with the NPCL. The Corporation shall have the right to exercise all other powers which are, or hereafter may be, conferred by law upon a corporation organized for the above purposes or incidental to the conferred powers. Notwithstanding the foregoing, the Corporation shall not have the power to engage in any activities which are not in furtherance of its purposes as set forth in Article THIRD hereof.”

- (f) The second Paragraph IV of the Certificate of Incorporation, as amended by Certificate of Amendment of the Corporation’s Certificate of Incorporation filed with the New York Department of State on September 20, 2013, which states that the Corporation shall be a corporation with members and that the identity, rights and obligations of the member(s) of the Corporation shall be set forth in the Corporation’s By-Laws, is hereby renumbered as “Article EIGHTH.”

- (g) A new provision is hereby added as “Article FIFTH” to set forth certain restrictions relating to the assets, net earnings, income and profits of the Corporation. Accordingly, Article FIFTH shall read in its entirety as follows:

“**FIFTH:** No part of the Corporation’s assets, net earnings, income or profit shall inure to the benefit of, or be distributable to, any trustee, director, officer or employee of the Corporation or other private person; provided, however, that the Corporation shall be authorized and empowered to pay reasonable compensation to any person for services rendered to or for the Corporation in furtherance of one or more of its purposes. No trustee, director, officer or employee of the Corporation or

any private person shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.”

(h) Paragraph VI of the Certificate of Incorporation, which states that the legislature may at any time repeal or alter Chapter 128 of the Laws of 1822 that created the Corporation, is hereby omitted.

(i) A new provision is hereby added as “Article SIXTH” to set forth restrictions regarding the Corporation’s ability to engage in the carrying on of propaganda, influence legislation, and participate or intervene in political campaigns. Accordingly, Article SIXTH shall read in its entirety as follows:

“**SIXTH:** No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except to the extent permitted by Section 501(h) of the Code if the Corporation makes an election thereunder), and the Corporation shall not participate in or intervene in (including the publishing or the distributing of statements in connection with) any political campaign on behalf of or in opposition to any candidate for public office.”

(j) A new provision is hereby added as “Article SEVENTH” to state that the Corporation shall not have nor exercise any power, nor engage in any activity, that would invalidate its status as an organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). Accordingly, Article SEVENTH shall read in its entirety as follows:

“**SEVENTH:** Notwithstanding anything to the contrary in this Certificate, the Corporation shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity, that would invalidate its status (a) as a corporation which is exempt from federal income taxation under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code, or (b) as a corporation contributions to which are deductible under Sections 170(c)(2), 2055(a) or 2522(a) of the Code.”

(k) The provision of the Corporation’s Certificate of Incorporation formerly designated as “Article EIGHTH” by the Certificate of Amendments of the Certificate of Incorporation of the Corporation filed with the New York State Department of State on July 29, 2009, and September 20, 2013, which designate the Secretary of State of the State of New York as the Corporation’s agent for service of process, and sets forth the post-office address to which the Secretary of State shall mail a copy of any process against the Corporation which is served upon him or her, is hereby renumbered “Article ELEVENTH.”

(l) A new provision is hereby added as “Article NINTH” to set forth certain restrictions on the Corporation should it be designated as a private foundation as defined in

Section 509(a) of the Code in any taxable year. Accordingly, Article NINTH shall read in its entirety as follows:

“NINTH: In accordance with Section 508(e) of the Code, if in any taxable year the Corporation is a private foundation as defined in Section 509(a) of the Code, then in such year:

(a) The Corporation shall distribute such amounts for each taxable year at such time and in such manner so as not to subject the Corporation to tax on undistributed income under Section 4942 of the Code;

(b) The Corporation shall not engage in any act of self-dealing which is subject to tax under Section 4941(d) of the Code;

(c) The Corporation shall not retain any excess business holdings which are subject to tax under Section 4943(c) of the Code;

(d) The Corporation shall not make any investments in such manner so as to subject the Corporation to tax under Section 4944 of the Code; and

(e) The Corporation shall not make any taxable expenditures which are subject to tax under Section 4945 of the Code.”

- (m) A new provision is hereby added as “Article TENTH” to set forth provisions regarding the dissolution of the Corporation. Accordingly, Article TENTH shall read in its entirety as follows:

“TENTH: In the event of dissolution of the Corporation, all of the remaining assets and property of the Corporation shall, after payment of or due provision for all necessary expenses and liabilities thereof, be distributed (a) to the Corporation’s member(s), if then in existence and qualifying under Section 501(c)(3) of the Code, for use by such member(s) in furtherance of charitable, educational and/or scientific purposes substantially similar to the purposes of the Corporation, (b) in the event that the Corporation’s member(s) has or have ceased to exist or is/are not then qualifying under Section 501(c)(3) of the Code, then, in such proportions as the Board of Directors shall determine, to (i) one or more successors or affiliates of the Corporation and/or its member(s) that are then in existence and qualifying under Section 501(c)(3) of the Code for use by such entities in furtherance of charitable, scientific and educational purposes substantially similar to the purposes of the Corporation, or (ii) to the Federal, State and/or local governments for a public purpose related to the purposes of the Corporation.”

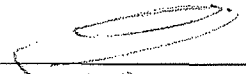
5. This amendment to the Certificate of Incorporation was authorized by the Corporation’s sole member in accordance with Section 802(a)(1) of the NPCL by [**written consent of

the sole member in accordance with Section 614 of the NPCL**], and by the Board of Directors of the Corporation at a duly constituted meeting thereof.

6. The Secretary of State of the State of New York is hereby designated as the agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation which is served upon him/her is: The New York Eye and Ear Infirmary c/o Mount Sinai Hospitals Group, One Gustave L. Levy Place, New York, New York, 10029, Attention: General Counsel.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]
[SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment this 12th day of December, 2017.

By: 
Name: Donald Stanton
Title: EVP/CFO FINANCE

**CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
THE NEW YORK EYE AND EAR INFIRMARY**

**Under Section 803 of the
New York State Not-For-Profit Corporation Law**

Filed By:

Jay E. Gerzog, Esq.
Sheppard Mullin Richter & Hampton LLP
30 Rockefeller Plaza
New York, NY 10112-0015

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
October 19, 2017.

A handwritten signature in black ink, appearing to read "Brendan Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

CHAP. CXXVIII.

AN ACT to incorporate the New-York Eye Infirmary.

Passed March 29, 1822.

WHEREAS by a petition presented to the legislature from certain inhabitants of the city of New-York, it is represented that they, together with their associates, have formed an institution for the purpose of curing indigent persons affected with blindness, and other diseases of the eyes: Therefore,

I. *BE it enacted by the People of the State of New-York, represented in Senate and Assembly,* That all such persons as now are, or hereafter may become, members of the said institution, shall be and are hereby ordained, constituted and appointed a body corporate and politic, in fact and in name, by the name of "The New-York eye infirmary," and by that name they and their successors shall and may have succession; and shall be in law capable of suing and being sued, pleading and being impleaded, defending and being defended, in all courts and places whatsoever, in all manner of action and actions, suits, matters, complaints and causes whatsoever; and that they and their successors may have and use a common seal, and may change and alter the same at their pleasure; and also they and their successors, by the name and style of "The New-York eye infirmary," shall be capable in law of purchasing, holding and conveying any real and personal estate, for the purposes of the incorporation, and none other, which at any time shall not exceed the annual income of ten thousand dollars.

II. *And be it further enacted,* That for the better carrying into effect the objects of the said incorporation, there shall be a president, two vice-presidents, a treasurer and a secretary, who with seventeen other members, and the surgeons and consulting surgeons of the infirmary, shall constitute a board of directors, and shall have power to manage all its affairs. The directors shall be chosen by ballot, by a majority of those present at an annual meeting of the members; to hold their offices for one year, or until others be elected in their room; and that such election shall be held at such times and places as the said corporation shall by their by-laws, from time to time, appoint and direct; and in case of any vacancy or vacancies among the said directors, by death, resignation or otherwise, the said board of directors shall have power to fill such vacancy or vacancies, until the next annual election; and that at the first meeting of the said directors in each year, after their annual election, they shall elect, by ballot, from among their number, by a majority of those present, the said president, vice-presidents, treasurer and secretary.

III. *And be it further enacted,* That the following persons shall be the first officers and directors, viz: William Few, president; Henry I. Wyckoff, first vice-president; John Hone, second vice-president; John Delafield, junior, treasurer; James I. Jones, secretary; Wright Post and Samuel Borrowé, consulting surgeons; Edward Delafield and John Kearney Rodgers, surgeons;

James Boggs, Nathaniel Richards, Isaac Pierson, William Howell, Benjamin L. Swan, William Howard, Henry Brevoort, jun. Samuel T. Lambert, Jeromus Johnson, Isaac Collins, Cornelius Heyer, Henry Rankin, Samuel Tooker, Edward W. Laight, Gideon Lee, Jonathan M. Wainwright, and David B. Ogden, directors.

Their powers.

IV. *And be it further enacted,* That the said board of directors shall have power to make such by-laws, as may from time to time be necessary, relative to the management and disposition of the estate and concerns of the said corporation, and regulation of the persons exercising the offices aforesaid, not contrary to law; and to elect by ballot, the surgeons and consulting surgeons of the infirmary, and may appoint such other agents and servants as they may deem necessary to transact the business of the said corporation, and designate their duties.

Members how admitted.

IV. *And be it further enacted,* That any person shall be entitled to become a member of the said corporation, by paying annually, or in gross, the sum which shall be required by the by-laws for an annual or life subscription.

This act may be repealed.

VI. *And be it further enacted,* That the legislature may at any time hereafter repeal or alter this law.

CHAP. CXXIX.

AN ACT for the relief of David Hayward.

Passed March 29, 1822.

Preamble.

WHEREAS David Hayward hath heretofore purchased of the surveyor-general of this state, lot number sixty-seven in the Peru Bay tract, in the town of Willsborough, in the county of Essex, and hath received a certificate therefor; and whereas the said lot of land had been previously purchased, and a certificate for the same given to another person: Therefore,

Compensation to be made to D. Hayward.

BE it enacted by the People of the state of New-York, represented in Senate and Assembly, That it shall be lawful, and it is hereby made the duty of the commissioners of the land office, to give such compensation and relief to the said David Hayward, as he would be entitled to by the sixth section of the act entitled "An act concerning the commissioners of the land office, and the sale of unappropriated lands," passed April 6th, 1813, in case the said Daniel Hayward had such legal claim against this state, as is mentioned in the said sixth section of the said act: *Provided,* That the amount due and unpaid by the said David Hayward for the said lot, shall be deducted from the compensation to be granted by virtue of this act.

Proviso.

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
October 19, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

Chap. 460.

AN ACT to amend an act entitled "An act to incorporate the New York Eye Infirmary," passed March twenty-ninth, one thousand eight hundred and twenty-two.

Passed April 30, 1864.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The corporation created by an act of the legislature of the State of New York entitled "An act to incorporate the New York Eye Infirmary," passed the twenty-ninth day of March, one thousand eight hundred and twenty-two, shall hereafter be known and designated by the name of "The New York Eye and Ear Infirmary," instead of "The New York Eye Infirmary," and by that name shall hereafter have, possess, exercise and enjoy all the powers, franchises, rights and privileges conferred upon the said corporation by the said act, and all liabilities of the said "The New York Eye Infirmary," are hereby continued in full power and effect upon and against the said "The New York Eye and Ear Infirmary," and shall be and are hereby assumed by it, and shall be paid and discharged by it.

§ 2. The said "The New York Eye and Ear Infirmary," in addition to the powers conferred by the said act, are hereby also authorized to treat and cure indigent persons affected with deafness and other diseases of the ears.

§ 3. This act shall take effect immediately.

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
October 18, 2017.



A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

CERTIFICATE OF CHANGE OF PURPOSES
-OF-
THE NEW YORK EYE AND EAR INFIRMARY

(Pursuant to Section 30 of the
Membership Corporations Law)

122224

WE, THE UNDERSIGNED, being the President and
Secretary of THE NEW YORK EYE AND EAR INFIRMARY, do make,
sign, acknowledge and file this certificate, as follows:

1. The name of the corporation is THE NEW YORK
EYE AND EAR INFIRMARY, and the name under which it was
originally incorporated is The New York Eye Infirmary.
2. The corporation was created by special law,
the chapter number and year of passage of such law being
Chapter 128 of the Laws of 1822. The special law under
which the corporation was created has heretofore been
amended and supplemented by special laws enacted by the
legislature as Chapter 460 of the Laws of 1864, Chapter 389
of the Laws of 1874, Chapter 170 of the Laws of 1894, and
Chapter 596 of the Laws of 1911. The Charter of the corpora-
tion was further amended by the Board of Regents for and on
behalf of the Education Department of the State of New York
by amendment to Charter granted July 21, 1950.
3. The purposes and powers of said corporation
to be amended are as follows:

122224-1

a. Curing indigent persons affected with blindness and other diseases of the eyes.

b. To treat and cure indigent persons affected with deafness and other diseases of the ears.

c. To treat and cure indigent persons afflicted with diseases of the throat.

d. To conduct post-graduate courses for instructions in ophthalmology and otolaryngology, independently and/or in affiliation with some other educational institution.

e. Purchasing, holding, and conveying real and personal estate for the purposes of the incorporation, and none other, which at any time shall not exceed the annual income of \$50,000.

The purposes and powers of said corporation are amended and restated as follows:

a. To establish, maintain and operate a hospital for the examination, diagnosis, and medical and surgical aid, care, and treatment of persons afflicted with blindness or deafness or any diseases of the eyes, ears, nose or throat, including an out-patient department.

b. To conduct post-graduate courses for instruction in ophthalmology and otolaryngology, independently and/or in affiliation with some other educational institution.

c. To acquire by grant, gift, purchase, devise or bequest, and to hold, convey, sell, exchange, and dispose of all property, real or personal, of whatsoever kind or nature for the uses and purposes of the corporation, without limitation as to the amount or value.

IN WITNESS WHEREOF, we have made, signed and

122214-2

acknowledged this certificate in duplicate, this 29th day
of May, 1958.

Arthur C. Condit
President

Harvey E. Willmott
Secretary

122324-3

STATE OF NEW YORK)
COUNTY OF NEW YORK)

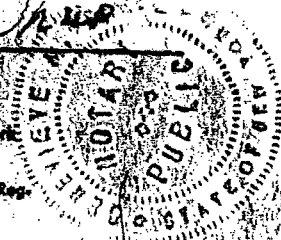
SS.:

On this 29th day of May, 1958, before

me personally came ALEXIS C. COUBERT and HARVEY C. MCCLINTOCK,
to me personally known and known to me to be the persons
described in and who made and subscribed the foregoing cer-
tificate, and they severally duly acknowledged to me that they
made and subscribed the same.

Genevieve M. Shell
Notary Public

GENEVIEVE M. SHELL
Notary Public, State of New York
No. 24-8937500
Qualified in Kings County
Cert. filed with N. Y. Co. Clk's & Reg.
Term Expires March 30, 1960



122224-4

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

SS.:

ALEXIS C. COUDERT and HARVEY C. MCCLINTOCK,

being severally and duly sworn, each for himself, deposes
and says:

That the said ALEXIS C. COUDERT is the President
of The New York Eye and Ear Infirmary, and that the said
HARVEY C. MCCLINTOCK is the Secretary thereof; that they
were authorized to execute and file the foregoing Certifi-
cate of Change of Purposes of The New York Eye and Ear
Infirmary by the concurring vote of a majority of the
membership of the corporation present at an annual meeting
held upon notice pursuant to Section 43 of the Membership
Corporations Law, held on the 28th day of May, 1958, and
that they subscribed such Certificate by virtue of such
authority.

Alexis C. Coudert

Harvey C. McClintock

Subscribed and sworn to before
me this 29th day of May
1958.

[Handwritten Signature]

GENEVIEVE M. SHER
Notary Public, State of New York
No. 24-8987500
Qualified in Kings County
Cert. filed with N. Y. Co. Clk's & Reg.
Term Expires March 30, 1960



12224-5

CERTIFICATE OF APPROVAL

I, **JACOB MARKOWITZ**, a Justice
of the Supreme Court of the State of New York, First
Judicial Department, do hereby approve the foregoing
Certificate of Change of Purposes of The New York Eye
and Ear Infirmary, and consent that the same be filed.

Dated this 20th day of September, 1958.

Jacob Markowitz
Justice of the Supreme
Court of the State of
New York.

12224-6



State of New York—Department of Social Welfare

State Board of Social Welfare

Albany

Know all Men by These Presents:

At a meeting of the State Board of Social Welfare, held on the seventeenth day of June, 1958, due inquiry and investigation having been made, the Board approved the Certificate of Change of Purposes of THE NEW YORK EYE AND EAR INFIRMARY, pursuant to Section 30 of the Membership Corporations Law of the State of New York.

In Witness Whereof, the State Board of Social Welfare has caused these presents to be signed in accordance with the provisions of the statutes and its by-laws, and the official seal of the Board and of the Department to be hereunto affixed, this eighteenth day of June, in the year one thousand nine hundred and fifty-eight.

[Signature]
Secretary.

127224



The University of the State of New York

STATE OF NEW YORK :
: SS.
COUNTY OF ALBANY :

Consent is hereby given to the change of purposes, powers and provisions contained in the certificate of incorporation of "THE NEW YORK EYE AND EAR INFIRMARY," as set forth in the annexed certificate of change made under and pursuant to the provisions of Section 30 of the Membership Corporations Law.

This consent, however, shall in no way be construed as an approval by the Education Department, Board of Regents or Commissioner of Education of the purposes and objects of this corporation, nor shall it be construed as giving the officers, or agents of this corporation the right to use the name of the University of the State of New York, Education Department, Board of Regents or Commissioner of Education in its publications and advertising matter, nor shall it be deemed to be a waiver of the approval of the Board of Regents for the conduct of a correspondence school by such corporation as provided in Section 5002 of the Education Law.

IN WITNESS WHEREOF, I, Ewald B. Nyquist,
Acting Commissioner of Education of the
State of New York, for and on behalf of
the State Education Department, do hereunto
set my hand and affix the seal of the State
Education Department, at the City of Albany,
this 6th day of August 1958.


Ewald B. Nyquist
Acting Commissioner of Education

122324-8

W y Co

members

122224

*org. New York Eye Infirmary
Chap 128 laws 1922*

CERTIFICATE OF CHANGE OF PURPOSES

-OF-

THE NEW YORK EYE AND EAR INFIRMARY

and by Chap 460 laws 1864

(Pursuant to Section 30 of the
Membership Corporations Law)

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED SEP 9 - 1958

TAX *None*
FILING FEE \$ *75-*

Cornelia S. DeLoe

Secretary of State

BY *J. Tracy*

COUDERT BROTHERS
488 MADISON AVENUE
NEW YORK 22, N. Y.

122224-9

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on October 18, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

CERTIFICATE OF TYPE
OF NOT-FOR-PROFIT CORPORATION

OF

THE NEW YORK EYE AND EAR INFIRMARY

(Under Section 113 of the
Not-For-Profit Corporation Law)

4 98857

The undersigned hereby certify:

1. The name of the corporation is The New York Eye and Ear Infirmary. The name under which the corporation was formed is The New York Eye Infirmary.

2. The corporation was created by special law, Chapter 128 of the Law of 1822, and elects to have the Not-For-Profit Corporation Law (Chapter 1066 of the Law of 1969, as amended) apply in all respects to it.

3. The post office address to which the Secretary of State shall mail a copy of any notice required by law is 310 East 14th Street, New York, N. Y. 10003

4. That under Section 201 of the Not-For-Profit Corporation Law, it is a Type B Not-For-Profit Corporation.

IN WITNESS WHEREOF, this certificate has been made, subscribed and verified this day of August, 1973 in the City, County and State of New York, by the undersigned, who affirms that the statements made herein are true under the penalties of perjury.

~~NEW YORK EYE AND EAR INFIRMARY~~

By Gordon S. Braislin
Gordon S. Braislin, President

Charles H. Miller
Charles H. Miller, Secretary

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

GORDON S. BRAISLIN, being duly sworn, deposes and says that he is the person described in and who executed the foregoing Certificate and is the President of the New York Eye and Ear Infirmary, that he has read the foregoing Certificate and knows the contents thereof and that the statements therein contained are true.

Gordon S. Braislin
Gordon S. Braislin, President

Sworn to before me this
27th day of August, 1973

Muriel A. Corcoran

MURIEL A. CORCORAN
Notary Public - State of New York
No. 21-581637
Qualified in Oneida County
Commission Expires March 30, 1974

A 98857

CERTIFICATE OF TYPE
OF NOT-FOR-PROFIT CORPORATION
OF

THE NEW YORK EYE AND EAR INFIRMARY

Under Section 113 of the
Not-For-Profit Corporation Law

Address: 310 East 14th Street
New York, N.Y. 10003

COUDERT BROTHERS,

Attorneys for

New York Eye and Ear Infirmary

PAN AMERICAN BUILDING
200 PARK AVENUE
NEW YORK, N. Y. 10017
TELEPHONE: 212 973-3300

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED SEP 7 - 1973

TAXES: None

FILING FEE: \$ 10

John P. Coudert

Secretary of State

[Signature]

31 N.Y.

[Signature]

Handwritten notes and signatures on the right side of the document, including a large circled 'E' and various illegible scribbles.

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
October 18, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

B.

B.



The University of the State of New York

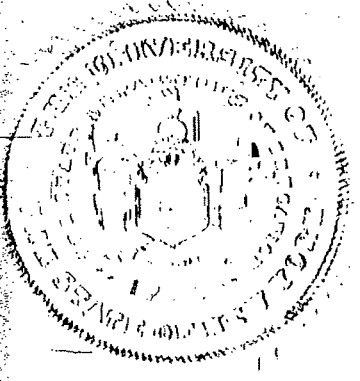
STATE OF NEW YORK:
: ss.:
COUNTY OF ALBANY :

In accordance with the provisions of section 804 of the Not-for-Profit Corporation Law, consent is hereby given to the change of purposes of THE NEW YORK EYE AND EAR INFIRMARY contained in the annexed certificate of amendment to the certificate of incorporation.

A 991005

This consent to filing, however, shall not be construed as approval by the Board of Regents, the Commissioner of Education or the State Education Department of the purposes or objects of such corporation, nor shall it be construed as giving the officers or agents of such corporation the right to use the name of the Board of Regents, the Commissioner of Education, the University of the State of New York or the State Education Department in its publications or advertising matter.

IN WITNESS WHEREOF this instrument is executed and the seal of the State Education Department is affixed this 6th day of June, 1983.



Gordon M. Ambach
Commissioner of Education

By: [Signature]

Robert D. Stone
Counsel and Deputy Commissioner
for Legal Affairs

3836A/99

CERTIFICATE OF AMENDMENT OF THE
CERTIFICATE OF INCORPORATION

OF

THE NEW YORK EYE AND EAR INFIRMARY

(Under Section 803 of the Not-For-Profit Corporation Law)

1. The name of the corporation was originally known as
NEW YORK EYE INFIRMARY filed under Ch. 128 of the Laws of 1822 and filed change
of name to THE NEW YORK EYE AND EAR INFIRMARY under Ch. 460 of the Laws of 1864.

2. The Corporation was created by a special law,
Chapter 128 of the Laws of 1822. The special law under which
the Corporation was created was subsequently amended and
supplemented by special laws enacted by the legislature as
Chapter 460 of the Laws of 1864, Chapter 389 of the Laws of
1874, Chapter 170 of the Laws of 1894 and Chapter 596 of the
Laws of 1911. The charter of the Corporation was amended by
the Board of Regents for and on behalf of the Department of
Education of the State of New York by amendment to charter
dated July 21, 1950. The charter of the Corporation was
further amended by Certificate of Change of

Purposes dated May 29, 1958. By Certificate of Type of Not-for-Profit Corporation dated August 27, 1973, the Corporation elected to have the New York Not-for-Profit Corporation Law apply to it in all respects.

3. THE NEW YORK EYE AND EAR INFIRMARY is a corporation as defined in subparagraph (a) (5) of Section 102 of the Not-For-Profit Corporation Law of the State of New York, and is a Type B Corporation under Section 201 of said law. The Corporation will remain a Type B Corporation after this Certificate of Change of Purposes.

4. The Corporation hereby designates the Secretary of State as its agent upon which process against it may be served. The Post Office address within the State of New York to which the Secretary of State shall mail a copy of any process against it served upon him is: 310 East 14th Street, New York, New York 10003.

5. By Certificate of Change of Purposes of the Corporation dated May 29, 1958, the purposes and powers of the Corporation were amended and restated to provide as follows:

a. To establish, maintain and operate a hospital for the examination, diagnosis and medical and surgical aid, care and treatment of persons afflicted with blindness or deafness or any diseases of the eyes, ears, nose or throat, including an out-patient department.

b. To conduct post-graduate courses for instruction in ophthalmology and otolaryngology, independently and/or in affiliation with some other educational institution.

c. To acquire by grant, gift, purchase, devise or bequest, and to hold, convey, sell, exchange, and dispose of all property, real or personal, of whatsoever kind or nature for the uses and purposes of the corporation, without limitations as to the amount or value.

The purposes and powers of the Corporation are hereby amended to provide as follows:

a. To establish and maintain a hospital in the City and County of New York for the examination, diagnosis and medical and surgical aid, care and treatment on both an inpatient and outpatient basis of persons suffering from acute illnesses, including diseases of the eye, ear, nose and throat, performing general plastic surgery, and conducting medical research.

b. To conduct post-graduate medical education instruction, independently and/or in affiliation with some other education institution.


c. To acquire by grant, gift, purchase, devise or bequest, and to hold, convey, sell, exchange, and dispose of all property, real or personal, of whatsoever kind or nature for the uses and purposes of the corporation, without limitations as to the amount or value.

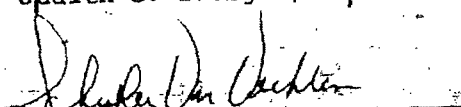
6. This amendment to corporate purposes and powers was authorized by a majority vote of the members of the Corporation entitled to vote thereon at a meeting of the members held on September 30, 1982. The affirmative vote constituted a quorum.

7. The approvals of the Public Health Council of the State of New York, the Attorney General of the State of New York and a Justice of the Supreme Court of the State of New York will be attached hereto prior to the delivery hereof to the Department of State for filing, and no other approvals or consents are required to be endorsed or annexed to this Certificate.

Dated:

December 21, 1982
New York, New York


Judith C. Zesiger, President


Schuyler Van Vechten, Secretary

CONSENT TO CERTIFICATE OF CHANGE OF PURPOSES

THOMAS J. HUGHES

I, a Justice of the Supreme Court of the State of New York of the First Judicial District, in which the office of the Corporation is located, approved the foregoing Certificate of Amendment of the Certificate of Incorporation of NEW YORK EYE AND EAR INFIRMARY and consent that the same be filed.

Dated: NEW YORK, N.Y.

APR 20 1983

Thomas J. Hughes
Justice of the Supreme Court
of the State of New York -
First Judicial District

THOMAS J. HUGHES

The undersigned, the Attorney General of the State of New York, has no objection to the granting of judicial approval hereon and waives statutory notice.

Barbara Huller Baxter
Assistant Attorney General

VERIFICATION

STATE OF NEW YORK)
) SS. 1^o
COUNTY OF NEW YORK)

JUDITH C. ZESIGER, being duly sworn, deposes and says:

That she is the President of the within named Hospital; that deponent has read the foregoing Certificate of Change of Purposes and knows the contents thereof; and that same is true to deponent's own knowledge.

This verification is made by deponent because the named Hospital is a corporation organized under the laws of the State of New York.

Judith C. Zesiger
Judith C. Zesiger, President

Sworn to before me this

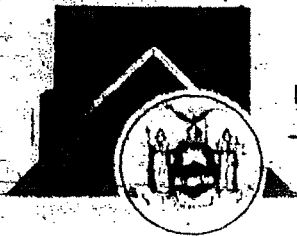
22 day of *December*, 1982

Bethesda Garcia
Notary Public

BETHSADA GARCIA
Notary Public

Com.
C.

1982



STATE OF NEW YORK
DEPARTMENT OF HEALTH
ALBANY 12237

PUBLIC HEALTH COUNCIL

January 25, 1983

KNOW ALL MEN BY THESE PRESENTS:

After inquiry and investigation, and in accordance with action taken at a meeting of the Public Health Council held on the 21st day of January, 1983, I hereby certify that the Certificate of Amendment of the Certificate of Incorporation of The New York Eye and Ear Infirmary, dated December 21, 1982 is APPROVED.

Public Health 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.

MARION C. LAPOINT
Acting Executive Secretary

Sent to: Norton L. Travis, Esq.
Garfunkel, Wild and Travis
175 Great Neck Road
Great Neck, New York 11021

cc: The New York Eye and Ear Infirmary
310 East 14th Street
New York, New York 10003

COUNCIL

8
James Introne

A991005

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CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
THE NEW YORK EYE AND EAR
INFIRMARY

1983
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our (ny) Eye Infirmary
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STATE OF NEW YORK
DEPARTMENT OF STATE

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COUNTY FEE \$
COPY \$ 6.50
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REFUND \$
SPEC HANDLE \$

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T. J. B.

B.

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B.

GARFUNKEL, WILD & TRAVIS, P.C.
ATTORNEYS AT LAW
178 GREAT NECK ROAD
GREAT NECK, N. Y. 11081
(516) 468-8080

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
October 18, 2017.



A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

E-12

F 991008000 579

E-12

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
THE NEW YORK EYE AND EAR INFIRMARY

Under Section 803 of the Not-For-Profit Corporation Law

I, THE UNDERSIGNED, being the Chairman of The New York Eye and Ear Infirmary, hereby certify:

1. The name of the corporation is THE NEW YORK EYE AND EAR INFIRMARY (hereinafter referred to as the "Corporation"). The name under which the Corporation was originally incorporated was ~~The~~ New York Eye Infirmary.

2. The Corporation was created by a special law, Chapter 128 of the Laws of 1822. The special law under which the Corporation was created was subsequently amended and supplemented by special laws enacted by the legislature as Chapter 460 of the Laws of 1864, Chapter 389 of the Laws of 1874, Chapter 170 of the Laws of 1894 and Chapter 596 of the Laws of 1911. The charter of the Corporation was amended by the Board of Regents for and on behalf of the Department of Education of the State of New York by an Amendment to Charter dated July 21, 1950. The charter of the Corporation was further amended by Certificate of Change of Purposes dated May 29, 1958. By Certificate of Type of Not-for-Profit Corporation dated August 27, 1973, the Corporation elected to have the New York Not-for-Profit Corporation Law apply to it in all respects. The Certificate of Incorporation was then amended by Certificate of Amendment dated December 21, 1982.

3. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law of the State of New York. The Corporation is a Type B corporation under Section 201 of said law and will remain a Type B corporation after this Certificate of Amendment of the Certificate of Incorporation is effectuated.

4. The Corporation's Certificate of Incorporation is hereby amended as follows.

- a. The provisions describing the membership of the Corporation, as set forth in Sections I and IV [sic] of Chapter 128 of the Laws of 1822, as amended, are as follows:

Such persons as now are, or hereafter may become, members of the said institution, shall be and are hereby ordained, constituted and appointed a body corporate and politic, in fact and in name, by the name of "The New York Eye and Ear Infirmary," and by that name they and their successors shall and may have possession [sic], and shall be in law capable of suing and being sued, pleading and being impleaded, defending and being defended, in all courts and places whatsoever, in all manner of action and actions, suits, matters, complaints and causes whatsoever, and that they and their successors may have and use a common seal, and may change and alter the same at their pleasure, and also they and their successors, by the name and style of The New York Eye and Ear Infirmary, shall be capable in law of purchasing, holding and conveying real and personal estate, for the purposes of the incorporation and none other, which at any time shall not exceed the annual income of fifty thousand dollars. [A]ny person shall be entitled to become a member of the said corporation, by paying annually, or in gross, the sum which shall be required by the by-laws for an annual or life subscription.

The provisions describing the membership of the Corporation are hereby amended to provide as follows:

The Corporation shall have one member, which shall be Continuum Health Partners, Inc. (the "Member"), a New York not-for-profit corporation acting by and through its Board of Trustees.

b. The provisions describing the composition and election of directors, as set forth in Section II of Chapter 128 of the Laws of 1822, as amended, are as follows:

[F]or the better carrying into the effect the objects of the said incorporation there shall be a president, two vice-presidents, a treasurer, an assistant treasurer and a secretary, who, with nineteen other life members and four surgeons on active duty in the infirmary, shall constitute a board of directors, and shall have power to manage its affairs. The directors, except the said four surgeons, shall be chosen by ballot by a majority of the life members present at an annual meeting of the life members, to hold their offices for three years, or until others be elected in their room; and they shall be so classified that one-third of their number

2

shall go out of office at each annual election; the directors, other than the surgeons and consulting surgeons, in office at the time of the passage of this act, shall continue to hold their offices until the term for which they have been elected shall expire; each election of such directors shall be for persons to fill the places of those only whose term of office shall then expire or shall have become vacant. Such election shall be held at such times and places as the said corporation shall, by their by-laws, from time to time appoint and direct. The four surgeons shall consist of two to be selected from the eye department, one to be selected from the ear department, and one to be selected from the throat department of the said infirmary, each surgeon so appointed to be respectively chosen and selected only by the surgeon of the department of the infirmary to which such appointee is attached. Such appointments shall be made on the day of the annual election in such manner and at such place as the said corporation shall, by their by-laws, from time to time appoint and direct, and the surgeons so appointed shall hold their offices for one year, or until other surgeons be elected in their room.

The provisions describing the composition and election of directors are hereby amended to provide as follows:

[T]here shall be a chairman, two or more vice-chairmen, a treasurer, and assistant treasurer and a secretary, who, with other qualified individuals and four surgeons on active duty in the infirmary, shall constitute a board of directors, and shall have power to manage its affairs. The directors, except the said four surgeons, shall be chosen by the Member to hold their offices for three years, or until others be elected in their room; and they shall be so classified that one-third of their number shall go out of office at each annual election; the directors, other than the surgeons and consulting surgeons, in office at the time of the passage of this act, shall continue to hold their offices until the term for which they have been elected shall expire; each election of such directors shall be for persons to fill the places of those only whose term of office shall then expire or shall have become vacant. Such election shall be held at such times and places as the said corporation shall, by their by-laws, from time to time appoint and direct. The four surgeons shall consist of two to be selected from the

3

ophthalmology department and two to be selected from the otolaryngology department of the said infirmary, each surgeon so appointed to be respectively chosen and selected only by the surgeons of the department of the infirmary to which such appointee is attached. Such appointments shall be made on the day of the annual election in such manner and at such place as the said corporation shall, by their by-laws, from time to time appoint and direct, and the surgeons so appointed shall hold their offices for one year, or until other surgeons be elected in their room.

c. Pursuant to Section II of Chapter 128 of the Laws of 1822, as amended, vacancies in the board of directors are currently filled as follows:

In case of any vacancy or vacancies among the said directors by death, resignation or otherwise, the said board of directors shall have power to fill such vacancy or vacancies until the next annual election.

The foregoing sentence, describing the manner in which any vacancy or vacancies may be filled, is hereby amended to provide as follows:

In case of any vacancy or vacancies among the said directors by death, resignation or otherwise, the Member shall have power to fill such vacancy or vacancies at any meeting of the Member; provided that any vacancy with respect to any of the said four surgeons shall be filled by the Member in accordance with the bylaws.

d. Pursuant to Section II of Chapter 128 of the Laws of 1822, as amended, officers of the Board of Directors of the Corporation are currently elected as follows:

At the first meeting of the said directors in each year after their annual election, they shall elect by ballot from among their own number, by a majority of those present, the said president, vice-presidents, treasurer, assistant treasurer and secretary.

The foregoing sentence, describing the manner in which the officers of the Board of Directors of the Corporation are elected, is hereby amended to provide as follows:

At the first meeting of the said directors in each year after the annual election of directors, they shall elect by ballot from among their own number, by a majority of those

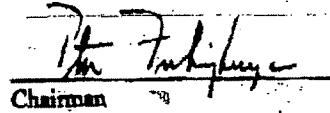
present, the said chairman, first vice-chairman, second vice-chairman, treasurer, assistant treasurer and secretary.

5. This amendment to the Certificate of Incorporation of the Corporation was authorized by a majority vote of the membership of the Corporation duly called and held in accordance with the bylaws of the Corporation at which meeting a quorum was present and acting throughout.

6. This amendment to the Certificate of Incorporation of the Corporation was authorized by majority vote of the entire Board of Directors of the Corporation at a meeting of the Board duly called and held at which meeting a quorum was present and acting throughout.

7. The Corporation hereby designates the Secretary of State as its agent upon which process against it may be served. The Post Office address within the State of New York to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is 310 East 14th Street, New York, New York 10003, Attn: President.

IN WITNESS WHEREOF, the undersigned has executed and signed this Certificate this 5th day of October, 1999.



Chairman

Peter Frelinghuysen

F 991008000578

CERTIFICATE OF AMENDMENT
of
THE NEW YORK EYE AND EAR INFIRMARY

(Under Section 803 of the Not-For-Profit Corporation Law)

OCT 3 12 11 31

E-12

Filed by
Gartfunkel Wild & Travis, P.C.
111 Great Neck Road
Great Neck, New York 11021
(516) 393-2200

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STATE OF NEW YORK
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STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on October 18, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

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CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
THE NEW YORK EYE AND EAR INFIRMARY
Under Section 803 of the Not-For-Profit Corporation Law

The undersigned, being the President and Chief Executive Officer and the Assistant Secretary of Continuum Health Partners, Inc., the sole member of The New York Eye and Ear Infirmary, a New York State not-for-profit corporation (the "Corporation"), do hereby certify and set forth:

1. The name of the Corporation is "The New York Eye and Ear Infirmary." The Corporation was initially formed under the name "New York Eye Infirmary."
2. The Corporation was created by a special law, chapter 128 of the Laws of 1822.
3. The Corporation is a corporation as defined in subparagraph (a)(5) of section 102 of the Not-for-Profit Corporation Law of the State of New York and is a Type B Corporation under section 201 of said law and shall remain a Type B Corporation after this amendment to the Certificate of Incorporation becomes effective.
4. The Corporation's Certificate of Incorporation is hereby amended to institute a joint application process to share credentialing and quality assurance information relative to medical staff members and applicants. A new Article EIGHTH is added following Article SEVENTH as follows:

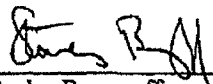
"EIGHTH. The Corporation, Beth Israel Medical Center and The St. Luke's-Roosevelt Hospital Center (these three hospitals are collectively referred to herein as the "Affiliated Hospitals"), among others, have a common passive parent corporation, Continuum Health Partners, Inc. The Corporation may institute a joint application process to the medical staffs of the Affiliated Hospitals and share credentialing and quality assurance information concerning medical staff members and applicants with the other Affiliated Hospitals, provided that the Corporation shall make a separate decision concerning admission of each applicant to its medical staff according to its medical staff bylaws."

5. The Secretary of State of the State of New York is hereby designated as agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him/her is:

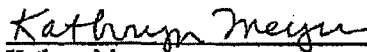
The New York Eye and Ear Infirmary
c/o Continuum Health Partners, Inc.
555 West 57th Street, 18th Floor
New York, New York 10019
Attn: General Counsel

6. This amendment to the Certificate of Incorporation was authorized by the unanimous vote of the sole member of the Corporation at a meeting on January 30, 2008.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Amendment
this 11 day of June, 2009, and affirmed the contents to be true under the penalty of perjury.



Stanley Brezenoff
President and Chief Executive Officer



Kathryn Meyer
Assistant Secretary



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

May 18, 2009


Ms. Nina Brodsky
Senior Associate General Counsel
Continuum Services
555 West 57th Street, 18th Floor
New York, New York 10019

Re: Certificate of Amendment of the Certificate of Incorporation of
The New York Eye and Ear Infirmary

Dear Ms. Brodsky:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 8th day of May 2009, I hereby certify that the Public Health Council consents to the filing of the Certificate of Amendment of the Certificate of Incorporation of The New York Eye and Ear Infirmary, dated January 30, 2008.

Sincerely,


Colleen M. Frost
Executive Secretary

/cf

EDWARD H. LEHNER

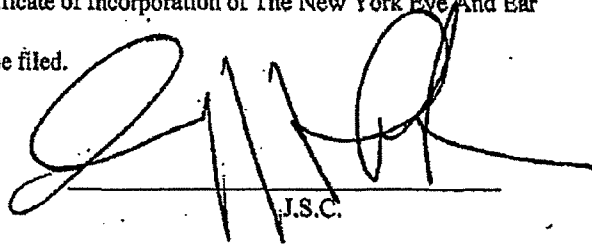
I, EDWARD H. LEHNER, a Justice of the Supreme Court of the State of

New York for the First Judicial District do hereby approve of the foregoing

Certificate of Amendment of the Certificate of Incorporation of The New York Eye And Ear

Infirmary and consent that the same be filed.

Date: JUL 16 2009



J.S.C.

THE ATTORNEY GENERAL HAS NO OBJECTION
TO THE GRANTING OF JUDICIAL APPROVAL
HEREON, ACKNOWLEDGES RECEIPT OF
STATUTORY NOTICE AND DEMANDS SERVICE
OF THE FILED CERTIFICATE. SAID NO OBJECTION
IS CONDITIONED ON SUBMISSION OF THE
MATTER TO THE COURT WITHIN 60 DAYS HEREAFTER.

by Laura Werner
ASSISTANT ATTORNEY GENERAL DATE

June 25, 2009

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CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
The New York Eye and Ear Infirmary

Under Section 803 of the Not-for-Profit Corporation
Law of the State of New York

1cc
STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JUL 27 2009

TAX \$

BY:

[Signature]

Henry

PROSKAUER ROSE LLP
1585 Broadway
New York, NY 10036-8299

AD

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STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
October 18, 2017.



A handwritten signature in black ink, appearing to read "B. Fitzgerald", is written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

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CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
THE NEW YORK EYE AND EAR INFIRMARY

Under Section 803 of the Not-for-Profit Corporation Law

The undersigned, being a Director of The New York Eye and Ear Infirmary (the "Corporation"), does hereby certify:

1. The name of the Corporation is "The New York Eye and Ear Infirmary." The Corporation was formed under the name "New York Eye Infirmary."
2. The Corporation was created by a special law, Chapter 128 of the Laws of 1822, as amended and supplemented (the "Certificate of Incorporation").
3. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the NPCL, and is a Type B corporation as defined in Section 201 of the NPCL.
4. The Corporation's Certificate of Incorporation is hereby amended as follows:
 - (a) The provision of the Certificate of Incorporation describing the membership of the Corporation, which, as heretofore amended by the Certificate of Amendment of the Certificate of Incorporation of the Corporation filed with the New York State Department of State on October 8, 1999, states

"The Corporation shall have one member, which shall be Continuum Health Partners, Inc. (the "Member"), a New York not-for-profit corporation acting through its Board of Trustees" is hereby amended to read in its entirety as follows:

"Notwithstanding anything in this Certificate of Incorporation to the contrary, the Corporation shall be a corporation with members. The identity of the member(s) of the Corporation, and the rights and obligations of the member(s), shall be set forth in the By-Laws of the Corporation."

- (b) The provision of the Corporation's Certificate of Incorporation designated as "Article EIGHTH" by the Certificate of Amendment of the Certificate of Incorporation of the Corporation filed with the New York State Department of State on July 27, 2009, which specifies the identity of the sole member of the Corporation and certain affiliates of the Corporation and provides for certain processes relating to the medical staffs of the Corporation and such affiliates, is hereby deleted and replaced in its entirety by a new Article EIGHTH, which designates the Secretary of State as the agent of the Corporation upon whom process against the Corporation may be served and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him/her, which new Article EIGHTH shall read in its entirety as follows:

"EIGHTH. The Secretary of State of the State of New York is hereby designated as the agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation which is served upon him/her is:

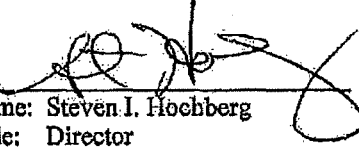
The New York Eye and Ear Infirmary
c/o Mount Sinai Hospitals Group
One Gustave L. Levy Place
New York, New York 10029
Attention: General Counsel"

5. This amendment to the Certificate of Incorporation was authorized by the unanimous vote of the sole member of the Corporation at a meeting of the sole member held on July 16, 2013.
6. The Secretary of State of the State of New York is hereby designated as the agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State

shall mail a copy of any process against the Corporation which is served upon him/her is:

The New York Eye and Ear Infirmary
c/o Mount Sinai Hospitals Group
One Gustave L. Levy Place
New York, New York 10029
Attention: General Counsel

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment this 12th day of September, 2013.

By 
Name: Steven I. Hochberg
Title: Director

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

September 17, 2013

Kenneth L. Davis, MD
President and CEO
The Mount Sinai Medical Center
One Gustave L. Levy Place
Box 1220
New York, New York 10029

Re: Certificate of Amendment of the Certificate of Incorporation of The New York Eye and Ear Infirmary

Dear Dr. Davis:

The above referenced Certificate of Amendment of the Certificate of Incorporation, dated September 12, 2013 and signed by Stephen I. Hochberg, does not require the formal approval of the Public Health and Health Planning Council or the Commissioner of Health under either the Public Health Law or the Not-for-Profit Corporation Law, since the certificate neither changes the corporation's name nor changes substantively a purpose the inclusion of which requires the consent of the Public Health and Health Planning Council or the Commissioner of Health.

The Department of Health does not object to the certificate being filed with the Department of State.

Sincerely,



Michael M. Stone
Assistant Counsel
Bureau of House Counsel

cc: Michael MacDonald, Mount Sinai Legal Counsel
Beth Essig, Continuum Health Partners Legal Counsel
Brad Beckstrom, Director, Government Affairs

HEALTH.NY.GOV
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twitter.com/HealthNYGov

ACR-41

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CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
THE NEW YORK EYE AND EAR INFIRMARY
Under Section 803 of the Not-For-Profit Corporation Law

Epstein, Becker & Green, P.C.
250 Park Avenue
New York, NY 10177

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1cc
STATE OF NEW YORK
DEPARTMENT OF STATE

FILED SEP 20 2013

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MEMORANDUM

To: Public Health and Health Planning Council (PHHPC)

From: Richard J. Zahnleuter
General Counsel 

Date: December 19, 2017

Subject: The Bronx-Lebanon Hospital Center: Corporate Name Change

The Bronx-Lebanon Hospital Center (the "Hospital") is a licensed Article 28 hospital that provides a multitude of services at various locations. The Hospital seeks to change its corporate name to BronxCare Health System, in conjunction with renaming two other related entities, (these other changes are submitted to PHHPC under separate cover), in an effort to promote branding identity and to reflect the array of services provided to the community. Please see the attached letter from Michael M. Stone, Esq. of Garfunkel Wild, P.C. for further details. The Hospital seeks PHHPC approval of the proposed name change.

PHHPC approval of the corporate name change is required pursuant to 10 NYCRR § 600.11(a)(1) and Not-for-Profit Corporation Law § 804(a).

There is no objection to the corporate name change and the Certificate of Amendment of the Certificate of Consolidation of The Bronx-Lebanon Hospital Center is in legally acceptable form.

Attachments

GARFUNKEL WILD, P.C.

ATTORNEYS AT LAW

677 BROADWAY • ALBANY, NEW YORK 12207
TEL (518) 242-7582 • FAX (518) 242-7586

www.garfunkelwild.com

MICHAEL M. STONE

Partner

Licensed in NY

Email: mstone@garfunkelwild.com

Direct Dial: (518) 242-7582

FILE NO.: 06238.3350

December 11, 2017

By E-mail

Colleen M. Leonard
Executive Secretary
Public Health and Health Planning Council
NYS Department of Health
Corning Tower, Room 1805, EPS
Albany, NY 12237

Re: Certificates of Amendments of Bronx-Lebanon Hospital Center, Bronx-Lebanon Special Care Center, Inc. and Bronx-Lebanon Hospital New Directions Fund, Inc.

Dear Ms. Leonard:

My firm is counsel to Bronx-Lebanon Hospital Center, Bronx-Lebanon Special Care Center, Inc. and Bronx-Lebanon Hospital New Directions Fund, Inc. Each is a New York not-for-profit corporation.

We are seeking approval to file Certificates of Amendment to the Certificate of Consolidation of Bronx-Lebanon Hospital Center and the Certificates of Incorporation of Bronx-Lebanon Special Care Center, Inc. and Bronx-Lebanon Hospital New Directions Fund, Inc. In addition to updating the corporate type for each in compliance with the Nonprofit Revitalization Act of 2013, the amendments will change the names of each corporation as follows:

- Bronx-Lebanon Hospital Center's Certificate of Consolidation is amended to change its name to "BronxCare Health System";
- Bronx-Lebanon Special Care Center, Inc.'s Certificate of Incorporation is amended to change its name to "BronxCare Special Care Center"; and
- Bronx-Lebanon Hospital New Directions Fund, Inc.'s Certificate of Incorporation is amended to change its name to "BronxCare New Directions Fund".

A primary reason for the name change of Bronx-Lebanon Hospital Center to BronxCare Health System is to better reflect the scope of health care services it provides to the community, which includes, in addition to hospital inpatient services, an extensive outpatient clinic program providing outpatient health, mental health and behavioral health services. Bronx-Lebanon Special Care Center, Inc. is a residential health care facility and Bronx-Lebanon Hospital New Directions Fund, Inc. raises funds to support the Hospital. Each is an affiliate of Bronx-Lebanon Hospital

**CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF CONSOLIDATION
OF
THE BRONX-LEBANON HOSPITAL CENTER
(Under Section 803 of the Not-for-Profit Corporation Law)**

The undersigned, being the Senior Vice President and Chief Financial Officer of THE BRONX-LEBANON HOSPITAL CENTER, hereby certifies:

FIRST: The name of the corporation is THE BRONX-LEBANON HOSPITAL CENTER (the "Corporation").

SECOND: The Certificate of Consolidation of the Corporation was filed by the Department of State on October 26, 1962 pursuant to the Membership Corporations Law of the State of New York.

THIRD: The Corporation was formed under Section 402 of the Not-for-Profit Corporation Law (the "N-PCL").

FOURTH: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the N-PCL.

FIFTH: The Certificate of Consolidation is hereby amended to read as follows:

(a) Article FIRST of the Certificate of Consolidation of the Corporation, setting forth the name of the Corporation, is hereby amended in its entirety to read as follows:

"The name of the Corporation is BronxCare Health System."

(b) Article THIRD of the Certificate of Consolidation regarding the type of Corporation is amended to delete the reference to the Corporation being a type B corporation as defined in Section 201 of the N-PCL and to add that the Corporation is charitable. Accordingly Article THIRD shall be hereby amended in its entirety to read as follows:

"**THIRD:** The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the N-PCL and is a charitable corporation under Section 201 of the N-PCL. The Corporation shall remain a charitable corporation after this Certificate of Amendment shall become effective.

SIXTH: The Secretary of State is designated as the agent of the Corporation upon whom process against the Corporation may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the Corporation is:

BronxCare Health System
1276 Fulton Avenue
Bronx, New York 10456
Attn: President and Chief Executive Officer

SEVENTH: This amendment to the Certificate of Consolidation of the Corporation was authorized by a vote of the Board of Trustees of the Corporation presenting and voting at such meeting duly held on November 14, 2017.

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
December 8, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State



State of New York—Department of Social Welfare

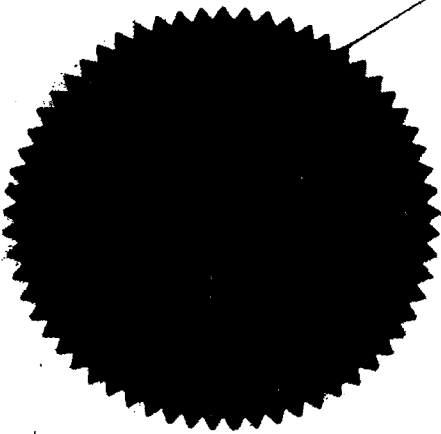
State Board of Social Welfare

Albany

Know all Men by These Presents:

At a meeting of the State Board of Social Welfare, held on the twenty-eighth day of September, 1962, due inquiry and investigation having been made, the Board approved the Certificate of Consolidation of THE LEBANON HOSPITAL ASSOCIATION OF THE CITY OF NEW YORK and THE BRONX HOSPITAL into THE BRONX-LEBANON HOSPITAL CENTER, pursuant to Section 50 of the Membership Corporations Law of the State of New York.

In Witness Whereof, the State Board of Social Welfare has caused these presents to be signed in accordance with the provisions of the statutes and its by-laws, and the official seal of the Board and of the Department to be hereunto affixed, this first day of October, in the year one thousand nine hundred and sixty-two.



Walter J. [Signature]
Secretary.

CERTIFICATE OF CONSOLIDATION
OF THE LEBANON HOSPITAL ASSOC-
IATION OF THE CITY OF NEW YORK
AND THE BRONX HOSPITAL INTO THE
BRONX-LEBANON HOSPITAL CENTER

Pursuant to Section 50
of the
Membership Corporations Law

* * *

We, Irving H. Stolz and Samuel P. Epstein, being respectively the President and the Secretary of The Lebanon Hospital Association of the City of New York, and Abraham F. Wechsler and David Pasmantier, being respectively the President and the Secretary of The Bronx Hospital, do hereby certify:

1. The names of the corporations included in the consolidation are as follows:

(a) The Lebanon Hospital Association of the City of New York, duly formed and organized under the Membership Corporations Law of the State of New York, the Certificate of Incorporation of which was duly filed with the Secretary of State of the State of New York on or about July 17th, 1890; and

(b) The Bronx Hospital, duly formed and organized under the Membership Corporations Law of the State of New York, the Certificate of Incorporation of which was duly filed with the Secretary of State of the State of New York on the 24th day of November, 1911. Thereafter, an amended Certificate of Incorporation was duly filed with the Secretary of State of the State of New York on or about April 19th, 1922, wherein the number of directors was increased from nine to thirty.

2.

(a) The name of the consolidated corporation shall be The Bronx-Lebanon Hospital Center.

(b) The consolidated corporation is to be a new corporation.

3. The purposes for which the consolidated corporation is formed are as follows:

(a) To maintain and operate facilities of not more than two hospitals wherein medical,

surgical and obstetrical aid, nursing, and medical social service to the sick and disabled poor and to others of any race, color, creed or nationality will be furnished.

(b) To engage in all the incidental activities necessary for the conduct of an interne and resident program. Nothing herein contained shall vest in the corporation the right to grant degrees unless authorized by the State of New York.

(c) To investigate, either alone or in cooperation with other social welfare agencies, the conditions, requirements and needs of persons applying for medical aid or assistance to the consolidated corporation.

(d) To build, construct, erect and furnish any structures, buildings and appurtenances thereto.

(e) The consolidated corporation shall have the power to take and hold by grant, gift, devise, bequest, purchase, lease, or in any other manner, for any of the purposes and objects of said corporation, any real or personal property, without limitation as to amount, necessary or proper for such purposes and objects.

4. The territory in which the operations of the consolidated corporation are to be principally conducted

is in the City of New York and its suburbs and the State of New York.

5. The principal office of the corporation is to be located in the County of Bronx, State of New York.

6. The number of directors, to be known as trustees, of the consolidated corporation shall be not less than six (6) nor more than fifty (50).

7.

(a) The names and residences of the trustees of the consolidated corporation to hold office up to and including the first annual meeting of the consolidated corporation are as follows:

<u>Names</u>	<u>Residences</u>
Robert H. Arnov	14 Butler Road, Scarsdale, N.Y.
Alexander E. Arnstein	1185 Park Avenue, N.Y. 28, N.Y.
Lester R. Bachner	930 Fifth Avenue, N.Y. 21, N.Y.
Mrs. S. Seymour Batt	630 West 246th St., Riverdale, N.Y.
Edward H. Benenson	River Bank Road, Stamford, Conn.
Charles A. Berns	30 East 71st Street, N.Y. 21, N.Y.
Jack Blumstein	211 Central Park West, N.Y. 24, N.Y.
Moses H. Bresler	52 Gramercy Park North, N.Y. 10, N.Y.
Mrs. Harry Browner	23 West 73rd Street, N.Y. 23, N.Y.
Stephen Chan	379 Heathcote Road, Scarsdale, N.Y.
Irwin S. Chanin	25 Central Park West, N.Y. 23, N.Y.
Hyman J. Cohen	11 Fifth Avenue, N.Y. 3, N.Y.
Isidore Dollinger	1700 Crotona Park East, Bronx 60, N.Y.
Samuel P. Epstein	1100 Park Avenue, N.Y., N.Y.
Seymour S. Epstein	119 Carthage Road, Scarsdale, N.Y.
Harry Fogler	930 Grand Concourse, Bronx 51, N.Y.
Samuel H. Golding	160 Central Park South, N.Y. 19, N.Y.
Albert Goldman	200 East 66th Street, N.Y. 21, N.Y.
Alexander Gross	1165 Park Avenue, N.Y. 28, N.Y.
Nathaniel T. Helman	752 Pelham Parkway South, N.Y. 26, N.Y.
Hendes Hershman	975 Walton Avenue, N.Y. 52, N.Y.
Martin Kleinbard	16 Woodland Drive, Rye, N.Y.
Matthew M. Levy	11 Fifth Avenue, N.Y. 3, N.Y.
Gabriel A. Lowenstein	25 West 81st Street, N.Y. 24, N.Y.
Harold S. Lynton	25 Kensington Road, Scarsdale, N.Y.
Reymour Milstein	35 Ogden Road, Scarsdale, N.Y.
Jerome Minskoff	32 Park Drive South, Rye, N.Y.
Gerald Oestreicher	680 Madison Avenue, N.Y. 21, N.Y.
David Pasmantier	10 Park Avenue, N.Y. 16, N.Y.
Eol Perlman	1235 Grand Concourse, N.Y. 52, N.Y.
Samson Rosenblatt	50 East 79th Street, N.Y. 21, N.Y.
Mrs. Ida Rosenthal	11 Fifth Avenue, N.Y. 3, N.Y.
J. Howard Rossbach	5040 Arlington Avenue, N.Y. 71, N.Y.
Benjamin Sack	1100 Park Avenue, N.Y. 23, N.Y.

A. W. Scheffres
Nathan Schulman
Milton A. Seymour
Theodore Silbert
James H. Slater
Arthur Sorin
Irving H. Stolz
Isidore Teitelbaum
Abraham F. Wechsler
Benjamin J. Weil

300 Central Park West, N.Y. 24, N.Y.
145 Central Park West, N.Y. 23, N.Y.
200 East 66th Street, N.Y. 21, N.Y.
936 Fifth Avenue, N.Y. 21, N.Y.
Barlow Lane, Rye, N.Y.
737 Park Avenue, N.Y. 21, N.Y.
236 E. Devonia Avenue, Mt. Vernon, N.Y.
5 Riverside Drive, N.Y. 25, N.Y.
7 West 81st Street, N.Y. 24, N.Y.
Hotel Chatham, 48th Street and
Vanderbilt Avenue, N.Y. 17, N.Y.
936 Fifth Avenue, N.Y. 21, N.Y.

Jack D. Waller

(b) The trustees of the consolidated corporation shall serve up to and including the first annual meeting of the consolidated corporation and upon the expiration of the term of office for each such trustee herein designated, successor trustees shall thereafter be elected to serve for a term of one, two or three years respectively and shall be divided into three classes, equal in number (or as nearly equal as may be), and each class shall be elected to serve for a term of one, two or three years respectively.

8. The annual meeting of the corporation shall be held on the first Monday in April of each year.

9. Upon the expiration of the term of office of any trustee, or upon any vacancy occurring in the office of any trustee from any cause, the successor of such trustee shall be elected by a majority vote of the remaining members of the board of trustees for the period up to the next annual meeting of the Board of Trustees.

10. The consolidated corporation shall succeed to all the rights, privileges, immunities, assets, estates and interests of each of the constituent corporations, and all the property, real, personal, mixed and all the debts due on whatever account to them, and other things in action belonging to them, and all such property shall be deemed transferred to and vested in the consolidated corporation,

and all of the debts and obligations of each of the corporations shall become the debts and obligations of and shall be assumed by the consolidated corporation.

11. Any devise, bequest, gift or grant contained in any Will or otherwise, in trust or otherwise, together with all property rights, benefits and privileges to which either of the corporations have been or would in the future become entitled to receive, made before or after the date of the filing of the certificate of consolidation pursuant to the applicable provision of the Membership Corporations Law to and for either of the constituent corporations, shall inure to the benefit of the consolidated corporation.

12. The terms and conditions of the consolidation and the mode of carrying the same into effect are:

(a) The Lebanon Hospital Association of the City of New York and the Bronx Hospital shall be consolidated into a new corporation to be known as The Bronx-Lebanon Hospital Center.

(b) The purposes for which the consolidated corporation is to be formed are the purposes set forth in the certificate of consolidation to be filed with the Secretary of State of the State of New York.

(c) That so long as the Board of Trustees of the consolidated corporation believes that the needs of the community require that the present facilities of both hospitals be maintained and operated to their maximum capacity, the present facilities will be so maintained and in the light of present conditions except for new construction and operation of new facilities currently planned at the site of the Bronx Hospital every reasonable effort will be made to develop the facilities of the

consolidated corporation at the present site of Lebanon Hospital to the extent that land is available for such purpose.

~~the provisions of the provisions hereof may be modified, amended or repealed in whole or in part by the action of the constituent corporations of the constituent corporations~~

SUBSCRIBED AND ACKNOWLEDGED by the President and the Secretary of each of the constituent corporations above named, this 10th day of April, 1962.

(Corporate Seal)

THE LEBANON HOSPITAL ASSOCIATION
OF THE CITY OF NEW YORK

By: *Irving H. Stolz*
Irving H. Stolz, President

By: *Samuel P. Epstein*
Samuel P. Epstein, Secretary

(Corporate Seal)

THE BRONX HOSPITAL

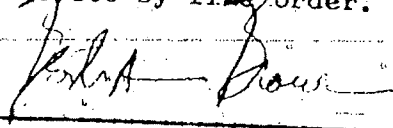
By: *Abraham F. Wechsler*
Abraham F. Wechsler,
President

By: *David Pasmantier*
David Pasmantier, Secretary

7

STATE OF NEW YORK :
: SS.:
COUNTY OF NEW YORK:

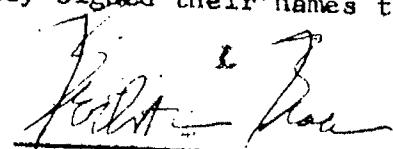
On the 10th day of April, 1962, before me personally came IRVING H. STOLZ and SAMUEL P. EPSTEIN to me known, who being by me duly severally sworn, did depose and say that they reside at 236 E. Devonia Avenue, Mt. Vernon, N.Y. and 1100 Park Avenue, New York, N.Y., respectively; that they are President and Secretary, respectively of THE LEBANON HOSPITAL ASSOCIATION OF THE CITY OF NEW YORK, the corporation described in and which executed the above instrument; that they know the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that they signed their names thereto by like order.



BERTRAM BROWN
Notary Public, State of New York
No. 315471150
Qualified in New York County
Commission Expires March 3, 1964

STATE OF NEW YORK :
: SS.:
COUNTY OF NEW YORK:

On the 10th day of April, 1962, before me personally came ABRAHAM F. WECHSLER and DAVID PASMANTIER to me known, who being by me duly severally sworn, did depose and say that they reside at 7 West 81st Street, New York 24, N.Y. and 10 Park Avenue, New York 21, N.Y.; respectively; that they are President and Secretary, respectively of THE BRONX HOSPITAL, the corporation described in and which executed the above instrument; that they know the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that they signed their names thereto by like order.

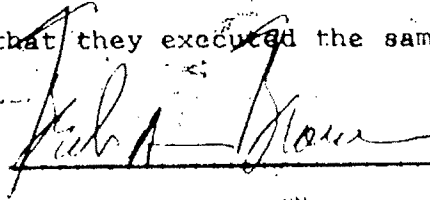


BERTRAM BROWN
Notary Public, State of New York
No. 315471150
Qualified in New York County
Commission Expires March 3, 1964



STATE OF NEW YORK :
: SS.:
COUNTY OF NEW YORK:

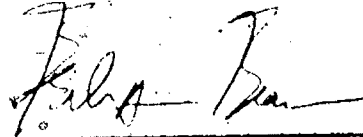
On the 10th day of April, 1962, before me personally appeared IRVING H. STOLZ and SAMUEL P. EPSTEIN, to me known, and known to me to be the individuals described in, and who executed the foregoing instrument, and duly acknowledged to me that they executed the same.



BERTRAM BROWN
Notary Public, State of New York
No. 41-471150
Qualified in New York County
Commission Expires March 30, 1964

STATE OF NEW YORK :
: SS.:
COUNTY OF NEW YORK:

On the 10th day of April, 1962, before me personally appeared ABRAHAM F. WECHSLER and DAVID PASMANTIER, to me known, and known to me to be the individuals described in, and who executed the foregoing instrument, and duly acknowledged to me that they executed the same.



BERTRAM BROWN
Notary Public, State of New York
No. 41-471150
Qualified in New York County
Commission Expires March 30, 1964

At a Special Term, Part I
of the Supreme Court of the
State of New York, held in and
for the County of Bronx, at the
Courthouse thereof, in the
Borough of Bronx, City of New
York, on the 3rd day of October, 1962.

P R E S E N T :

Hon. CHARLES A. LORETO,

Justice

-----X
In the Matter of

the Application of the Bronx Hospital and
The Lebanon Hospital Association of the City
of New York for an Order under Section 52 of
the Membership Corporation Law approving their
agreement for consolidation into THE BRONX-
LEBANON HOSPITAL CENTER and authorizing the
filing of the Certificate of Consolidation
under Section 50 of said Law.

-----X
On reading and filing the annexed petition of
THE LEBANON HOSPITAL ASSOCIATION OF THE CITY OF NEW YORK, by
Irving H. Stolz, president and THE BRONX HOSPITAL, by Arthur Sorin,
vice-president, verified on the 1st day of October, 1962, for an
order approving the agreement consolidating the said corporations
and authorizing the filing of the certificate of consolidation
together with the annexed agreement made by and between said
corporations for their consolidation, and upon reading the approval
of the State Board of Social Welfare dated September 28th, 1962,
attached to the original proposed certificate of consolidation
attached herewith, and upon the annexed notices of Special Meetings
of the members of Lebanon Hospital and The Bronx Hospital dated
April 3, 1962 with due proof of service of such notices on all the
members thereof as shown on attached statements,

AND it appearing to the satisfaction of the Court
that the said corporations are membership corporations

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incorporated under the laws of the State of New York for kindred purposes; that the principal office of the consolidated corporation is to be located in the first judicial district and that they have duly entered into an agreement for their consolidation, a copy of which is annexed, and that said agreement has been approved by the votes of two-thirds of the members of each corporation entitled to vote at meetings of the members of each corporation called for the purpose of considering the proposed consolidation in the manner prescribed by Section 43 of the Membership Corporations Law and that no votes against adoption of the resolutions approving the agreement for consolidation were cast at such meetings and that the interests of the constituent corporations and the public will not be adversely affected, and there being no votes against the adoption of the resolution approving the agreement notice of this application is therefore dispensed with.

NOW, on motion of Sulzberger & Sulzberger, attorneys for the applicants, it is

ORDERED that the agreement of consolidation of The Bronx Hospital and The Lebanon Hospital Association of the City of New York be and hereby is approved, and it is further

ORDERED that the filing of the certificate of consolidation dated April 10, 1962, be and the same hereby is authorized and the said corporations are hereby consolidated into one corporation under the name of The Bronx-Lebanon Hospital Center, such consolidation to take effect upon filing a duly certified copy of this order

No 56752

State of New York, } ss:
County of Bronx, }

I, JOHN J. HANLEY, Clerk of the said County and Clerk of the County Court of said State for said County, and Clerk of the County Court of said State for said County, That I have compared the preceding with the original -

ORDER

on file in my office, and that the same is a correct transcript and of the whole of such original.
Indorsed Filed.

OCT 4 1962

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official

seal, this OCT 4 day of John J. Hanley

FEE PAID \$1.00

and the certificate of consolidation of said corporations
with the Secretary of State of the State of New York.

ENTER,

1/1 Charles A. Lorato

J.S.C.

STATE OF NEW YORK
DEPARTMENT OF STATE
A TRUE COPY OF THE ORIGINAL
FILED IN THIS OFFICE ON

OCT 26 1912

WITNESSED BY HAND AND OFFICIAL
SEAL OF THE DEPARTMENT OF
STATE ON THE DATE ABOVE
WRITTEN.

Charles A. Lorato

SECRETARY OF STATE

J. J. ...

DEPUTY SECRETARY OF STATE

319136 A

CERTIFICATE OF CONSOLIDATION
OF THE LEBANON HOSPITAL ASSOC-
IATION OF THE CITY OF NEW YORK
AND THE BRONX HOSPITAL INTO THE
BRONX-LEBANON HOSPITAL CENTER

Pursuant to Section 50
of the
Membership Corporations Law

OR 571136

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED OCT 26 1962

TAX NONE
FILING FEE 30

Carlton R. Adams

Secretary of State

BY *ABELL*

Filed by
Sulzberger & Sulzberger
295 Madison Av.,
New York 17, N.Y.

18

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on December 8, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

CERTIFICATE OF TYPE OF NOT-FOR-PROFIT
CORPORATION OF THE BRONX-LEBANON
HOSPITAL CENTER

889944
Under Section 113 of the Not-For-Profit Corporation Law

IT IS HEREBY CERTIFIED THAT:

1. The name of the corporation is THE BRONX-LEBANON HOSPITAL CENTER.

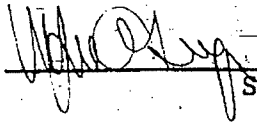
2. The Certificate of Consolidation of THE LEBANON HOSPITAL ASSOCIATION OF THE CITY OF NEW YORK and THE BRONX HOSPITAL into THE BRONX-LEBANON HOSPITAL CENTER was filed by the Department of State on October 26, 1962 pursuant to Section 50 of the Membership Corporations Law.

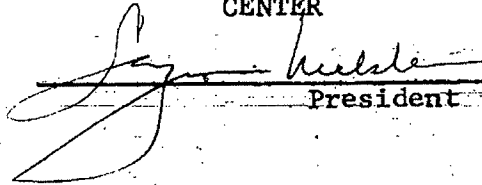
3. The post office address to which the Secretary of State shall mail a copy of any notice required by law is THE BRONX-LEBANON HOSPITAL CENTER, 1276 Fulton Avenue, Bronx, New York 10456.

4. Under Section 201 (Purposes) of the Not-for-Profit Corporation Law the corporation is a Type B Not-for-Profit corporation as defined in the Not-for-Profit Corporation Law.

Dated: New York, N.Y.
January 12, 1971.

THE BRONX-LEBANON HOSPITAL
CENTER


Secretary


President

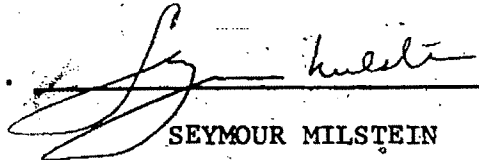
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

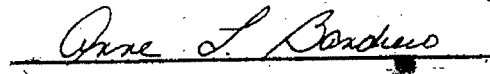
SEYMOUR MILSTEIN, being duly sworn,
deposes and says that he is the President
of THE BRONX-LEBANON HOSPITAL CENTER, the corporation named in
the within action; that deponent has read the foregoing
Certificate, and knows the contents thereof; and that the same
is true to deponent's own knowledge.

This verification is made by deponent because The
Bronx-Lebanon Hospital Center is a domestic corporation. Depo-
nent is an officer thereof, to-wit, its President.

Sworn to before me this

12 day of January, 1971.


SEYMOUR MILSTEIN



ANNE E. BANDIERO
Notary Public, State of New York
41-0149635 Queens County
Commission Expires March 30, 1971

*Forwarded by David
10/26/62 B...*

CERTIFICATE OF TYPE OF NOT-FOR-PROFIT CORPORATION OF THE BRANSON-LEBANON HOSPITAL CENTER

Under Section 113 of the Not-For-Profit Corporation Law

By T. J. ...

3/11/63

TAX & BILLING DEPT.
112

John P. ...

SECRETARY OF STATE

03 B...

T. J. ...

LAW OFFICES
KATZ, ROBINSON BROG & SEYMOUR
10 EAST 40th STREET
NEW YORK, N.Y. 10018

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
December 8, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

USE

KUSH RFC

Rusk



STATE OF NEW YORK
DEPARTMENT OF HEALTH
ALBANY

PUBLIC HEALTH COUNCIL

September 23, 1971

KNOW ALL MEN BY THESE PRESENTS:

947039

In accordance with action taken after due inquiry and investigation at a meeting of the Public Health Council held on the 10th day of September, 1971, I hereby certify that the Certificate of Merger of Bronx Eye Infirmary, Inc. and The Bronx-Lebanon Hospital Center into The Bronx-Lebanon Hospital Center is APPROVED.

This approval is for the operation of a facility containing 643 beds.

Richard H. Mattox
RICHARD H. MATTOX
Executive Secretary

COUNCIL

NORMAN S. MOORE, M.D.
CHAIRMAN
GEORGE BAHR, M.D.
BLONIE A. P. BOND
DETLEF BRONK, Ph.D.
STEVEN E. BROWN

MORTON P. HYMAN
CHARLES T. LANIGAN
GERALD B. MANLEY, M.D.
GEORGE R. METCALF
W. KENNETH RILANO, D.O.
JOHN F. ROACH, M.D.

HOWARD A. RUSK, M.D.
JOHN M. WALSH
WILLIAM H. WISELY, D. ENG.
HOLLIS S. INGRAHAM, M.D.
EX OFFICIO



The University of the State of New York

STATE OF NEW YORK:
 : SS.
 COUNTY OF ALBANY :

Consent is hereby given to the merger of BRONX EYE INFIRMARY, INC. and THE BRONX-LEBANON HOSPITAL CENTER with THE BRONX-LEBANON HOSPITAL CENTER, the name of the surviving corporation to be THE BRONX-LEBANON HOSPITAL CENTER, as set forth in the annexed certificate of merger made under and pursuant to the provisions of Section 909 of the Not-For-Profit Corporation Law:

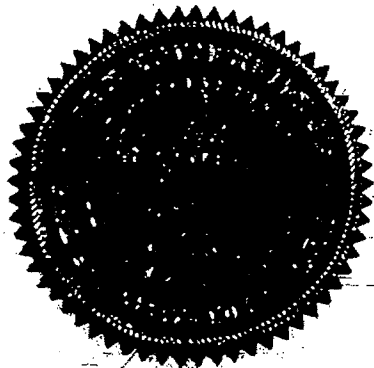
This approval for filing, however, shall not be construed as approval by the Board of Regents, the Commissioner of Education or the State Education Department of the purposes or objects of such corporation, nor shall it be construed as giving the officers or agents of such corporation the right to use the name of the Board of Regents, the Commissioner of Education, the University of the State of New York or the State Education Department in its publications or advertising matter.

IN WITNESS WHEREOF this instrument is executed and the seal of the State Education Department is affixed this 4th day of November, 1971

Ewald B. Nyquist
 Commissioner of Education

By:

John P. Jehu
 John P. Jehu
 Associate Counsel



CERTIFICATE OF MERGER

OF

BRONX EYE INFIRMARY, INC.

AND

THE BRONX-LEBANON HOSPITAL CENTER

INTO

THE BRONX-LEBANON HOSPITAL CENTER

Under Section 904 of the Not-for-Profit Corporation Law

We, the undersigned, being respectively the President and Secretary of Bronx Eye Infirmary, Inc. and the President and Secretary of The Bronx-Lebanon Hospital Center, certify:

I. (a) The name of each constituent corporation to the merger is the Bronx Eye Infirmary, Inc. and The Bronx-Lebanon Hospital Center.

(b) The Bronx Eye Infirmary, Inc. is merged into The Bronx-Lebanon Hospital Center, and the surviving corporation shall continue to be known as The Bronx-Lebanon Hospital Center.

(c) The Bronx-Lebanon Hospital Center is a corporation resulting from the consolidation, pursuant to Section 50 of the Membership Corporations Law, of the Bronx Hospital and the Lebanon Hospital Association of the City of New York. The Certifi-

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cate of Consolidation creating a new corporation under the name of The Bronx-Lebanon Hospital Center was duly filed with the Secretary of State of the State of New York on October 26, 1962.

In addition, a Certificate of Type was similarly filed on February 23, 1971. The predecessor corporations to the consolidated corporation, both organized under the Membership Corporations Law, were:

(i) The Lebanon Hospital Association of the City of New York, the Certificate of Incorporation of which was duly filed with the Secretary of State of the State of New York on July 17, 1890; and

(ii) The Bronx Hospital, the Certificate of Incorporation of which was duly filed with the Secretary of State of the State of New York on November 24, 1911, and an amendment to the Certificate of Incorporation of which was filed in said office on April 19, 1922.

(d) Bronx Eye Infirmary, Inc. (hereinafter sometimes referred to as the "Infirmary") was incorporated under the Membership Corporations Law under the name Bronx Eye and Ear Infirmary, and its Certificate of Incorporation was duly filed in the office of the Secretary of State of the State of New York on April 30, 1903. Amendments to its Certificate of Incorporation were filed in the office of the Secretary of State of the State of New York on March 28, 1928, April 26, 1928, July 15, 1957 and August 16, 1967.

In addition, a Certificate of Change of Name of the subject corporation to Bronx Eye Infirmary, Inc. was similarly filed on August 16, 1967.

II. (a) There are two classes of members in the Infirmary, Annual Members and Life Members. There are currently thirty-two Annual Members and eleven Life Members. Each member of the Infirmary is qualified to participate in meetings of the members including meetings held for the purpose of electing Directors, to cast a single vote at all such meetings and to serve as an officer of the Infirmary.

(b) The membership of The Bronx-Lebanon Hospital Center consists solely of the members of its Board of Trustees. Management of the affairs of The Bronx-Lebanon Hospital Center, including full authority over its funds and property, is vested in the Board of Trustees. Every Trustee is qualified to hold office in The Bronx-Lebanon Hospital Center. There are three classes of Trustees; each class is elected for a term of three years; the term of office of each class expires in April of successive years. The total number of Trustees of all classes may not be less than six nor more than fifty. There are presently thirty individuals serving on the Board of Trustees and each is also automatically a member of The Bronx-Lebanon Hospital Center.

Every member of The Bronx-Lebanon Hospital Center is qualified to participate in and vote at meetings of the members. At each annual meeting, those members whose terms as Trustees do not expire that year elect a new class of Trustees to serve for a three-year period, and the newly elected Trustees automatically replace their predecessors as both Trustees and members of The Bronx-Lebanon Hospital Center.

(c) Subsequent to the merger (1) there will be no change in (i) the total number of authorized Trustees of The Bronx-Lebanon Hospital Center and (ii) the existing classification of its Trustees and (2) none of the directors or members of the Bronx Eye Infirmary shall become Trustees or members of The Bronx-Lebanon Hospital Center, except that the Board of Trustees of The Bronx-Lebanon Hospital Center may, in its discretion, elect Messrs. Eugene G. Schulz, Jr. and Melvin Blauvelt, who have been affiliated with the Infirmary, to fill vacancies on the Board of Trustees, and thereby also become members.

III. This merger shall not effect any amendment or change in the Certificate of Incorporation of the surviving corporation except that paragraph 7(b) of the Certificate of Consolidation of The Bronx-Lebanon Hospital Center heretofore

filed in the office of the Secretary of State of the State of New York on November 8, 1962 shall be deleted in its entirety, and in its place shall be substituted the following new paragraph 7(b):

"The Board of Trustees shall be divided as equally as possible into three classes. The term of Trustees of the first class shall expire in April 1972; the term of Trustees of the second class shall expire in April 1973; and the term of Trustees of the third class shall expire in April 1974. At each annual election the successors to the members of the class of Trustees whose terms shall have expired at such meeting shall be elected to hold office for a term of three years so that the term of office of one class of Trustees shall expire in each year."

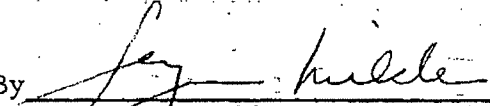
IV. The merger shall take effect upon filing of the Certificate of Merger by the Department of State.

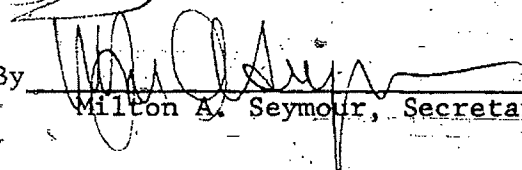
V. The merger was authorized at meetings of the members of the Bronx Eye Infirmary, Inc. and The Bronx-Lebanon Hospital Center by the unanimous vote of all members present and voting at each such meeting. The plan of merger has not been abandoned.

IN WITNESS WHEREOF, this Certificate has been

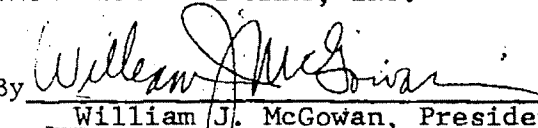
signed this 27th day of May, 1971.

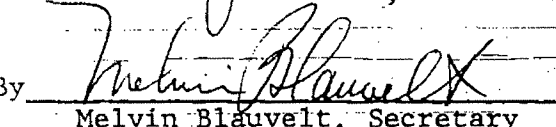
THE BRONX-LEBANON HOSPITAL CENTER

By 
Seymour Milstein, President

By 
Milton A. Seymour, Secretary

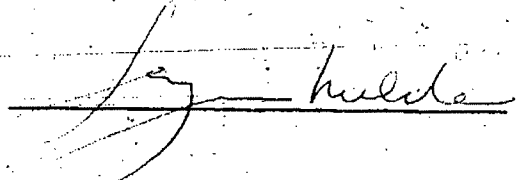
BRONX EYE INFIRMARY, INC.

By 
William J. McGowan, President

By 
Melvin Blauvelt, Secretary

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

SEYMOUR MILSTEIN , being first duly sworn,
deposes and says that he is the President of THE BRONX-LEBANON
HOSPITAL CENTER, that he has read the foregoing Certificate
and knows the contents thereof, and that the statements therein
contained are true.



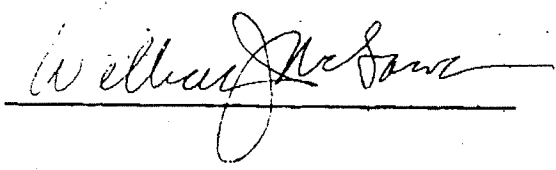
Sworn to before me this
17th day of May, 1971.



MILTON E. [unclear] Notary Public
Notary Public, State of New York
No. 314402110
Qualified New York County
Term Expires March 30, 1973

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

WILLIAM J. MCGOWAN , being first duly sworn, deposes
and says that he is the President of BRONX EYE INFIRMARY, INC.,
that he has read the foregoing Certificate and knows the con-
tents thereof, and that the statements therein contained are
true.



Sworn to before me this
17th day of May, 1971.



Notary Public

DOMINICK TUMINARO
NOTARY PUBLIC, State of New York
No. 03-9392800
Qual. in Bronx Co. Cert. Filled with
Bronx County Register
Term Expires March 30, 1972

9

At a Special Term, Part 1
of the Supreme Court of
the State of New York,
held in and for the County
of Bronx, at the Court-
house thereof, in the
Borough of Bronx, City
and State of New York, on
the 15th day of November
1971.

P R E S E N T :

HONORABLE WILFRED A. WALTEMAD

Justice

In the Matter of the Application of The
Bronx-Lebanon Hospital Center and Bronx
Eye Infirmary, Inc. for an Order Approv-
ing Their Plan of Merger and Authorizing
the Filing of a Certificate of Merger
Pursuant to Section 907 of the Not-For-
Profit Corporation Law.

Index No. 16472/71

ORDER

Upon reading the petition of The Bronx-Lebanon
Hospital Center and the Bronx Eye Infirmary, Inc., duly
verified by each of the petitioners on the 13th day of
October, 1971, and the exhibits thereto, including the
plan of merger of said corporations dated May 27, 1971,
and the financial statements with respect to each corpo-
ration, and no votes having been cast by members of either
corporation against the adoption of the resolutions approv-
ing the plan of merger, and both the Attorney General and
the Public Health Council having waived notice of hearing,
and both the Public Health Council, and the State Education
Department having approved the Certificate of Merger executed
by each of said corporations on the 27th day of May, 1971,
and the court having given due consideration hereto, and

it appearing to the court that the provisions of Section 11 of the Merger Law have been complied with, and that the interests of the constituent corporations and the public interest would not be adversely affected by the merger of the petitioning corporations,

NOW, on motion of Pincus, Rutner, Seeman & Hasen attorneys for the petitioners, it is hereby

ORDERED, that the plan dated May 27, 1971, for the merger of the Bronx Eye Infirmary, Inc., into the Bronx-Lebanon Hospital Center be and it hereby is approved, and it is further

ORDERED, that the said corporations be and they hereby are authorized to file with the Secretary of State the certificate of merger executed by them the 27th day of May, 1971, in the form annexed to the petition, and it is further

ORDERED, that upon filing of the said certificate of merger together with a certified copy of this order as required, all the assets of the Bronx Eye Infirmary, Inc., shall thereby be transferred and conveyed to the Bronx-Lebanon Hospital Center, and it is further

ORDERED, that the merger of the corporations shall

it appearing to the satisfaction of the court that the provisions of Section 907 of the Not-for-Profit Corporation Law have been complied with, and that the interest of the constituent corporations and the public interest would not be adversely affected by the merger of the petitioning corporations,

NOW, on motion of Pincus, Hutner, Seeman & Hasen, attorneys for the petitioners, it is hereby

ORDERED, that the plan dated May 27, 1971, for the merger of the Bronx Eye Infirmary, Inc., into the Bronx-Lebanon Hospital Center be and it hereby is approved, and it is further

ORDERED, that the said corporations be and they hereby are authorized to file with the Secretary of State the certificate of merger executed by them the 27th day of May, 1971, in the form annexed to the petition, and it is further

ORDERED, that upon filing of the said certificate of merger together with a certified copy of this order as required, all the assets of the Bronx Eye Infirmary, Inc. shall thereby be transferred and conveyed to The Bronx-Lebanon Hospital Center, and it is further

ORDERED, that the merger of the corporations shall

Nº 135609

State of New York, } LEO LEVI
County of Bronx, } LEO LEVI

I, JOHN McFERRAY, Clerk of the said County and Clerk of the Supreme Court of said State for said County, Do CERTIFY, That I have compared the preceding with the original

ORDER

on file in my office, and that the same is a correct transcript therefrom, and of the whole of such original. NOV 17 1970

Indorsed Filed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official

seal, this NOV 17 1970 day of

19 17

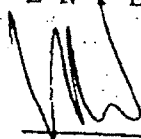
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Leo Levi

Clerk.

have the effect provided by Section 13 of the Not-For-Profit Corporation Law of the State of New York.

ENTER



J.S.C.

The Public Health Council, with respect to the entry of the foregoing order, hereby waives notice of the application therefor, and notice of settlement thereof, and any hearing herein.

Richard H. Phillips Secretary
Public Health Council

Dated: October 20, 1971

Notice of Application Waived
(This is not to be deemed an approval on behalf of any Department or Agency of the State of New York, nor an authorization of activities otherwise limited by law.)

Dated: November 8, 1971

LOUIS J. LEFKOWITZ
Attorney General

By Richard Cole
Assistant Attorney General

947039 14

528 728

① approved same and 8/16/67

CERTIFICATE OF MERGER

OF

① BRONX EYE INFIRMARY, INC.

City - Bronx Ey and Eyr ...

4/30/63

AND

② THE BRONX-LEBANON HOSPITAL CENTER

INTO

THE BRONX-LEBANON HOSPITAL CENTER

② approved Forward by ...

10/26/62 Bronx Co

Copy - B

ord. add. 1276 Fulton Ave

Bronx NY

Under Section 904 of the Not-For-Profit Corporation Law

MADE NOV 19 1974

CASE 9 ...

John P. ...

Secretary of State

D B Bronx

RAPOPORT, RUBINO & PINCUS
110 EAST 19th STREET
NEW YORK, N.Y. 10022

Consent of ...

14

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
December 8, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State



The University of the State of New York

STATE OF NEW YORK:
: SS.:
COUNTY OF ALBANY :

In accordance with the provisions of section 804 of the Not-for-Profit Corporation Law, consent is hereby given to the change of purposes of BRONX-LEBANON HOSPITAL CENTER contained in the annexed certificate of amendment to the certificate of incorporation

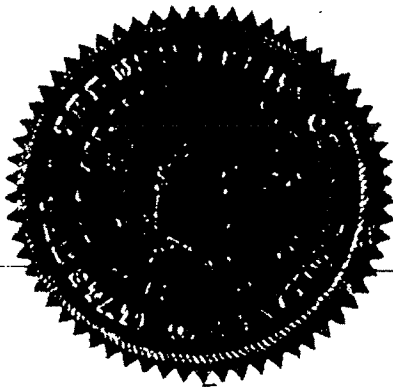
This consent to filing, however, shall not be construed as approval by the Board of Regents, the Commissioner of Education or the State Education Department of the purposes or objects of such corporation, nor shall it be construed as giving the officers or agents of such corporation the right to use the name of the Board of Regents, the Commissioner of Education, the University of the State of New York or the State Education Department in its publications or advertising matter.

IN WITNESS WHEREOF this instrument is executed and the seal of the State Education Department is affixed this 25th day of July, 1985.

Gordon M. Ambach
Commissioner of Education

BY: [Handwritten signature]

Robert D. Stone
Counsel and Deputy Commissioner
for Legal Affairs



1

143-38

CERTIFICATE OF AMENDMENT
OF THE

UNI

CERTIFICATE OF CONSOLIDATION
OF

THE BRONX-LEBANON HOSPITAL CENTER
(the "Corporation")

UNDER SECTION 803 OF THE

NOT-FOR-PROFIT CORPORATION LAW

0385273

We, the undersigned, being the President and the Secretary of the Corporation do hereby certify:

FIRST: The name of the Corporation is the Bronx-Lebanon Hospital Center.

SECOND: The Corporation was established pursuant to the Certificate of Consolidation of The Lebanon Hospital Association of The City of New York and The Bronx Hospital which was filed by the Department of State on the 26th day of October, 1962. The Corporation was formed under Section 50 of the Membership Corporations Law.

2

THIRD: The Corporation is a corporation as defined in subparagraph (a) (5) of Section 102 of the ~~Not-For-Profit Corporation Law~~ and is a Type B corporation under Section 201 of said law. The Corporation shall continue to be a Type B corporation upon the filing of this Amendment to the Certificate of Consolidation.

FOURTH: ~~The post office address within the State to which the Secretary of State shall mail a copy of any notice required by law is:~~

~~Office of the President
The Bronx Lebanon Hospital Center
1276 Fulton Avenue
Bronx, New York 10456~~

FIFTH: The Certificate of Consolidation is hereby amended to expand the Corporation's purposes with respect to the operation of teaching programs, participation in federal mortgage insurance programs, and the performance of all other acts ~~incidental to the Corporation's purposes.~~ The Certificate of Consolidation is hereby amended as follows:

(1) to delete the introductory language of Paragraph 3 which reads:

3. The purposes for which the Consolidated Corporation is formed are as follows:

and to add new introductory language to read as follows:

3

3. The Corporation is irrevocably dedicated to, and operated exclusively for, non-profit purposes and no part of the income or assets of the Corporation shall be distributed to, nor inure to the benefit of, any individual. The purposes for which the Corporation is formed are as follows:

(2) to amend Subparagraph (b) of Paragraph 3

which reads:

(b) To engage in all the incidental activities necessary for the conduct of an intern and resident program. Nothing herein contained shall vest in the Corporation the right to grant degrees unless authorized by the State of New York.

to read as follows:

(b) to carry on any educational and training activities, including intern, resident and nursing programs, related to rendering care to the sick, injured and disabled or the promotion of health, and to further practical knowledge in the sciences of medicine and nursing; provided, however, that no such program shall be operated before it satisfies applicable licensing and registration requirements. Nothing herein contained shall vest in the Corporation the right to grant degrees unless authorized by the State of New York.

(3) to redesignate Subparagraphs (c) and (d) of Paragraph 3 as Subparagraphs (d) and (e), respectively.

(4) to add a new Subparagraph (c) of Paragraph 3 to read as follows:

(c) to provide, on a non-profit basis, hospital facilities and services for the care and treatment of persons who are acutely ill who otherwise require medical care and related services of the kind customarily furnished most effectively by hospitals, pursuant to mortgage insurance available

under Section 242 of the National Housing Act, as amended.

(5) to add a new Subparagraph (g) of Paragraph 3 to read as follows:

(f) to perform any and all other acts incidental to, or connected with, the foregoing purposes, or in advancement thereof, consistent with the provisions of applicable law.

(6) to redesignate Subparagraph (e) of Paragraph 3 which reads:

(e) The Consolidated Corporation shall have the power to take and hold by grant, gift, devise, bequest, purchase, lease, or in any other manner, for any of the purposes and objects of said Corporation, any real or personal property, without limitation as to amount, necessary or proper for such purpose and objects.

as a new Paragraph 4 and to amend it to read as follows:

4. Except as herein set forth, the Corporation shall have all the powers conferred by the Not-For-Profit Corporation Law of the State of New York including, without limitation, the following:

(a) to take and hold by grant, gift, devise, bequest, purchase, lease, or in any other manner, any real or personal property, without limitation as to amount, necessary or proper to further the purposes and objects of the Corporation;

(b) to borrow money and issue evidence of indebtedness in furtherance of any of the purposes and objects of the Corporation, and to secure the same by mortgage, pledge or other lien on the Corporation's property; and

(c) to do and perform all acts reasonably necessary to accomplish the purposes of the Corporation, including,

without limitation, the execution of a ~~Regulatory Agreement with the United States Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, and of such other instruments and undertakings as may be necessary to enable the Corporation to secure the benefits of financing with the assistance of mortgage insurance under the provisions of the National Housing Act; such Regulatory Agreement and other instruments and undertakings shall remain binding upon the Corporation, its successors and assigns, so long as a mortgage on the Corporation's property is insured or held by the Secretary of Housing and Urban Development.~~

(7) to renumber Paragraphs 4 through 12 as Paragraph 5 through 13, respectively.

SIXTH: ~~The manner in which this Amendment to the Certificate of Consolidation of the Corporation was authorized was by the affirmative vote of a majority of the Members entitled to vote thereon at a meeting of the Members duly called and held on the 11th day of June 1985, the affirmative vote being at least equal to the quorum.~~

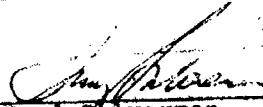
SEVENTH: ~~The approval of the New York State Board of Social Welfare dated September 28, 1962 and the approval of a Justice of the Supreme Court of the State of New York, County of Bronx dated October 4, 1962 were annexed to the Certificate of Consolidation of the Corporation.~~

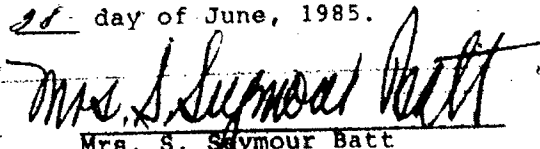
~~Prior to the delivery of this Certificate of
Amendment to the Department of State for filing,
all necessary approvals and consents required by
law will be endorsed upon or annexed hereto.~~

EIGHTH: The Secretary of State is hereby designated,
~~pursuant to Section 402(a)(7) of the~~
Not-For-Profit Corporation Law, as agent of the
Corporation upon whom process against it may be
served. The post office address to which the
Secretary shall mail a copy of any process against
the Corporation served upon him is:

Office of the President
The Bronx-Lebanon Hospital Center
1276 Fulton Avenue
Bronx, New York 10456

IN WITNESS WHEREOF, we, hereunto sign our names and
affirm that the statements made herein are true under the
penalties of perjury this 26 day of June, 1985.


Fred Silverman
President
The Bronx-Lebanon
Hospital Center


Mrs. S. Seymour Batt
Secretary
The Bronx-Lebanon
Hospital Center

STATE OF NEW YORK)
) SS.:
COUNTY OF BRONX)

FRED SILVERMAN, being duly sworn deposes and says that he is the President of the Bronx-Lebanon Hospital Center, the corporation mentioned and described in the foregoing instrument; that he has read and signed the same and that the statements contained therein are true.

Sworn to before me this
28th day of June, 1985

C. Jean Mitchell
Notary Public

C. JEAN MITCHELL
Notary Public, State of New York
No. 31-4507800
Qualified in New York County
Commission Expires March 30, 1986

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

MRS. S. SEYMOUR BATT, being duly sworn deposes and says that she is the Secretary of the Bronx-Lebanon Hospital Center, the corporation mentioned and described in the foregoing instrument; that she has read and signed the same and that the statements contained therein are true.

Sworn to before me this
28th day of June, 1985

C. Jean Mitchell
Notary Public


C. JEAN MITCHELL
Notary Public, State of New York
No. 31-4507800
Qualified in New York County
Commission Expires March 30, 1986

8

CERTIFICATE OF APPROVAL

I, the undersigned, a Justice of the Supreme Court of the State of New York in the Twelfth Judicial District, in which the principal office of the Bronx-Lebanon Hospital Center is located, do hereby approve of the foregoing Certificate of Amendment of the Certificate of Consolidation of the Bronx-Lebanon Hospital Center and the filing thereof.

Dated: JUL 1 1986, 1985
New York, New York


Justice of the Supreme Court
of the State of New York
IRMA V. SANTAELLA

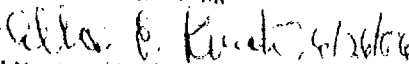
The undersigned has no objection to the granting of judicial approval hereon and waives statutory notice.

Dated: _____, 1985
New York, New York

THE UNDERSIGNED HAS NO OBJECTION
TO THE GRANTING OF JUDICIAL
APPROVAL HEREON AND WAIVES
STATUTORY NOTICE

Robert Abrams,
Attorney General State of New York

ROBERT ABRAMS, ATTORNEY GENERAL
STATE OF NEW YORK


ALLAN E. KIRSTEIN
Assistant Attorney General

By: _____
Assistant Attorney General
State of New York



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

Morton P. Hyman
Chairman

May 30, 1986

In accordance with action taken after inquiry and investigation at a meeting of the Public Health Council held on the 18th day of April, 1986, I hereby certify that the Certificate of amendment of the Certificate of Incorporation of Bronx-Lebanon Hospital Center dated June 28, 1985, is APPROVED.

Public Health 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.


CAROL WHITTAKER-SMITH
Secretary

Sent to: Ms. Ellen Cone Maddrey
Wood, Lucksinger, & Epstein
Attorneys at Law
101 Park Avenue
New York, NY 10178-0030

10

RECEIVED
JUN 02 1986

WOOD, LUCKSINGER
& EPSTEIN

M

STATE OF NEW YORK
DEPARTMENT OF STATE

JUL 29 1986

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15

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CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF CONSOLIDATION
OF
THE BRONX-LEBANON HOSPITAL CENTER

and UNIT
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BILLED

Under Section 803 of the Not-for-Profit Corporation Law

385273

ADD TO 10/26/82
Bronx
L- 947039-14
768694
349436

Wood Lucksinger & Epstein
101 Park Avenue
New York, New York 10178

NE P
15 701 11th Ave
Bronx NY
NE P type B


JUL 29 1986

FILLED



MEMORANDUM

To: Public Health and Health Planning Council (PHHPC)

From: Richard J. Zahnleuter
General Counsel 

Date: November 22, 2017

Subject: Dissolution: Sidney Area Hospital Foundation, Inc. (the "Foundation")

The Foundation is authorized to solicit funds for the benefit of an Article 28 hospital, The Hospital Inc.; however, that hospital no longer exists. Therefore, the Foundation has elected to dissolve and seeks PHHPC approval to proceed with dissolution.

Pursuant to the Foundation's Plan of Dissolution, funds that it still has will be distributed to Friends of Bassett, Inc., another Article 28 foundation. Friends of Bassett, Inc. has passed a resolution indicating a willingness to accept those funds; a photocopy of that resolution is attached hereto. Also attached hereto is a financial balance sheet for the Foundation.

Pursuant to Article 10 of the New York State Not-for-Profit Corporation Law, PHHPC approval of the dissolution must be received. PHHPC approval is also required pursuant to 10 NYCRR Part 650.

The documents submitted by the Corporation have been reviewed. There is no legal objection to the proposed Verified Petition, Affidavit to amend the Verified Petition, Plan of Dissolution, and Certificate of Dissolution.

Attachments

KERNAN AND KERNAN, P.C.

Leighton R. Burns
Gregory A. Hamlin

James S. Kernan, Jr.
Michael H. Stephens
of Counsel

COUNSELORS AT LAW
SUITE 1401
14th Floor
185 GENESEE STREET
UTICA, NEW YORK 13501-2194

Telephone
(315) 797-8300
Facsimile
(315) 797-6467

April 4, 2017

Mark Furnish, Esq.
New York State Department of Health
Bureau of Health Facilities
and Development
Division of Legal Affairs
Corning Tower
Empire State Plaza, Room 2484
Albany, New York 12237

Re: Sidney Area Hospital Foundation, Inc.
(Dissolution)

Dear Mr. Furnish:

I represent the Sidney Area Hospital Foundation, Inc. which is a New York dissolving not-for-profit corporation. Enclosed is a copy of the petition and attachments which have been submitted to and reviewed by Assistant Attorney General Michael Danaher, Jr. Mr. Danaher's address and telephone number are Office of the Attorney General, State Office Building, 17th Floor, 44 Hawley Street, Binghamton, New York 13901, telephone: (607) 721-8771. I am also enclosing a copy of my client's most recent financial statement for the period ending December 31, 2016.

I was not aware that New York State Public Health Council approval is needed to complete the dissolution until Mr. Danaher pointed that out to me. I therefore request, if all is in order, that the Department of Health issue an approval document to be sent to me consenting to the filing of the certificate of dissolution of Sidney Area Hospital Foundation, Inc.

Please call me if you have any questions or need additional information. Thank you for your consideration.

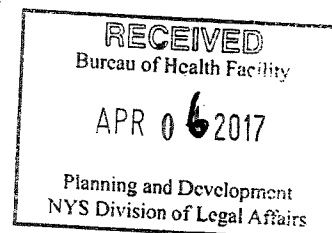
Sincerely yours,

KERNAN AND KERNAN, P.C.

Gregory A. Hamlin
Gregory A. Hamlin

GAH/po
Enclosures

cc: Assistant Attorney General Michael Danaher
(without enclosures)



Leighton R. Burns
Gregory A. Hamlin

James S. Kernan, Jr.
Michael H. Stephens
of Counsel

KERNAN AND KERNAN, P.C.

COUNSELORS AT LAW
SUITE 1401
14th Floor
185 GENESEE STREET
UTICA, NEW YORK 13501-2194

RECEIVED

OCT 26 2017

Telephone
(315) 797-8300

Facsimile
(315) 797-6467

**NYS DEPARTMENT OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF LITIGATION**

October 24, 2017

Eric Mantey, Esq.
New York State Department of Health
Bureau of Health Facilities
and Development
Division of Legal Affairs
Corning Tower
Empire State Plaza, Room 2484
Albany, New York 12237

RECEIVED

SEP 16 2017

**NYS DEPARTMENT OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF LITIGATION**

Re: Sidney Area Hospital Foundation, Inc.
(Dissolution)

Dear Mr. Mantey:

Several months ago we spoke concerning my letter of April 4, 2017 requesting a consent to this dissolution by the New York State Public Health Council. At that time you requested that I furnish you with a copy of the proposed Certificate of Dissolution and a revision to the Petition. Enclosed are an Affidavit amending the Petition sworn to on October 10, 2017 and a proposed Certificate of Dissolution dated that same day.

Copies of the enclosures and other information requested by Assistant Attorney General Michael Danaher, Jr. have been sent to him. Thank you for your continuing consideration of this request.

Sincerely yours,

KERNAN AND KERNAN, P.C.


Gregory A. Hamlin
Gregory A. Hamlin

GAH/po
Enclosures

CERTIFICATION

I, Marcia Palmatier as Secretary of the Sidney Area Hospital Foundation, Inc. hereby certify under penalties of perjury that at a duly called meeting of the Board of Directors of the Corporation held on November 18, 2014 at Sidney, New York the within Plan of Dissolution and Distribution and Resolutions were submitted and approved by the unanimous vote of the Directors in attendance at such meeting.

Dated the 18th day of November, 2014


Marcia Palmatier
Marcia Palmatier, Secretary

Certificate of Dissolution
of
Sidney Area Hospital Foundation, Inc.

Under Section 1003 of the Not-for-Profit Corporation Law

I, Mark Roberts, the president of Sidney Area Hospital Foundation, Inc. hereby certify as follows:

1. The name of this corporation is Sidney Area Hospital Foundation, Inc.

2. The Certificate of Incorporation of Sidney Area Hospital Foundation, Inc. was filed with the New York State Department of State on the 10th day of April, 1992.

3. The names and addresses of each of the officers and directors of the corporation and the title of each are as follows:

Mark Roberts, President and Chairman of the Board of
Directors
21 Prospect Drive
Sidney, NY 13838

Thomas Vail, Director
P.O. Box 415
Afton, NY 13730

Marcia Palmatier, Director and Secretary
10 Pearl Street
Bainbridge, NY 13733

Patricia Longwell, Director
928 State Highway 41
Afton, NY 13730

Gil Malerk, Director
25 Concord Street
Sidney, NY 13838

Ronnie Haag, Director
Gifford Road
Sidney, NY 13838

Scott McLean, Director
8 Haynes Boulevard
Sidney, NY 13838

William Yeager, Director
P.O. Box 368
Unadilla, NY 13849

4. At the time of dissolution the Corporation is a charitable New York not-for-profit corporation.

5. At the time of authorization of the corporation's Plan of Dissolution and Distribution of Assets pursuant to N-PCL § 1002, the corporation held assets legally required to be used for a particular purpose.

6. The corporation elects to dissolve.

7. The Board of Directors approved a Plan of Dissolution and Distribution of Assets by unanimous approval of the Board of Directors on November 18, 2014.

8. On _____, 2017, the Attorney General of the State of New York approved the Plan of Dissolution and Distribution of Assets. A copy of the Attorney General's Approval is attached pursuant to N-PCL § 1003(a)(8).

9. On _____, 2017, the New York State Public Health Council approved the dissolution. A copy of that approval is attached.

10. The corporation has carried out the Plan of Dissolution and Distribution of Assets.

11. Prior to the filing of this Certificate of Dissolution with the Department of State, the endorsement of the Attorney General will be stamped below.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Dissolution of Sidney Area Hospital Foundation, Inc. this 10 day of ~~August~~, 2017.

OCTOBER



(Signature)

Mark Roberts, President

(Name of Officer & Title)

STATE OF NEW YORK)
) ss.:
COUNTY OF DELAWARE)

On the 10 day of ~~August~~ ^{OCTOBER}, 2017, before me, the undersigned, personally appeared Mark Roberts, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

KARENA. CAPIELLO
Notary Public - State of New York
No. 01-CA6117894
Qualified in Chenango County
My Commission Expires Nov. 1, 2021

ATTORNEY GENERAL- STATE OF NEW YORK

Application for Approval of the Voluntary
Dissolution of
SIDNEY AREA HOSPITAL FOUNDATION, INC.

PETITION

AG No. _____

TO THE ATTORNEY GENERAL OF THE STATE OF NEW YORK:

Petitioner, Sidney Area Hospital Foundation, Inc. (herein "Corporation"),
respectfully alleges:

1. The Corporation submits this application seeking approval of its voluntary dissolution and the distribution of its remaining assets.

2. The Corporation is a Type B Not-For-Profit Corporation incorporated under the laws of the State of New York on April 10, 1992 when its certificate of incorporation was filed with the New York Department of State. The Corporation does not have members. The objects and purposes of the Corporation are set forth in the Corporation's Certificate of Incorporation dated October 4, 1991 a copy of which is attached hereto as Exhibit "A" (see paragraph 3. of the Certificate).

3. The Corporation's Board of Directors (herein "Board") is its sole governing body. The names and residences of the Directors are as follows:

<u>Name</u>	<u>Address</u>
Mark Roberts	21 Prospect Drive Sidney, NY 13838
Thomas Vail	P.O. Box 415 Afton, NY 13730
Marcia Palmatier	10 Pearl Street Bainbridge, NY 13733

Patricia Longwell

928 State Hwy 41
Afton, NY 13730

Gil Malerk

25 Concord Street
Sidney, NY 13838

Ronnie Haag

Gifford Road
Sidney, NY 13838

Scott McLean

8 Haynes Blvd.
Sidney, NY 13838

William Yeager

P.O. Box 368
Unadilla, NY 13849

4. The Board has adopted a Plan of Dissolution of the Corporation (herein "Plan"). A copy of the Board's resolutions and approved Plan is attached hereto as Exhibit "B". A copy of the Corporation's financial statement is attached to Exhibit "B". Upon dissolution, the Board has authorized the distribution of its assets to Friends of Bassett, Inc. (herein "Friends"). Upon information and belief, Friends is a New York Not-For-Profit Corporation incorporated on May 29, 1969 under the name Friends of the Mary Imogene Bassett Hospital, Inc. On September 3, 1997, Friends changed its name to Friends of Bassett, Inc. by filing a Certificate of Amendment with the New York Department of State. Copies of the Certificate of Incorporation of Friends and Certificate of Amendment are attached hereto as Exhibit "C".

5. Upon information and belief, Friends has received a tax exemption under Section 501(c)(3) of the Internal Revenue Code as evidenced by the copies of letters attached hereto as Exhibit "D". Friends is therefore eligible to receive the Corporation's assets (see paragraph 11 of Exhibit "A"). Attached hereto as Exhibit "E" is a certified copy of a resolution adopted by Friends accepting the assets of the Corporation subject

to the requirement "that such assets be used by the Friends solely for the support of the health care programs of Tri Town Regional Healthcare and/or The Mary Imogene Bassett Hospital in Delaware County, New York. The Hospital, Inc. (referred to in paragraph 11 of Exhibit "A") has ceased operations and is no longer providing health care services to the residents of Delaware County, New York. Tri Town Regional Healthcare, which is affiliated with The Mary Imogene Bassett Hospital, is now providing such services. It is respectfully submitted that it is in the best interests of the persons receiving health care in Delaware County that the Corporation's assets be administered by the Friends.

6. The Attorney General will be given notice of this application, a copy of this Petition with Exhibits and a proposed Certificate of Dissolution.

7. No consent from any other governmental body or officer is required for the dissolution of the Corporation.

WHEREFORE, Petitioner requests that an order be made approving the Corporation's dissolution, the distribution of its assets, and the Corporation's certificate of dissolution and proper.

Dated: November 20, 2014

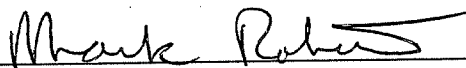
Sidney Area Hospital Foundation, Inc.

By: Mark Roberts
Mark Roberts, President and Chairman of the Board of Directors

STATE OF NEW YORK)
)ss.:
COUNTY OF DELAWARE)

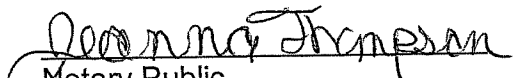
Mark Roberts, being first duly sworn deposes and says, that he is President and Chairman of the Board of Directors of Sidney Area Hospital Foundation, Inc.; that he has read the foregoing petition to the Supreme Court of the State of New York, and knows the contents thereof; and that the statements contained therein are true except as to those matters stated upon information and belief.

JEANNA THOMPSON
Notary Public, State of New York
Qualified in Broome County
Registration # 01TH5052824
Commission Expires 3/3/18



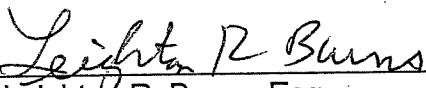
Mark Roberts

Sworn to before me this
20 day of November, 2014.



Notary Public

KERNAN AND KERNAN, P.C.

By: 

Leighton R. Burns, Esq.
Attorney for Petitioner
Office and Post Office Address
185 Genesee Street, Suite 1401
Utica, NY 13501
(315) 797-8300

TO: Hon. Eric Schneiderman, Esq.
Attorney General of the State of New York
Department of Law
State Capitol
Albany, New York

CERTIFICATE OF INCORPORATION

OF

SIDNEY AREA HOSPITAL FOUNDATION, INC.

Under Section 402 of the Not-For Profit Corporation Law

The undersigned, for the purpose of forming a corporation under Section 402 of the Not-For-Profit Corporation Law, hereby certifies that:

1. The name of the Corporation shall be:

Sidney Area Hospital Foundation, Inc.

2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law. The Corporation shall be a Type B Corporation under Section 201 of the Not-For-Profit Corporation Law.

3. The purposes for which the Corporation is formed are:

- A. To solicit, receive, invest and administer contributions, gifts, devises and bequests to or on behalf of The Hospital, Inc. and to pay over monies to said Hospital for its corporate purposes; and to that end to take and hold by bequest, devise, gift, grant, contribution, endowment, purchase, lease or otherwise either absolutely or jointly with any other person, persons, or corporation any property, real, personal, tangible or intangible or any undivided interest therein without limitation as to amount or value; to sell, convey or otherwise dispose of any such property and to invest, reinvest, or deal with the principal or the income thereof in such manner, as, in the judgment of the directors will best promote the purposes of the Corporation and The Hospital, Inc. without limitation, except such limitations, if any, as may be contained in the instrument under which such contribution, gift, devise or bequest is received, the Certificate of Incorporation, the by-laws of the Corporation or any laws applicable thereto.
- B. To exercise the general powers set forth in Section 202 of the Not-For-Profit Corporation Law and to conduct any and all acts or things necessary, suitable, appropriate and proper which are incidental to accomplishing the foregoing purposes and which may be done by a Corporation organized for such purposes under the laws of the State of New York.

4. Nothing contained herein shall authorize the Corporation to establish, operate or maintain a hospital or to provide hospital service or health related service, a home health agency, a hospice, a health maintenance organization, or a comprehensive health services plan, as provided for by Articles 28, 36, 40, and 44, respectively, of the Public Health Law; or to engage in any acts or activities described in Sections 404(b) through 404(n), 404(p) through 404(s), 404(u) and 404(v) of the Not-For-Profit Corporation Law.

5. Notwithstanding any other provision of this Certificate of Incorporation to the contrary, the Corporation is organized exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involves the providing of facilities or equipment) or for the prevention of cruelty to children or animals, as specified in Section 501(c)(3) of the Internal Revenue Code of 1986, and shall not carry on any activities permitted to be carried on by a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

6. No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, director, or officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation), and no member, trustee, or officer shall be entitled to share in the distribution of any of the corporate assets upon dissolution of the Corporation.

7. No part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by the Internal Revenue Code, Section 501(h), or participating in, or intervening in

(including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

8. The County within which the principal office of the Corporation is to be located is the County of Delaware, State of New York.

9. The names and addresses of the initial directors of the Corporation are as follows:

Thomas Mirabito, Sr.
9 James Street
Sidney, New York 13838

Glen Whitaker
Star Route
Sidney, New York 13838

Ed Roelle
127 West Main Street
Sidney, New York 13838

Bill Yeager
Kilkenny Road, Box 368
Unadilla, New York 13849

Paul Eaton
9 Haynes Boulevard
Sidney, New York 13838

Greg Bachrach
201 Manchester Road
Vestal, New York 13850

Roma Haag
Star Route, Box 17
Sidney, New York 13838

Margaret Phillips
25 Haynes Boulevard
Sidney, New York 13838

Ashok Shah, M.D.
15 Hatfield Avenue
Sidney, New York 13838

John MacDonald
35 West Main Street
Sidney, New York 13838

10. The Corporation hereby designates the New York Secretary of State as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is:

Sidney Area Hospital Foundation, Inc.
Pearl Street
Sidney, NY 13838

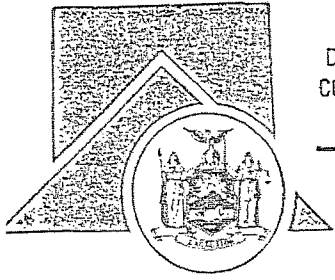
11. In the event of dissolution, all of the remaining assets and property of the Corporation shall, after payment of necessary expenses thereof, be distributed to The Hospital, Inc., or to such other organizations as shall then qualify under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or to another organization to be used in such manner as in the judgment of a Justice of the Supreme Court of the State of New York will best accomplish the general purposes for which this Corporation was formed.

IN WITNESS WHEREOF, the undersigned incorporator has signed this Certificate of Incorporation and affirms the truth of the statements made herein under penalties of perjury this 4th day of October, 1991.



FRANCES A. CIARDULLO, ESQ.
Sole Incorporator

COSTELLO, COONEY & FEARON
Salina Place
205 South Salina Street
Syracuse, New York 13202



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

March 16, 1992

RECEIVED

MAR 20 1992

Ms. Frances A. Ciardullo
Costello, Cooney & Fearon
Attorneys and Counsellors at Law
205 South Salina Street
Syracuse, NY 13202-1307

Costello, Cooney & Fearon

Re: Certificate of Incorporation of Sidney Area Hospital Foundation, Inc.

Dear Ms. Ciardullo:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 13th day of March, 1992, I hereby certify that the Public Health Council consents to the filing of the Certificate of Incorporation of Sidney Area Hospital Foundation, Inc., dated October 4, 1991.

Sincerely,

Karen S. Westervelt
Executive Secretary

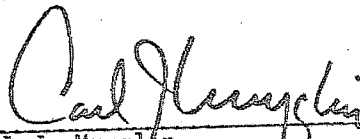
RESOLUTION

RESOLVED, that the Public Health Council, on this 13th day of March, 1992, approves the filing of the Certificate of Incorporation of Sidney Area Hospital Foundation, Inc., dated October 4, 1991.

CONSENT OF NEW YORK SUPREME COURT JUSTICE

I, Carl J. Mugglin, a Justice of the Supreme Court in the State of New York, Sixth Judicial District, do hereby approve the annexed Certificate of Incorporation of the Sidney Area Hospital Foundation, Inc. and consent to the filing of the Certificate of Incorporation by the Department of State of the State of New York.

Dated: March 27, 1992



Carl J. Mugglin
Justice of the Supreme Court
Sixth Judicial District



STATE OF NEW YORK
DEPARTMENT OF LAW
ALBANY 12224

ROBERT ABRAMS
ATTORNEY GENERAL

RECEIVED

OCT 15 1991

Costello, Cooney & Fearon

JAMES G. MCSPARRON
DEPUTY FIRST ASSISTANT
ATTORNEY GENERAL

(518) 474-5303

October 9, 1991

Frances A. Ciardullo, Esq.
Costello, Cooney & Fearon
Salina Place
205 South Salina Street
Syracuse, New York 13202-1307

Dear Ms. Ciardullo:

RE: SIDNEY AREA HOSPITAL FOUNDATION, INC.

Due and timely service of the notice of application for the approval of the proposed certificate of incorporation of the above-entitled organization is hereby admitted.

The Attorney General does not intend to appear at the time of application.

Very truly yours,

ROBERT ABRAMS
Attorney General

By 

RICHARD S. REDLG
Assistant Attorney General

**RESOLUTIONS
AND
PLAN OF DISSOLUTION AND
DISTRIBUTION OF ASSETS OF
SIDNEY AREA HOSPITAL FOUNDATION, INC.**

The Board of Directors of Sidney Area Hospital Foundation, Inc. (herein "Corporation"), at a meeting duly convened on the 18th day of November, 2014, pursuant to notice given in accordance with applicable law, having established a quorum and then considered the advisability of voluntarily dissolving the Corporation, and it being the unanimous opinion of the Board after discussion that the dissolution is advisable and in the best interests of the Corporation, it is,

RESOLVED that the Corporation be dissolved and its assets be distributed in accordance with the following plan:

1. The Corporation has assets. Such assets are legally required to be used for the following purposes:
 - a. To solicit, receive, invest and administer contributions, gifts, devises and bequests to or on behalf of The Hospital, Inc. and to pay over monies to said Hospital for its corporate purposes; and to that end to take and hold by bequest, devise, gift, grant, contribution endowment, purchase, lease, or otherwise either absolutely or jointly with any other person, persons, or corporation any property, real, personal, tangible or intangible or any undivided interest therein without limitation as to amount or value; to sell, convey, or otherwise dispose of any such property and to invest, reinvest, or deal with the principal or the income thereof in such manner as in the judgment of the Board of Trustees and Board of Directors will best promote the purposes of the Corporation and The Hospital, Inc. without limitation, except such limitations, if any, as may be contained in the instrument under which such contribution, gift, devise or bequest is received, the Certificate of Incorporation, the By-Laws of the Corporation or any laws applicable thereto.
 - b. To exercise the general powers set forth in Section 202 of the Not-For-Profit Corporation Law and to conduct any and all acts or things necessary, suitable, appropriate and proper which are incidental to

accomplishing the foregoing purposes and which may be done by a Corporation organized for such purposes under the laws of the State of New York.

The assets of the Corporation and their values as of December 31, 2013 are set forth and described on Exhibit "A" attached to this Plan of Dissolution.

2. The assets owned by the Corporation are subject to no unpaid liabilities other than the legal expenses of the dissolution proceedings of the Corporation. All assets shall be distributed to Friends of Bassett, Inc. (herein "Friends") a New York Not-For-Profit Corporation with substantially similar purposes, which corporation qualifies as a exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended with such distribution to be made a follows:
 - a. Cash assets shall be paid over to the Friends.
 - b. All investment assets together with those accruing to the Corporation after December 31, 2013 shall be assigned to the Friends;
 - c. All fixed assets shall be transferred by the Corporation to the Friends by a Bill of Sale; and
 - d. The Roelle Scholarship Fund balance shall be transferred to the Friends subject to the terms of such scholarship.
3. All assets hereinbefore enumerated and as set forth on the attached Exhibit "A" shall be distributed for the purposes set forth in the Certificate of Incorporation of the Friends, however to be used by it solely for support

of the health care programs of Tri Town Regional Healthcare and/or The Mary Imogene Bassett Hospital in Delaware County, New York.

4. The Corporation has no liabilities as shown in Exhibit "A". The Corporation expects to pay for legal fees and disbursements the sum of not more than \$5,000.00 related to the dissolution procedure. Other liabilities, if any, of the Corporation will be paid as follows:
 - a. All expenses, if any, will be paid currently;
 - b. All tax liabilities, if any, will be paid in full by the Corporation upon the transfer of the assets to the Friends.
5. Within Ninety (90) days after the date that an Order approving this Plan of Dissolution and Distribution of Assets is signed by the Court, the Corporation shall carryout this plan.

and, it is further

RESOLVED, that the foregoing Plan of Dissolution and Distribution be and the same is hereby approved; and it is further

RESOLVED, that the Chairman of the Board and President, or his successor in office, be and he is hereby authorized and directed to take all further actions and sign and file all documents, including but not limited to a Petition to the Supreme Court of the State of New York, a Certificate of Dissolution (upon approval by the New York State Attorney General and such Court) and all transfer documents deemed by him to be necessary and proper to fully carry out the dissolution of the Corporation and distribution of its assets as hereby authorized.

CERTIFICATION

I, Marcia Palmatier as Secretary of the Sidney Area Hospital Foundation, Inc. hereby certify under penalties of perjury that at a duly called meeting of the Board of Directors of the Corporation held on November 18, 2014 at Sidney, New York the within Plan of Dissolution and Distribution and Resolutions were submitted and approved by the unanimous vote of the Directors in attendance at such meeting.

Dated the 18th day of November, 2014

Marcia Palmatier, Secretary

Exhibit "A"

Attached to and being part of a Plan of
Dissolution of the Sidney Area Hospital Foundation,
Inc. duly adopted on November 18, 2014

Dec 31, 13

ASSETS

Current Assets

Checking/Savings

1002 · Nat'l Bank and Trust-CMM Acct	37,201.41
1040 · NBT-Investment Management	169,622.72
1041 · Roelle Scholarship Fund	3,963.34
1080 · Petty Cash	39.71
Total Checking/Savings	<u>210,827.18</u>

Other Current Assets

1211 · Reserve For Change in FMV	<u>-1,056.09</u>
Total Other Current Assets	<u>-1,056.09</u>

Total Current Assets

209,771.09

Fixed Assets

1300 · Computer System	4,378.00
1301 · Computer Desk & Hutch	52.99
1350 · Accumulated Depreciation	<u>-4,430.99</u>
Total Fixed Assets	<u>0.00</u>

TOTAL ASSETS

209,771.09

LIABILITIES & EQUITY

Equity

1110 · Retained Earnings	5,854.10
3000 · Unrestricted Fund Balance	158,026.26
3100 · Ed Roelle Scholarship Fund	11,327.28
Net Income	<u>34,563.45</u>
Total Equity	<u>209,771.09</u>

TOTAL LIABILITIES & EQUITY

209,771.09

Dec 31, 13

	Debit	Credit
1000 · Checking Account	0.00	
1002 · Nat'l Bank and Trust-CMM Acct	37,201.41	
1003 · Nat-I Bank and Trust-Savings	0.00	
1005 · SFCU Share Account	0.00	
1010 · NBT- CD Investments	0.00	
1020 · SFCU - CD Investments	0.00	
1030 · Wilber Bank - CD Investment	0.00	
1040 · NBT-Investment Management	169,622.72	
1041 · Roelle Scholarship Fund	3,963.34	
1045 · NBT-Securities-Stock	0.00	
1080 · Petty Cash	39.71	
1081 · Bainbridge P. O. Mailing Acct	0.00	
2820 · NBT - Note 214763	0.00	
3050 · Temporary Restricted Assets	0.00	
3099 · Initial Cash Balance Offset	0.00	
7001 · Contribution pmt to hospital	0.00	
7005 · Loss from cancelled pledges	0.00	
1100 · Pledges Receivable	0.00	
1120 · Accrued Interest	0.00	
1210 · Securities - Stock Held	0.00	
1211 · Reserve For Change in FMV		1,056.09
1300 · Computer System	4,378.00	
1301 · Computer Desk & Hutch	52.99	
1350 · Accumulated Depreciation		4,430.99
1380 · Website Development	0.00	
1385 · Accumlated Amortization	0.00	
1410 · Prepaid Expense	0.00	
1800 · Due from Hospital - Radiology	0.00	
1900 · Due from Hospital - LOC	0.00	
2002 · Deferred Revenue	0.00	
2005 · Hosp-Labor of Love Tiles 97-98	0.00	
2100 · FIT/FICA Payable	0.00	
2120 · NYSIT Payable	0.00	
2130 · SUI Payable	0.00	
2150 · FUI Payable	0.00	
2800 · NBT - LOC	0.00	
2850 · N/P NBT - 214763	0.00	
1110 · Retained Earnings		5,854.10
3000 · Unrestricted Fund Balance		158,026.26
3001 · Opening Bal Equity	0.00	
3100 · Ed Roelle Scholarship Fund		11,327.28
3101 · Restricted Fund Bal(Dr. Loomis)	0.00	
4000 · Contributions - Century Contrib		2,757.00
4011 · Memorial Gift Contributions		30,000.00

4150 · Miscellaneous Income		6,250.00
5011 · Miscellaneous Expense	1,200.00	
5020 · Office/Mailing Expense	121.00	
5601 · Accounting Services	1,250.00	
5801 · Flowers/Gift Baskets	48.55	
5805 · Insurance	324.00	
5850 · Scholarship - Education Expense	1,500.00	
TOTAL	<u>219,701.72</u>	<u>219,701.72</u>

Jan - Dec 13

Ordinary Income/Expense

Income

4000 · Contributions - Century Contrib	2,757.00
4011 · Memorial Gift Contributions	30,000.00
4150 · Miscellaneous Income	<u>6,250.00</u>

Total Income 39,007.00

Expense

5011 · Miscellaneous Expense	1,200.00
5020 · Office/Mailing Expense	121.00
5601 · Accounting Services	1,250.00
5801 · Flowers/Gift Baskets	48.55
5805 · Insurance	324.00
5850 · Scholarship - Education Expense	<u>1,500.00</u>

Total Expense 4,443.55

Net Ordinary Income 34,563.45

Net Income 34,563.45

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of
the Department of State, at the City of
Albany, on July 24, 2012.

A handwritten signature in black ink, appearing to read "Daniel E. Shapiro".

Daniel E. Shapiro
First Deputy Secretary of State

160193

80100
CERTIFICATE OF INCORPORATION

-of-

FRIENDS OF THE MARY IMOGENE BASSETT HOSPITAL, INC.

Pursuant to the Membership Corporations Law

We, the undersigned, for the purpose of forming a membership corporation pursuant to the Membership Corporations Law of the State of New York hereby certify:

1. The name of the proposed corporation shall be Friends of The Mary Imogene Bassett Hospital, Inc.

2. The purposes for which it is to be formed are to promote and advance the welfare of The Mary Imogene Bassett Hospital in such manner as the Board of Trustees of the Hospital may approve, including (but without limitation) the solicitation of contributions either of cash or of property to or for the said The Mary Imogene Bassett Hospital.

3. The corporation shall not be conducted or operated for profit and no part of its net income shall inure to the benefit of any member or individual, nor shall any part of said net income or any property of the corporation be used otherwise than for the purposes of the corporation. No part of its activities shall consist of carrying on propaganda or otherwise attempting to influence legislation.

3a. Nothing herein contained shall authorize this

corporation to undertake or carry on any of the activities specified in section thirty-five (35) of the Social Services Law of the State of New York.

4. All of the net income of the corporation and all contributions received by it for the benefit of The Mary Imogene Bassett Hospital, together with any and all property of the corporation above and beyond such amount as in the judgment of the Board of Directors may be needed by the corporation for use in the conduct of its business, shall be paid over currently to the said The Mary Imogene Bassett Hospital.

5. Upon dissolution or upon any other termination of the existence of the corporation after payment of all debts and obligations the then funds, property and income of the corporation shall be transferred and paid over to The Mary Imogene Bassett Hospital or, if such Hospital is not then in existence, to such other organization or organizations of the type described in Sec. 501(c)(3) of the Internal Revenue Code as the Board of Directors may in their sole discretion decide.

6. The territory in which its operations are principally to be conducted is the State of New York.

7. The village and county in which its office is to be located are Cooperstown, Otsego County, New York.

8. The number of its directors shall be not less than three nor more than nine.

9. The names and residences of the directors until the first annual meeting are:

2

<u>Names</u>	<u>Addresses</u>
Dr. Charles A. Ashley	Lakeview Drive, Cooperstown, N.Y.
Thomas Goodyear	Lake Road, Springfield Center, N.Y.
Louis B. Hager	Lake Street, Cooperstown, N.Y.
John J. O'Connell	201 Main Street, Cooperstown, N.Y.
Richard A. White	40 Nelson Avenue, Cooperstown, N.Y.

10. No director or other officer of the corporation shall receive directly or indirectly any salary, compensation or emolument from the corporation either as such officer or director or in any other capacity, unless authorized by the by-laws of the corporation or by the concurring vote of two-thirds of all the directors and then only reasonable compensation for services in effecting one or more of the purposes of the corporation.

11. All of the subscribers to this certificate are of full age. At least two-thirds of them are citizens of the United States. At least one of them is a resident of the State of New York. Of the persons named as directors at least one is a citizen of the United States and a resident of the State of New York.

IN WITNESS WHEREOF, we have made, subscribed and acknowledged this certificate this 18th day of December, 1968.

Charles A. Ashley
Charles A. Ashley

Thomas Goodyear
Thomas Goodyear

Louis B. Hager
Louis B. Hager

3

John J. O'Connell

 John J. O'Connell
Richard A. White

 Richard A. White

STATE OF NEW YORK)
)
 COUNTY OF *Ossego*) ss.:

On this *18th* day of *December*, 1968, before me personally appeared CHARLES A. ASHLEY, to me known and known to me to be one of the individuals described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Scott Bailey

 Notary Public
 Notary Public, State of New York
 Residing in Otsego County
 My Commission Expires March 30, 1970

4

STATE OF NEW YORK)
COUNTY OF Otsego) ss.:

On this 19th day of December, 1968, before me personally appeared THOMAS GOODYEAR, to me known and known to me to be one of the individuals described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Marion C. Grimm

Notary Public

MARION C. GRIMM
NOTARY PUBLIC IN THE STATE OF NEW YORK
Residing in Otsego County
Commission Expires March 30, 1970

STATE OF NEW YORK)
COUNTY OF Otsego) ss.:

On this 6th day of January, 1969, before me personally appeared LOUIS B. HAGER, to me known and known to me to be one of the individuals described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Marion C. Grimm

Notary Public

MARION C. GRIMM
NOTARY PUBLIC IN THE STATE OF NEW YORK
Residing in Otsego County
Commission Expires March 30, 1970

5

STATE OF NEW YORK)
COUNTY OF Otsego) ss.:

On this 18th day of DECEMBER, 1968, before me personally appeared JOHN J. O'CONNELL, to me known and known to me to be one of the individuals described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Shepherd J. Feery
Notary Public

STATE OF NEW YORK)
COUNTY OF Otsego) ss.:

On this 20th day of December, 1968, before me personally appeared RICHARD A. WHITE, to me known and known to me to be one of the individuals described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Marion C. Grimm
Notary Public

MARION C. GRIMM
NOTARY PUBLIC IN THE STATE OF NEW YORK
Residing in Otsego County
Commission Expires March 30, 1970

STATE OF NEW YORK
COUNTY OF *OTsego*

}
} ss.:
}

ROBERT J. LEAMY, being duly sworn,
deposes and says that he is an attorney-at-law engaged in
the practice of the law at Oneonta, New York,
and is attorney for the subscribers to the annexed Certificate
of Incorporation; that to the best of his knowledge and be-
lief no previous application for the approval of said
Certificate of Incorporation by any Justice of the Supreme
Court of the State of New York has heretofore been made by
said subscribers or any of them.

Robert J. Leamy

Sworn to before me this

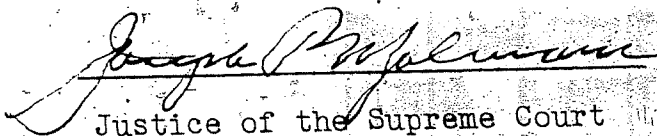
14th day of *January*, 1969.

Geraldine Sullivan

GERALDINE S. SULLIVAN
Notary Public, State of New York
Originally Qualified Otsego County
Commission Expires Mar. 30, 1969

The undersigned, a Justice of the Supreme Court
of the State of New York for the Sixth Judicial District,
hereby approves the foregoing Certificate of Incorporation
of Friends of The Mary Imogene Bassett Hospital, Inc.

Dated: JANUARY 22, 1969.



Justice of the Supreme Court
of the State of New York

4

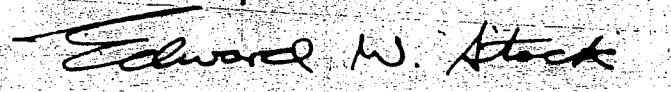
The following is a true copy of a resolution duly adopted by the Executive Committee of the Board of Trustees of the Mary Imogene Bassett Hospital, at a meeting of said Committee held at No. 30 Wall Street, New York, N. Y., on May 23, 1969:

"WHEREAS, there has been proposed formation of a corporation pursuant to the Membership Corporation Law of the State of New York, the Certificate of which corporation has been approved under date of January 22, 1969 by Joseph P. Molinari, Justice of the Supreme Court of the State of New York, said corporation being under the name of Friends of the Mary Imogene Bassett Hospital, Inc.; and

WHEREAS, the Secretary of State has requested the expression of an opinion of this Committee concerning the similarity of the proposed name to that of this corporation,

NOW, THEREFORE, be it RESOLVED, that it is the opinion of this committee that the above mentioned proposed name is acceptable to this Committee and that said name does not so nearly resemble that of this corporation as to tend to confuse or deceive, and it consents to the use of such name."


Chairman


Secretary



760193-10

don't find
5/14/47 Thomas
1947

CERTIFICATE OF INCORPORATION

-of-

FRIENDS OF THE MARY IMOGENE BASSETT HOSPITAL, INC.

Pursuant to the Membership Corporations Law

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED MAY 29 1947
TAX & FILING FEE \$

By *[Signature]*
39
SECRETARY

CERTIFICATE OF INCORPORATION

-of-

FRIENDS OF THE MARY IMOGENE
BASSETT HOSPITAL, INC.

Pursuant to the Membership
Corporations Law

TEAMY, VAN WERT & DUNN
169 MAIN STREET
ONEONTA, NEW YORK

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of
the Department of State, at the City of
Albany, on July 24, 2012.

A handwritten signature in black ink, appearing to read "Daniel E. Shapiro".

Daniel E. Shapiro
First Deputy Secretary of State

N. Y. S. DEPARTMENT OF STATE
DIVISION OF CORPORATIONS AND STATE RECORDS

ALBANY, NY 12231-0001

FILING RECEIPT

F970903000462

ENTITY NAME FRIENDS OF BASSETT, INC.

DOCUMENT TYPE NAME RESERVATION (NEW) (DOM. NFP)

SERVICE COMPANY ALBANY CORPORATE RESEARCH LTD.

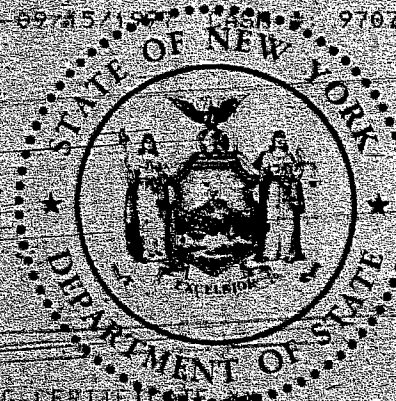
SERVICE CODE 44

APPLICANT NAME LAUREL WELLINGTON

FILED 07/16/1997 DURATION 09/15/1997 970716000253 FILM # 970716000250

ADDRESS FOR PROCESS

REGISTERED AGENT



** SUPPLY RECEIPT WHEN FILING CERTIFICATE

FILED	FEES	35.00	PAYMENTS	35.00
LAUREL WELLINGTON	FILING	10.00	CASH	0.00
ALBANY CORPORATE RESEARCH LTD	TAX	0.00	CHECK	0.00
ALBANY, NY	CERT	0.00	BILLED	35.00
	COPIES	0.00		
	HANDLING	25.00		
			REFUND	0.00

F 970903000 462

Intercounty - 18

CERTIFICATE OF AMENDMENT OF THE
CERTIFICATE OF INCORPORATION OF
FRIENDS OF THE MARY IMOGENE BASSETT HOSPITAL, INC.

UNDER SECTION 803 OF THE
NOT-FOR-PROFIT CORPORATION LAW

Pursuant to Section 803 of the New York Not-For-Profit Corporation Law,

We, Patricia M. Smith, President, and Paul B. Raeder, Secretary, of Friends of The Mary Imogene Bassett Hospital, Inc., a corporation duly existing under the Not-For-Profit Corporation Law of the State of New York, do hereby make and sign this Certificate and do certify as follows:

1. The name of the corporation is FRIENDS OF THE MARY IMOGENE BASSETT HOSPITAL, INC. (hereinafter called the "Corporation").

2. Its Certificate of Incorporation was filed in the office of the Secretary of State on May 29, 1969 pursuant to the provisions of the Membership Corporations Law, predecessor law to the Not-for-Profit Corporation Law.

3. The Corporation is a corporation as defined in subparagraph (a) (5) of Section 102 of the Not-For-Profit Corporation Law and is a Type B corporation under Section 201 of the Not-For-Profit Corporation Law and will continue to be a Type

BILLED

#20141639.2

2

B corporation after the filing of the proposed amendment to its Certificate of Incorporation.

4. Section 1 of said Certificate of Incorporation currently provides as follows:

"1. The name of the proposed corporation shall be Friends of The Mary Imogene Bassett Hospital, Inc."

5. Section 2 of said Certificate of Incorporation currently provides as follows:

"2. The purposes for which it is to be formed are to promote and advance the welfare of The Mary Imogene Bassett Hospital in such manner as the Board of Trustees of the Hospital may approve, including (but without limitation) the solicitation of contributions either of cash or of property to or for the said The Mary Imogene Bassett Hospital."

6. Section 4 of said Certificate of Incorporation currently provides as follows:

"4. All of the net income of the corporation and all contributions received by it for the benefit of The Mary Imogene Bassett Hospital, together with any and all property of the corporation above and beyond such amount as in the judgment of the Board of Directors may be needed by the corporation for use in the conduct of its business, shall be paid over currently to the said The Mary Imogene Bassett Hospital."

7. Section 8 of said Certificate of Incorporation currently provides as follows:

"8. The number of its directors shall be not less than three nor more than nine."

8. The amendments to the Certificate of Incorporation proposed and intended to be effected by the execution and filing of this Certificate consist of the amendment and restatement of Section 1 thereof, relating to the change of name of the Corporation, the amendment and restatement of Sections 2 and 4

thereof, relating to the purposes of the Corporation, and the distribution of its income, and the amendment and restatement of Section 8 thereof, relating to the number of directors of the Corporation, so that the same shall read as follows:

"1. The name of the corporation shall be Friends of Bassett, Inc."

"2. The purposes for which it is formed are:

(a) To accept, hold, invest, manage and otherwise administer funds exclusively for charitable purposes, and to extend and apply the income or principal thereof by donating or contributing the same to The Mary Imogene Bassett Hospital, Bassett Hospital of Schoharie County and other corporations, trusts or other organizations that also qualify as exempt charitable organizations under section 501(c)(3) and contributions to which are deductible under sections 170(a), 2055(a) and 2522(a) of the Internal Revenue Code of 1986 or the corresponding provisions of any future United States internal revenue law (hereinafter referred to as the "Code") and that conduct their principal activities within New York State.

(b) To acquire real and personal property by bequest, devise, gift, purchase, lease or otherwise and to hold, invest and reinvest the same, and to sell, mortgage or otherwise convey or to lease any of such property, and to expend the proceeds and income thereof, all in furtherance of the charitable purposes described hereinabove; and

(c) To administer such real and personal property in furtherance of such purposes."

"4. All of the net income of the corporation and all contributions received by it, together with any and all property of the corporation above and beyond such amount as is in the judgment of the Board of Directors may be needed by the corporation for use in the conduct of its business, shall be paid over currently to The Mary Imogene Bassett Hospital, Bassett Hospital of Schoharie County and such other corporations, trusts or other organizations that conduct their principal activities within New York State as described above in Section 2, which prescribes the corporation's purposes, in such proportions as the Board of Directors shall determine in its absolute discretion; provided, however, that contributions received by it that are

earmarked for the support of any organization described in section 501(c)(3) of the Code supported by the corporation shall be paid to such organization."

"8. The number of its directors shall be determined as set forth in the bylaws of the corporation."

9. The proposed amendments to the Certificate of Incorporation were authorized by unanimous consent in lieu of a meeting of the sole member of the Corporation dated the 4th day of June, 1997.

10. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The post office address of the Corporation to which the Secretary of State shall mail a copy of any process or notice required by law is c/o The Mary Imogene Bassett Hospital, One Atwell Road, Cooperstown, NY 13326.

IN WITNESS WHEREOF, we have made and signed this
Certificate this 16th day of June, 1997.

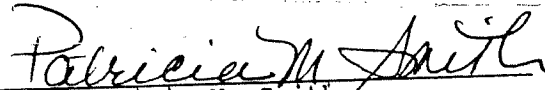
Patricia M. Smith
Patricia M. Smith
President

Paul B. Raeder
Paul B. Raeder
Secretary

VERIFICATION

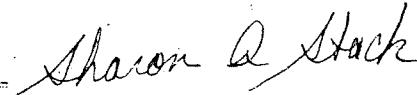
STATE OF NEW YORK)
) CHENANGO : SS.:
COUNTY OF ~~OTSEGO~~)

PATRICIA M. SMITH, being duly sworn, deposes and says:
I am the President of Friends of The Mary Imogene Bassett
Hospital, Inc., I have read the foregoing Certificate of
Amendment of the Certificate of Incorporation of Friends of The
Mary Imogene Bassett Hospital, Inc. and know the contents thereof
and the same is true of my own knowledge.


Patricia M. Smith

Sworn to before me this
16th day of June, 1997

SHARON A. STACK
Notary Public, State of New York
Registration No. 4063224
Qualified in Chenango County
Commission Expires 6/24/97



I, Irad S. Ingraham, Justice of the
Supreme Court of the State of New York, Sixth Judicial District,
do hereby approve the foregoing Certificate of Amendment of the
Certificate of Incorporation of Friends of The Mary Imogene
Bassett Hospital, Inc. and consent that the same be filed.

Irad S. Ingraham

Dated: August 14 1997
Supreme Court, Otsego County
Coxsack, New York



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

July 28, 1997

Robin L. Spear, Esq.
Winthrop, Stimson, Putnam & Roberts
One Battery Park Plaza
New York, New York 10004-1490

Re: Certificate of Amendment of the Certificate of Incorporation of Friends of the
Mary Imogene Bassett Hospital, Inc.

Dear Ms. Spear:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 25th day of July, 1997 I hereby certify that the Certificate of Amendment to the Certificate of Incorporation of Friends of the Mary Imogene Bassett Hospital, Inc. hereafter to be known as Friends of Bassett, Inc. dated June 16, 1997 is approved.

Sincerely,

Karen S. Westervelt
Executive Secretary

RESOLUTION

RESOLVED, that the Public Health Council, on this 25th day of July, 1997, approves the filing of the Certificate of Amendment to the Certificate of Incorporation of Friends of the Mary Imogene Bassett Hospital, Inc., hereafter to be known as Friends of Bassett, Inc., dated June 16, 1997.

F 970903000 462

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF INCORPORATION

OF

FRIENDS OF THE MARY IMOGENE BASSETT HOSPITAL, INC.

(UNDER SECTION 803 OF THE NOT-FOR-PROFIT CORPORATION LAW)

Winthrop, Stimson, Putnam & Roberts
One Battery Park Plaza
New York, New York 10004

Intercounty - 18

BILLED *icc*

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED SEP 03 1997

TAX \$

BY: MARK

Otsego

11 970.903000 480

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: FEB 02 1998

FRIENDS OF BASSETT, INC
ATWELL RD
COOPERSTOWN, NY 13326-0000

Employer Identification Number:
23-7041610
DLN:
317322207
Contact Person:
D. A. DOWNING
Contact Telephone Number:
(513) 241-5199
Date of Exemption:
May 1969
Internal Revenue Code
Section 501(c)(3)

Dear Applicant:

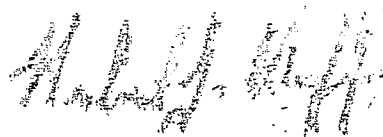
Thank you for submitting the information shown on the enclosure. We have made it a part of your file.

The changes indicated do not adversely affect your exempt status and the exemption letter issued to you continues in effect.

Please let us know about any future change in the character, purpose, method of operation, name or address of your organization. This is a requirement for retaining your exempt status.

Thank you for your cooperation.

Sincerely yours,



District Director

TREASURY

FEB 5 1998

Address any reply to: 34 W. Mohawk St., Buffalo, N.Y. 14202

US Treasury Department

**District Director
Internal Revenue Service**

Date: In reply refer to:

October 23, 1969 AU:F:14:WEB

**Friends of the Mary Imogene Bassett
Hospital, Inc.
Atwell Road
Cooperstown, New York -13326**

Purpose: **Charitable**
Address Inquiries and File Returns with District
Director of Internal Revenue: **Buffalo, New York**

Form 990-A Required: Yes No
Accounting Period Ending: **December 31,**

Gentlemen:

On the basis of your stated purposes and the understanding that your operations will continue as evidenced to date or will conform to those proposed in your ruling application, we have concluded that you are exempt from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code. Any changes in operation from those described, or in your character or purposes, must be reported immediately to your District Director for consideration of their effect upon your exempt status. You must also report any change in your name or address.

You are not required to file Federal income tax returns so long as you retain an exempt status, unless you are subject to the tax on unrelated business income imposed by section 511 of the Code, in which event you are required to file Form 990-T. Our determination as to your liability for filing the annual information return, Form 990-A, is set forth above. That return, if required, must be filed on or before the 15th day of the fifth month after the close of your annual accounting period indicated above.

Contributions made to you are deductible by donors as provided in section 170 of the Code. Bequests, legacies, devises, transfers or gifts to or for your use are deductible for Federal estate and gift tax purposes under the provisions of section 2055, 2106 and 2522 of the Code.

You are not liable for the taxes imposed under the Federal Insurance Contributions Act (social security taxes) unless you file a waiver of exemption certificate as provided in such act. You are not liable for the tax imposed under the Federal Unemployment Tax Act. Inquiries about the waiver of exemption certificate for social security taxes should be addressed to this office, as should any questions concerning excise, employment or other Federal taxes.

This is a determination letter.

Very truly yours,

John E. Foley

**John E. Foley
District Director**

CERTIFIED COPY OF RESOLUTION

WHEREAS, Friends of Basset, Inc. d/b/a Friends of Bassett Healthcare Network (herein "Friends") is a duly organized and presently existing New York Not-for-Profit Corporation having the power to accept money and other property of value and to allocate and pay over such contributions so received to The Mary Imogene Bassett Hospital or such other corporations, trusts, or other organizations that are qualified as exempt charitable organizations under IRC Section 501(c)(3); and

WHEREAS, The Sidney Area Hospital Foundation, Inc. (herein "Foundation") is a duly organized and presently existing New York Not-for-Profit Corporation having as a purpose the power to solicit, receive, invest and administer contributions, gifts, devises, and bequests to or on behalf of The Hospital, Inc. and to pay over the same to said Hospital for its corporate purposes; and

WHEREAS, The Hospital, Inc. has ceased operations and no longer provides health care services in the County of Delaware and State of New York; and

WHEREAS, Tri Town Regional Healthcare is a duly organized and presently existing New York Not-for-Profit Corporation licensed and operating under Article 28 of the New York Public Health Law providing health care services to the residents of the County of Delaware and State of New York; and

WHEREAS, The Mary Imogene Bassett Hospital is a duly organized and presently existing New York Not-for-Profit Corporation licensed and operating under Article 28 of the New York Public Health Law providing health care services to the residents of the County of Delaware and State of New York; and

WHEREAS, Tri Town Regional Healthcare now occupies a portion of the hospital premises formerly occupied by the Hospital, Inc. in the County of Delaware and State of New York; and

WHEREAS, the Foundation is dissolving under the laws of the State of New York; and

WHEREAS, the Board of Directors of the Foundation has duly adopted a resolution and plan of dissolution and distribution of all of its remaining assets authorizing the distribution of such assets to the Friends to be used by the Friends solely for the support of the health care programs of Tri Town Regional Healthcare and/or The Mary Imogene Bassett Hospital in Delaware County, New York; and

WHEREAS, the Friends wish to accept such assets subject to the condition imposed by the Foundation as to their use;

NOW, THEREFORE, it is

RESOLVED, that the Friends shall accept the remaining assets of the Foundation subject, however, to the requirement that such assets be used by the Friends solely for the support of the health care programs of Tri Town Regional Healthcare and/or The Mary Imogene Bassett Hospital in Delaware County, New York, and be it further,

RESOLVED, that any one officer of the Friends be and he or she is hereby authorized and directed to sign such documents and to take such other and further actions as may be necessary, appropriate, or advisable to complete the acceptance of such assets for the purposes hereinbefore mentioned and to thereafter comply with the requirement that the same be used solely for support of the health care programs of Tri

Town Regional Healthcare and/or The Mary Imogene Bassett Hospital in Delaware County, New York.

I hereby certify that the foregoing Resolution was duly adopted by the Board of Directors of Friends of Bassett, Inc. doing business as Friends of Bassett Healthcare Network at a meeting duly noticed and held in accordance with the By-Laws of such corporation on the 27th day of August, 2013 and that such Resolution has not been rescinded or modified as of this date.

Dated:

Friends of Bassett, Inc.

By: Michael S. Gold
Its Secretary

State of New York)
)ss.:
County of Otsego)

On the 27th day of August in the year 2013 before me, the undersigned, personally appeared Michael S. Gold, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Amy L. Bressett
Notary Public
AMY L. BRESSETT
NOTARY PUBLIC, State of New York
No. 01BR6009605
Qualified in Otsego County
Commission Expires 6/29/14

1:49 PM
04/02/17
Accrual Basis

Sidney Area Hospital Foundation, Inc.

Balance Sheet

As of December 31, 2016
Dec 31, 16

ASSETS

Current Assets

Checking/Savings

1002 · Nat'l Bank and Trust-CMM Acct	30,639.70
1040 · NBT-Investment Management	153,898.71
1041 · Roelle Scholarship Fund	20,003.91
1080 · Petty Cash	39.71
Total Checking/Savings	<u>204,582.03</u>

Other Current Assets

1211 · Reserve For Change in FMV	<u>-1,593.16</u>
Total Other Current Assets	<u>-1,593.16</u>

Total Current Assets 202,988.87

Fixed Assets

1300 · Computer System	4,378.00
1301 · Computer Desk & Hutch	52.99
1350 · Accumulated Depreciation	<u>-4,430.99</u>
Total Fixed Assets	<u>0.00</u>

TOTAL ASSETS 202,988.87

LIABILITIES & EQUITY

Equity

1110 · Retained Earnings	6,293.42
3000 · Unrestricted Fund Balance	189,528.88
3100 · Ed Roelle Scholarship Fund	11,327.28
Net Income	<u>-4,160.71</u>
Total Equity	<u>202,988.87</u>

TOTAL LIABILITIES & EQUITY 202,988.87

1:45 PM
04/02/17
Accrual Basis

Sidney Area Hospital Foundation, Inc.

Profit & Loss

January through ~~December~~ December 2016
Jan - Dec 16

Ordinary Income/Expense

Income

4000 · Contributions - Century Contrib	2,970.00
4008 · Contributions-Associate	<u>21,273.70</u>
Total Income	24,243.70

Expense

5011 · Miscellaneous Expense	23,035.41
5020 · Office/Mailing Expense	70.00
5075 · Legal Fees	525.00
5601 · Accounting Services	1,450.00
5805 · Insurance	324.00
5850 · Scholarship - Education Expense	<u>3,000.00</u>
Total Expense	<u>28,404.41</u>

Net Ordinary Income -4,160.71

Net Income -4,160.71