STATE OF NEW YORK
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

COMMITTEE DAY

AGENDA

November 29, 2018
10:15 a.m.

Empire State Plaza, Concourse Level, Meeting Room 6, Albany

I. COMMITTEE ON ESTABLISHMENT AND PROJECT REVIEW

Peter Robinson, Chair

A. Applications for Construction of Health Care Facilities/Agencies

Ambulatory Surgery Center – Construction **Exhibit # 1**

	Number	Applicant/Facility
1.	181329 C	Albany Medical Center Hospital (Schenectady County)

Residential Health Care Facilities – Construction **Exhibit # 2**

	Number	Applicant/Facility
1.	182082 C	Menorah Home & Hospital for Aged & Infirm (Kings County)

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

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

	Number	Applicant/Facility
1.	172379 E	St. Peter's Health Partners (Albany County)
2.	182052 E	HQ-WCHN Health Systems, Inc. (Dutchess County)

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

	Number	Applicant/Facility
1.	181277 E	The Surgery Center at Orthopedic Associates, LLC (Dutchess County)

Diagnostic and Treatment Centers - Establish/Construct

	Number	Applicant/Facility
1.	181183 B	Visiting Services, LLC d/b/a Visiting Docs (Rockland County)
2.	182073 B	Union Square Eye Center, LLC d/b/a Union Square Eye Care – Harlem (New York County)

Dialysis Services - Establish/Construct **Exhibit # 5**

	Number	Applicant/Facility
1.	172406 B	Queens Boulevard Extended Care Dialysis Center II (Queens County)

Hospice Services - Establish/Construct **Exhibit # 6**

	Number	Applicant/Facility
1.	181405 E	Visiting Nurse Hospice and Palliative Care (Monroe County)

Residential Health Care Facilities - Establish/Construct **Exhibit # 7**

	Number	Applicant/Facility
1.	181293 E	Carthage Center for Rehabilitation and Nursing (Jefferson County)
2.	181294 E	Glens Falls Center for Rehabilitation and Nursing (Warren County)
3.	181295 E	New Paltz Center for Rehabilitation and Nursing (Ulster County)
4.	181297 E	Onondaga Center for Rehabilitation and Nursing (Onondaga County)
5.	181298 E	Schenectady Center for Rehabilitation and Nursing (Schenectady County)
6.	181299 E	Slate Valley Center for Rehabilitation and Nursing (Washington County)
7.	181300 E	Troy Center for Rehabilitation and Nursing (Rensselaer County)

Certified Home Health Agency - Establish/Construct **Exhibit #8**

	Number	Applicant/Facility
1.	171041 E	Shining Star Home Health Care (Kings County)
2.	181268 E	Oswego Health Home Care, LLC (Oswego County)
3.	181403 E	Visiting Nurse Service of Rochester and Monroe County (Monroe County)

C. Home Health Agency Licensures **Exhibit # 9**

Serious Concern/Access

	Number	Applicant/Facility
1.	182030 E	Amerita of New York LLC d/b/a/ Amerita (Nassau County)

Affiliated with Assisted Living Programs (ALPs)

	Number	Applicant/Facility
1.	182014 E	The Mohawk Homestead, Inc. d/b/a The Mohawk Homestead Licensed Homecare Services Agency (Herkimer County)
2.	182076 E	The Eliot at Troy, LLC (Rensselaer County)
3.	182078 E	The Sentinel of Amsterdam (Montgomery County)

Public Health and Health Planning Council

Project # 181329-C
Albany Medical Center Hospital

Program:	**Hospital**	*County:*	**Schenectady**
Purpose:	**Construction**	*Acknowledged:*	**May 31, 2018**

Executive Summary

Description

Albany Medical Center Hospital (AMCH), a 716-bed, voluntary not-for-profit, Article 28 acute care hospital located at 43 New Scotland Avenue, Albany (Albany County), requests approval to certify a hospital-based multispecialty Ambulatory Surgery Center (ASC) to be located at 1769 Union Street, Niskayuna (Schenectady County). The existing three-story building is comprised of non-Article 28 physician practices on the first two floors and a non-Article 28, AMCH-owned, physician office-based surgical (OBS) practice on the third floor. AMCH will convert the OBS to an Article 28 ASC for the provision of general and gastroenterology surgical services.

The site opened in June 2017. The recently constructed three-story building consists of 11,500 net square foot per floor and houses a non-AMCH affiliated cardiology group and a non-Article 28, AMCH-owned, physician practice operating an urgent care program on the first floor. The second floor is occupied by a non-Article 28 AMCH-owned, gastroenterology, surgery, obstetrics/gynecology and otolaryngology physician practices. The third-floor that will house the ambulatory surgery suite is separated from the other floors by a fire rated floor and independent structural assembly and requires no construction to convert the space from an OBS to an Article 28-compliant ASC. The ASC will contain five Pre-op bays, one Pre-op/Exam room, nine PACU/Phase II/Post-Operative stretcher bays, four Procedure rooms, one General Surgery (Class C) room, and associated patient and staff support spaces.

OPCHSM Recommendation

Contingent Approval

Need Summary

The center will operate under the name “AMCH Ambulatory Surgery Center”. The number of projected procedures is 3,638 in Year One and 3,686 in Year Three, with Medicaid at 19% and Charity Care at 2% each year.

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 incremental budget is as follows:

Revenues	$3,414,110
Expenses	2,862,462
Gain	$551,648

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 Engineering (MEP) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-1.0. [AER]
2. Submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-03. [AER]

Approval conditional upon:
1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. 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]
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
December 13, 2018

Need Analysis

Analysis

The service area consists of Schenectady County. The secondary service area is the Capital District, which consists of Albany, Rensselaer and Schenectady Counties. The table below shows the number of patient visits for free-standing as well as hospital affiliated ASC's in Albany and Schenectady Counties for years 2015 and 2016. There are no ASCs operating in Rensselaer County. Ellis Hospital, whose extension clinic is located just 1.1 miles and 4 minutes from the proposed site, has expressed opposition to this proposal.

Facility Name	**County**	**Type**	**Patient Visits**	
			2015	**2016**
Ellis Hospital McClellan St. Health Center	Schenectady	Multi	4,431	4,859
St. Peter's Surgery and Endoscopy Center	Albany	Multi	16,030	18,477
Capital Region Ambulatory Surgery Center	Albany	Single	9,196	8,884
New England Laser & Cosmetic Surgery Center	Albany	Multi	787	766
OrthoNY Ambulatory Surgery Center - Albany	Albany	Single	4,755	4,732
Albany Regional Eye Surgery Center	Albany	Single	10,558	11,663
Totals			**45,757**	**49,381**

Source: SPARCS-2018

From 2015 to 2016, these facilities experienced an 7.9% increase in ambulatory surgery service visits. The number of projected procedures at the ASC is 3,638 in Year One and 3,686 in Year Three. Approximately 75% of the procedures (2,700) have already (with the opening of the OBS), or are expected to, transition from Ellis Hospital. The projections are based on the current practices of participating surgeons. The table below shows the projected payor source utilization for Years One and Three.

Projections	**Year One**		**Year Three**	
	Volume	**%**	**Volume**	**%**
Comm. Ins.	1,622	44.5%	1,654	44.8%
Medicare FFS	559	15.4%	564	15.3%
Medicare MC	683	18.8%	688	18.7%
Medicaid FFS	3	0.1%	3	0.1%
Medicaid MC	698	19.2%	703	19.1%
Charity Care	73	2.0%	74	2.0%
Total	**3,638**	**100.0%**	**3,686**	**100.0%**

Charity Care projections are based upon the current experience of AMCH providers. The Center will follow the same charity care policy standards as AMCH. A copy of the financial aid policy, including a sliding fee scale has been provided to DOH. The Center will participate in the following Medicaid managed care plans: Capital District Physicians' Health Plan (CDPHP), Fidelis and MVP. It is AMCH's intent to include the Center under its existing contracts including, but not limited to Medicaid lines of business. AMCH's Community Physician Outreach Coordinator has made outreach visits to community providers to inform them of the current Niskayuna site and its services. If this project is approved, the visits will continue with additional information provided regarding the financial assistance program for under-insured patients. The applicant has committed to serving all persons in need without regard to ability to pay or source of payment.

Prevention Agenda

AMCH noted that the proposed project does not directly address the hospital's Prevention Agenda priorities. The priorities selected for action in the most recent community service plan include opiate abuse related to the goal of preventing substance abuse disorders and the prevention and management of chronic disease, with a focus on diabetes. To address these priorities, AMCH stated that they are implementing the following evidence-based interventions:

- Prediabetes care with evidence-based screening tools and marketing;
- Adult self-management programs that include best practices/evidence-based strategies;
- Nutrition and beverage standards;
- Physical activity in childcare centers, school districts, community venues, and worksites; and
- Provider education, including prescribing guidelines, community resources and patient education, and New York State Opioid Overdose Prevention Training.

Through a regional approach led by the Healthy Capital District Initiative, AMCH is collaborating with local health departments, other hospitals, and community-based organizations on community health improvement planning.

AMCH reported that they are tracking Prevention Agenda progress using the following measures: number of visits to the cafeteria, healthy food offerings in the cafeteria, SBIRT trainings, and NARCAN training sessions hosted by or offered to local law enforcement.

AMCH described numerous community benefit initiatives but did not report any spending in Community Health Improvement Services in the 2016 Schedule H filing. They noted that this is because of concerns over appropriately tracking and capturing such spending, not due to lack of spending itself. While other investments are significant, AMCH did not describe any investments related to implementation of their Prevention Agenda priorities.

Conclusion

Approval of this project will increase the number of Article 28 licensed multi-specialty ambulatory surgery centers for the residents within Schenectady County and the Capital District.

Program Analysis

Project Proposal

Proposed Operator	Albany Medical Center Hospital
Extension Site Name	AMCH Ambulatory Surgery Center
Extension Site Address	1769 Union Street Schenectady, NY 12309 (Schenectady County)
Surgical Specialties	Multi-Specialty, including: General Surgery Colorectal Surgery Gastroenterology
Operating Rooms	1 (Class C)
Procedure Rooms	4
Hours of Operation	Monday through Friday from 8:30 AM to 5:00 PM
Staffing (1st Year / 3rd Year)	21.75 FTEs / 21.75 FTEs
Emergency, In-Patient and Backup Support Services Agreement and Distance	Will be provided by Albany Medical Center Hospital 16.8 miles / 28 minutes

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.

Financial Analysis

Lease Rental Agreement
The applicant has submitted an executed lease agreement; the terms are summarized below:

Date:	August 2, 2016
Premises:	1769 Union Street, Town of Niskayuna, County of Schenectady, State of New York
Landlord:	Lecce Development Co., LLC
Tenant:	Albany Medical College
Term:	10 years
Rent:	Years 1-3: $832,062 annually, $69,338.50 monthly; Years 4-10: $869,883 annually, $72,490.25 monthly. Extension terms: two options of five years each ($869,883 annually)
Provisions:	Responsible for utilities, taxes, insurance and maintenance of occupied premise.

There is no change to the Lease Agreement as the result of this application. The applicant indicated that the lease will be an arm's length lease arrangement between two unrelated parties.

Incremental Operating Budget
The applicant submitted an incremental operating budget, in 2018 dollars, for the first and third years, summarized below:

	Year One	Year Three
Revenues		
Commercial MC	$2,563,874	$2,718,249
Medicare FFS	212,916	217,842
Medicare MC	230,636	235,562
Medicaid FFS	3,213	3,213
Medicaid MC	515,876	525,857
Charity Care *	(24,579)	(25,974)
Total Revenues	$3,414,110	$3,582,585
Expenses		
Operating	$2,176,846	$2,184,069
Capital	685,616	693,216
Total Expenses	$2,862,462	$2,877,285
Excess Rev. over Exp.	$551,648	$705,300
Utilization (Procedures)	3,638	3,686
Cost Per Procedure	$786.82	$780.60

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

Payor	Year One	Year Three
Commercial FFS	44.5%	44.8%
Medicare FFS	15.4%	15.3%
Medicare MC	18.8%	18.7%
Medicaid FFS	0.1%	0.1%
Medicaid MC	19.2%	19.1%
Charity Care *	2.0%	2.0%

** Charity Care procedures are estimated at full net revenue value per visit. Sliding fee schedules based on income levels will likely result in more patients qualifying at partial reduction in co-insurance and co-pay obligations.*

The applicant states that the utilization estimates are conservative and based on existing patient populations who are cared for by employed AMCH physicians with clinical offices located throughout the greater Capital Region, as well as at the Niskayuna site. The staffing profile for the Niskayuna site was defined by hospital nursing leadership on a relational basis to on-campus experiences, adjusted for the site's more limited hours of operation, limited scope of services, lower case intensity, outpatient only service structure, non-emergent nature of the patient population, and the planned scheduling of procedures.

Capability and Feasibility

There are no project costs associated with this application. The submitted incremental budget projects excess revenues over expenses of $551,648 and $705,300 during the first and third years, respectively. Revenues reflect current reimbursement methodologies for the proposed ambulatory surgical services. The budget appears reasonable.

BFA Attachment A is the 2017 certified financial statements of Albany Medical Center and its Related Entities which includes the Hospital, the College, the Foundation, and recent affiliates including Saratoga Hospital, and Columbia Memorial Hospital. As shown, Albany Medical Center and its Related Entities maintained positive working capital and net asset position and generated an excess of revenues over expenses of $45,048,000 on total revenues of $1.8 billion (2,4% excess margin). It should be noted that Saratoga Hospital and Columbia Memorial Hospital collectively accounted for over $34 million of this gain, while the Hospital and College collectively accounted for $10.5 million of this gain

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

Supplemental Information

Opposition

Ellis Hospital Medical Center has expressed opposition to the CON project citing the negative impact the project will have on their ambulatory surgery volumes provided at both their main campus and McClellan Street campus, and the corresponding negative impact on the hospital's profitability and financial sustainability due to the proximity of the AMCH project site to the Ellis facilities.

In reviewing Ellis Hospital and Subsidiaries Audited Financial Statements, it is noted that while Ellis has experienced a decrease in its operating margin from approximately 1.8% ($6.6 million) to 0.2% ($871K) over the past four years, this appears to be due to an overall reduction in inpatient and outpatient volume, resulting in a lower rate of increase in its net patient revenues relative to that of its total operating expenses. Between 2016 and 2017, inpatient discharges decreased 4.2% and total outpatient visits decreased 5.3%, and Ellis' net patient service revenue increased 0.36% while its total operating expenses increased 1.6%. Through September 2018, Ellis reported an improved operating gain of $2.6 million (0.8% margin). Ellis' overall financial condition is stable with positive earnings, and adequate liquidity levels including a Current Ratio of 2.2 (working capital over $70 million).

The loss of procedures resulting from this CON project has largely already been absorbed by Ellis and is not expected to threaten Ellis' continued operations and its ability to provide services to the community. Both Ellis and AMCH agree that AMCH's OBS practice, which opened in June 2017, has already resulted in a shift of approximately 2,000 procedures from Ellis, with Ellis anticipating a loss of an additional 700 procedures by the time the ASC reaches the projected Year Three utilization of 3,686 procedures. The most significant shift has occurred with gastroenterology (GI) cases, as over 95% of AMCH's OBS cases are endoscopy (GI) procedures, and fewer than six non-endoscopy procedures are performed per month at this site. Ellis is projecting 3,206 endoscopy (GI) procedures in 2018 which cannot all be absorbed by the AMCH proposed site. According to Ellis's opposition paper, even if 100% of these endoscopy procedures shifted to the ASC, which is not possible given capacity issues at the proposed ASC site, this would equate to a loss of operating income of $1.2 million to Ellis, and Ellis would still report a positive operating income based on its results through September 2018.

Conclusion

The opening of AMCH's OBS practice is not expected to threaten the continued financial sustainability and operation of services at Ellis Hospital. Ellis reported a positive Operating Income of $2.6 million (0.8% margin) through September 2018 and has maintained positive and adequate liquidity and net asset position. Additionally, most of the migration of procedures from Ellis to the site has already occurred, with only an additional 700 procedures expected to transfer by the time the ASC is at full operating capacity. Ellis has overcapacity in its operating rooms in general and this is not specific to their ambulatory care service line. Over 95% of AMCH's OBS procedures today are endoscopy (GI), and with only one OR it is not expected that the impact from a further shift of endoscopy procedures or general surgery procedures will be significant.

Attachments

BFA Attachment A	Albany Medical Center and Related Entities - 2017 Certified Financial Statements
BHFP Attachment	Map

Public Health and Health Planning Council

Project # 182082-C
Menorah Home & Hospital for Aged & Infirm

Program:	Residential Health Care Facility	*County:*	Kings
Purpose:	Construction	*Acknowledged:*	August 24, 2018

Executive Summary

Description
Menorah Home & Hospital for Aged & Infirm (Menorah), a 420-bed, voluntary not-for-profit, Article 28 residential health care facility (RHCF) located at 1516 Oriental Boulevard, Brooklyn (Kings County), requests approval to convert a 16-bed Hospice Inpatient Unit to a 16-bed RHCF unit and certify 16 net new RHCF beds. Upon final approval by the Public Health and Health Planning Council (PHHPC), the RHCF will have a total bed count of 436 certified beds. The Hospice Inpatient Unit consists of 16 private patient rooms located on the fourth floor of a building that connects to the RHCF. The floor previously housed a 40-bed RHCF unit that was renovated in 2013-2014 to accommodate the Hospice Inpatient Unit (CON 101040). The Unit is operated by Metropolitan Jewish Health System Hospice and Palliative Care, Inc. (MJHS Hospice), which leases the space from Menorah. The operator is planning to discontinue the service as the Hospice Inpatient Unit has experienced consistently low utilization since it opened in July 2014. Menorah is well positioned to integrate the 16 beds into the RHCF as the nursing home has experienced an average occupancy rate of 98% over the past three years. Metropolitan Jewish Health System, Inc. is the sole member (parent) of both the hospice and RHCF corporations.

OPCHSM Recommendation
Contingent Approval

Need Summary
Although occupancy in Kings County has been slightly below Department planning thresholds, the applicant and most of the surrounding nursing homes have been experiencing higher than average utilization rates for the past three years. Additionally, the facility is a CMS 5-star rated facility. This proposed bed conversion is not expected to negatively impact access to Hospice beds in the county.

Program Summary
Upon approval, the facility will increase their certified capacity from 420 residential health care beds to 436 residential health care beds.

Financial Summary
The purchase price of $6,426,713 will be met via an executed promissory note of $6,426,713 at an interest rate of 0% for a ten-year term. There are no monthly amortization payments, the principal must be paid off at the end of the ten-year term. The projected budget is as follows:

	Year Three
Revenues	$69,478,384
Expenses	68,849,834
Gain/(Loss)	$628,550

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 and approval of an application by MJHS Hospice and Palliative Care, Inc. to decertify 16 hospice beds located within Menorah Home & Hospital for Aged facility. [PMU]
2. 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 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]
3. Submission of a plan to continue to enhance access to Medicaid residents. At a minimum, the plan should include, but not necessarily be limited to, ways in which the facility will:
   a. Reach out to hospital discharge planners to make them aware of the facility 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 Medicaid Access policy. [RNR]
4. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
   a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility 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;
   e. Other factors as determined by the applicant to be pertinent.

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

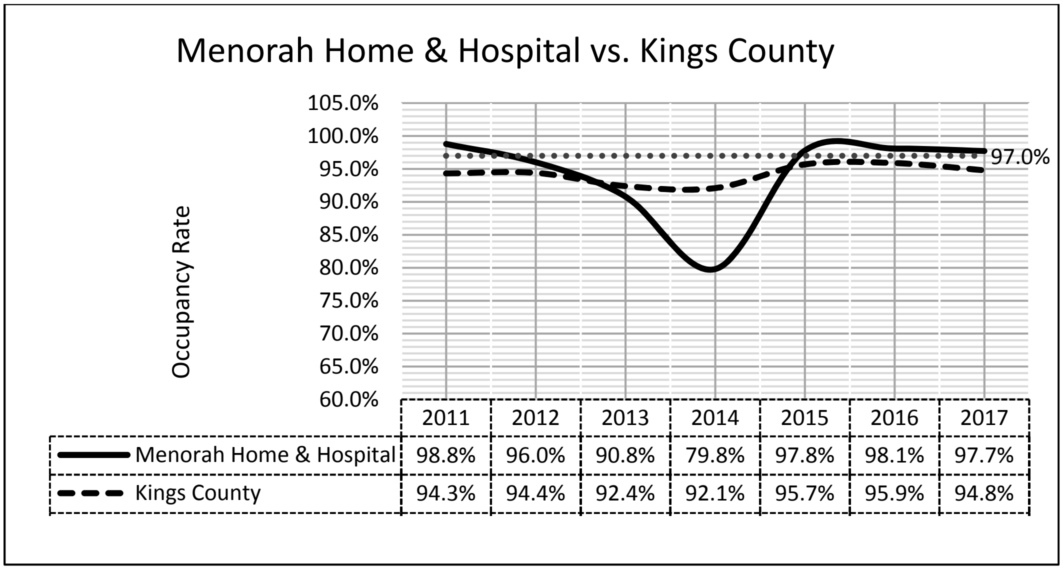
Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. The installation of a handwashing sink in the resident dining room 405 as required by 2014 FGI 2.3-2.3.3.4 (1). [LTC]

Council Action Date

December 13, 2018

Need Analysis



The overall occupancy for Kings County was 94.8% in 2017 and Menorah Home & Hospital has exceeded the Departments' 97 percent planning optimum for the past three years.

While there is a calculated need for additional beds in the New York City planning area, utilization in the planning year, while essentially stable for the past three years, was 94.5% in 2017, which requires the Department to evaluate local factors before approving additional beds. The facility provided the following evidence of need in their immediate area:

- Most of the facilities in the surrounding area have average utilization greater than 95%.
- The April 2018 closure of the 240-bed Lutheran Augustana nursing home isn't yet reflected in annual utilizations.
- Currently, the 16-hospice bed unit that is being converted is under-utilized (see Financial Analysis section).
- During 2018, the applicant's utilization rates precluded them from accepting new patients at times, forcing would be residents to choose a different option.
- Menorah has a 5-star CMS rating.

Kings County facilities Utilization Within 5 Miles of Applicant ZIP Code 11235			
Facility	**2015**	**2016**	**2017**
Bensonhurst Center for Rehabilitation and Healthcare	98.6%	97.9%	97.1%
Brooklyn Center for Rehabilitation and Residential Health Care	96.8%	96.3%	96.6%
Ditmas Park Care Center	97.6%	97.1%	97.7%
Haym Solomon Home for the Aged	94.5%	94.8%	94.7%
King David Center for Nursing & Rehabilitation	95.2%	93.4%	94.0%
Menorah Home & Hospital for Aged & Infirm	**97.8%**	**98.1%**	**97.7%**
Saints Joachim & Anne Nursing and Rehabilitation Center	93.4%	95.2%	96.0%
Sea Crest Nursing & Rehabilitation Center	93.4%	93.6%	93.2%
Seagate Rehabilitation & Nursing Center	95.5%	96.2%	96.0%
Sheepshead Nursing & Rehabilitation Center	94.9%	96.2%	95.9%
Shore View Nursing & Rehabilitation Center	91.6%	90.8%	90.4%
The Chateau at Brooklyn Rehab & Nursing Center	87.9%	94.8%	96.7%
The Heritage Rehabilitation and Health Care Center	93.7%	96.4%	95.2%
Kings County Total	95.7%	95.9%	94.8%

Medicaid Access

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

Menorah's Medicaid admissions rate was below the Kings County threshold in 2016 or 2017.

Percent of New RHCF Admissions that are Medicaid	2016	2017
Kings County 75% Threshold	29.5%	26.6%
Menorah Home & Hospital	6.6%	8.7%

Conclusion

Although occupancy in Kings County and the New York City Planning Area has been slightly below Department planning thresholds, the applicant and most of the surrounding nursing homes have been experiencing higher than average utilization rates for the past three years. Additionally, the facility is a CMS 5-star rated facility and the proposed bed conversion is not expected to negatively impact access to Hospice beds in the county.

Program Analysis

Facility Information

	Existing	**Proposed**
Facility Name	Menorah Home & Hospital for Aged & Infirm	Same
Address	1516 Oriental Blvd Brooklyn, NY 11235	Same
RHCF Capacity	420	436
ADHC Program Capacity	N/A	N/A
Type of Operator	Not for Profit Corporation	Same
Class of Operator	Voluntary	Same
Operator	Menorah Home & Hospital for Aged & Infirm	Same

The hospice unit was constructed on the fourth floor at the top of one of the older buildings on the Menorah Long Term Care Campus in 2010. The floor was originally a 40 Bed RHCF unit that was entirely reconstructed into a hospice unit. The structure was reinforced, and every aspect of the interior fit-out was new. The unit is configured in a conventional linear layout with double-loaded corridors containing 16 private spacious suites, some with ocean views. Each suite features a bedroom area, living room, private bathroom with shower, and kitchenet. The kitchenets offer an in-room dining option with a microwave, sink, refrigerator, and table.

Residential communal space on the unit includes dining with enough seating for all 16 residents on the unit during meals, a private family dining room, garden room for activities, library, and spa bathing room with massage table. Support areas for resident care are centrally located on the unit with utility rooms and medication room adjacent to the nurse's station. The nurses station is in the center of the unit providing unobstructed view down residential corridors for observation and accessibility.

Menorah Home & Hospital for Aged & Infirm is in current compliance with all applicable codes, rules, and regulations.

Provider Name	Ownership Since	Overall	Health Inspection	Quality Measures	Staffing
Menorah Home & Hospital for Aged & Infirm	09/1992	*****	*****	*****	**

Conclusion
The conversion of hospice beds into residential health care beds at Menorah Home & Hospital for Aged & Infirm will provide residents on the fourth floor with a natural home like environment that encourages resident privacy, independence, and choice. The project will result in minimal disturbance for current residents.

Financial Analysis

Asset Purchase Agreement
The applicant has submitted an executed asset purchase agreement for the purchase and sale of the hospice, which is summarized below:

Date:	August 14, 2018
Seller:	MJHS Hospice and Palliative Care, Inc.
Purchaser:	Menorah Home & Hospital for the Aged & Infirm, Inc.
Purchased Assets:	The leasehold improvements made by Seller to the leased premises and all moveable equipment used for the operation of the Hospice Inpatient Unit located in the building known as Menorah Nursing Home.
Purchase Price:	$6,426,713
Payment of Purchase Price	Promissory Note for $6,426,713 executed 4/14/2018 with interest at 0% for a ten-year term. Principal due no later than Maturity Date (at the end of the ten-year term.

Operating Budget
The applicant has submitted an operating budget, in 2018 dollars, during the current year and the first and third year after project completion, summarized below:

	Current (2017)		Year One		Year Three	
Revenues	Per Day	Total	Per Day	Total	Per Day	Total
Medicaid FFS	$379.65	$20,921,066	$347.60	$20,440,966	$347.60	$20,440,966
Medicaid MC	$382.28	$17,951,017	$371.28	$18,147,053	$371.28	$18,147,053
Medicare FFS	$730.61	$24,360,815	$689.03	$23,920,365	$689.03	$23,920,365
Medicare MC	$282.34	$1,240,871	$421.91	$1,928,129	$421.91	$1,929,129
Commercial FFS	$382.28	$1,799,774	$373.58	$1,829,421	$373.58	$1,829,421
Private Pay	$334.57	$1,776,877	$450.00	$2,484,450	$450.00	$2,484,450
Grant Income*		$2,100,820		$533,691		$533,691
Rental Income		699,996		$0		$0
Other		194,109		$194,309		$194,309
Total Revenues		$71,045,345		$69,478,384		$69,478,384
Expenses						
Operating	$403.40	$60,437,096	$392.25	$61,735,209	$392.25	$61,735,209
Capital	54.80	8,210,529	45.16	7,422,895	$45.20	7,114,625
Total Expenses	$458.20	$68,647,625	$437.41	$69,158,104	$437.45	$68,849,834
Excess Revenues		$2,397,720		$320,280		$628,550

	Current (2017)		Year One		Year Three	
	Per Day	Total	Per Day	Total	Per Day	Total
Patient Days		149,821		157,387		157,387
Occupancy		97.73%		98.90%		98.90%
Breakeven				98.45%		98.02%

** CINERGY Collaborative Vital Access Provider (VAP) grant, other misc. grants (e.g., Alzheimer's grant).*

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

- Rates for Medicaid and Commercial are based upon current reimbursement rates. Private and Medicare Managed Care rates are based on the facility's 2018 payment rates.
- Expense and utilization assumptions are based on the nursing home's historical experience and projected staffing needs to operate the new 16-bed unit. Due to consistently high occupancy and an extensive waiting list for admissions, the Menorah is confident that the additional 16 beds will be consistently occupied resulting in an overall 98% or higher occupancy rate.
- Rental Income is eliminated due to the termination of the Hospice lease upon closure of the APA.
- The decrease in grants income is due to the expiration of CINERGY VAP funding at the end of 2018.
- Utilization by payor source during the first and third years is as follows:

Payor	Current	Year One	Year Three
Medicaid FFS	36.78%	37.36%	37.36%
Medicaid MC	31.34%	31.05%	31.05%
Medicare FFS	22.26%	22.05%	22.05%
Medicare MC	2.93%	2.90%	2.90%
Commercial FFS	3.14%	3.11%	3.11%
Private Pay	3.55%	3.53%	3.53%

Capability and Feasibility

The purchase price of $6,426,713 will be met via the terms of an executed promissory note with interest at 0% for a ten-year term. There is no required monthly payment amount due; however, all principal amounts outstanding are due no later than the Maturity Date (August 14, 2028).

The submitted budget indicates an excess of revenues over expenses of $320,280 and $628,550 during the first and third years after the project completion. Revenues are based on current reimbursement methodologies. The submitted budget appears reasonable.

BFA Attachment A is the 2016 and 2017 certified financial statements of Menorah Home & Hospital for Aged & Infirm. As shown, the entity had an average positive working capital position and an average positive net asset position. Also, the entity achieved an average operating gain of $2,732,902 in 2017.

BFA Attachment B is the June 30, 2018 internal financial statements of Menorah. As shown, the entity had a positive working capital position and a positive net asset position through June 30, 2018. Also, the entity achieved an operating income of $201,744 through
June 30, 2018.

Attachments

BFA Attachment A	Financial Summary – 2016 and 2017 Certified Financial Statements of Menorah Home & Hospital for the Aged & Infirm
BFA Attachment B	Financial Summary – June 30, 2018 Internal Financial Statements of Menorah Home & Hospital for the Aged & Infirm

Public Health and Health Planning Council

Project # 172379-E
St. Peter's Health Partners

Program:	**Hospital**	***County:***	**Albany**
Purpose:	**Establishment**	***Acknowledged:***	**December 20, 2017**

Executive Summary

Description

St. Peter's Health Partners (SPHP) is seeking approval for Trinity Health Corporation (Trinity), an Indiana not-for-profit organization, to be co-established over all the Article 28 licensed SPHP facilities as a co-operator/active parent. Trinity is the parent of a national health care system with operations across 21 states including New York and is currently the passive parent and sole member of SPHP. SPHP is the co-operator/active parent of many Article 28 facilities in the Capital Region (collectively, the Licensed Entities).

As active parent/co-operator, Trinity will have the operator rights, powers and authorities over the SPHP Licensed Entities under 10 NYCRR §405.1(c) and §600.9(c), specifically:

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

SPHP will continue to be the full active parent/co-operator of the Licensed Entities with authority to exercise all operator powers under 10 NYCRR §405.1(c) and §600.9(c).

SPHP was formed in 2011 when SPHP became the sole member and passive parent of St. Peter's Health Care Services, Northeast Health, Inc., and Seton Health System, Inc. Prior to this affiliation, Catholic Health East (CHE) was the sole member and passive parent of St. Peter's Health Care Services, and due to the 2011 St. Peter's-Northeast Health-Seton affiliation became the sole member and passive parent of SPHP. In 2013, CHE affiliated with Trinity Health, Inc. forming a new corporation, CHE Trinity, Inc. (sole member of the two entities). In 2014, CHE, Trinity Health, Inc., and CHE Trinity, Inc., merged and the surviving entity's name became Trinity Health Corporation. Because of these transactions, Trinity became the sole member and passive parent of SPHP.

Upon Public Health and Health Planning Council (PHHPC) approval, Trinity will be approved for operator authorities over SPHP and the Licensed Entities. SPHP will continue to exercise operator authority over the day-to-day operations of the Licensed Entities and will participate in the Trinity Health Obligated Group by becoming a Designated Affiliate in the Credit Group, in accordance with the Trinity Master Trust Indenture, giving SPHP and the Licensed Entities access to additional capital resources at more favorable rates and terms.

Currently, SPHP believes Trinity's limited authority as passive parent prevents SPHP from realizing the full economic and operational benefits of being part of a national health system. Additionally, SPHP cannot participate in the Trinity's Health Obligated Group or System Development Fund. SPHP requests PHHPC to approve a co-establishment of Trinity with SPHP and the SPHP Licensed Entities. Trinity and SPHP believe that the benefits of being part of a national health care system can only be achieved if the national parent has authority to act decisively on behalf of all members of the system in matters that affect the entire system.

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no change in beds or services in the community as a direct result of this application.

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

Financial Summary
There are no project costs associated with this application. There are no expected changes in the daily operations of any of the Licensed Entities' utilization, services or beds, or to the revenues or expenses of SPHP or the Licensed Entities as a direct and immediate result of this project.

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 an amended Restated Certificate of Incorporations of St. Peter's Health Partners, acceptable to the Department. [CSL]
2. Submission of a photocopy of the amended bylaws of Trinity Health Corporation, acceptable to the Department. [CSL]
3. Submission of a photocopy of the amended bylaws of St. Peter's Health Partners, acceptable to the Department. [CSL]
4. Submission of a photocopy of Trinity Health System's System Authority Matrix, 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
December 13, 2018

Need and Program Analysis

Program Description

St. Peter's Health Partners (SPHP) seeks approval for Trinity Health Corporation (Trinity), an Indiana nonprofit organization, to be co-established over the SPHP Article 28 licensed facilities. St. Peter's Health Partners is the active parent/co-operator/ of a number of Article 28 facilities in the Capital Region. Trinity is the parent of a national health care system with operations in 21 states and is also the passive parent and sole member of SPHP. Other than this refinement in the passive/active parent relationship, there are no programmatic changes proposed affecting beds or services offered by SPHP entities.

Background

SPHP is the co-operator of the following Article 28 facilities:

Name	Facility ID
Albany Memorial Hospital	4
St. Peter's Hospital	5
St. Mary's Hospital	755
Samaritan Hospital of Troy	756
Sunnyview Hospital and Rehabilitation Center	831
St. Peter's Nursing and Rehabilitation Center (RHCF)	17
Eddy Memorial Geriatric Center (RHCF)	3293
Eddy Village Green (RHCF)	4000
Eddy Heritage House Nursing and Rehabilitation Center (RHCF)	4549
Our Lady of Mercy Life Center (RHCF)	4755
Seton Health at Schuyler Ridge Residential Healthcare (RHCF)	4826
Eddy Village Green at Beverwyck (RHCF)	9198

Character and Competence

Trinity Health Corporation's Board of Directors of is comprised of the following individuals:

Name	Title/Position
Richard J. Gilfillan, MD,	*President & CEO*
James Bentley, PhD,	*Chair*
Mary Catherine Karl,	*Vice-Chair*
Paul Neumann, Esq.,	*Secretary*
Cynthia Clemence,	*Treasurer*
Kevin Barnett	
Joseph Betancourt, MD	
Melanie Dreher, PhD, RN	
Sr. Mary Fanning	
George M. Philip	
Sr. Kathleen Popko	
David Southwell	
Sr. Joan Steadman	
Roberta Waite, EdD	
Larry Warren	
Sr. Linda Werthman	

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 Health Insurance Programs, 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 Trinity Health-affiliated facilities. Sources of information included the files, records, and reports found in the New York State Department of Health or reported by out-of-state Departments of Health. Included in the review were the results of 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.

Regarding Trinity-affiliated **hospitals in New York State**:

- On September 13, 2012, the New York State Department of Health (NYSDOH) issued a Stipulation and Order (S&O) and $22,000 fine against St. Joseph's Hospital Health Center based on the findings of two complaint investigations. One involved a patient with a known risk for falls who was left unattended in the bathroom and fell. The second involved inadequate neurological assessment of a drug overdose patient.
- In August 2016, the NYSDOH issued a S&O and imposed a $2,000 fine against St. Peter's Hospital based on a survey completed in January 2016 involving an Immediate Jeopardy situation in Food and Dietetic Services.

Regarding Trinity-affiliated **nursing homes in New York State**:

- In March 2017, the NYSDOH issued a S&O and $2,000 fine against Capital Region Geriatric Center, Inc., d/b/a Eddy Village Green based on a survey completed on August 17, 2016. Issues cited related to Quality of Care: Highest Practicable Potential. In addition to the state's penalty, a federal Civil Monetary Penalty (CMP) of $3,963 was imposed.
- In January 2017, the NYSDOH issued a S&O and $16,000 fine against Iroquois Nursing Home, Inc. based on a survey completed on April 13, 2016. Immediate Jeopardy was cited and deficient practice noted in the following areas: Staff Treatment of Residents; Policy and Procedure Manual Development (regarding staff treatment); Abuse; and Administration.

Regarding Trinity-affiliated **certified home health agencies in New York State**:

- In June 2013, an enforcement action and civil penalty of $5,500 was issued against McAuley–Seton Home Care Corporation based on a survey completed on September 15, 2011. Deficient practice was cited in the following areas: Governing Authority; Patient Referral, Admission, and Discharge; Patient Assessment and Plan of Care; and Clinical Records.

Regarding Trinity-affiliated a**dult care facilities in New York State**:

- In March 2012, an enforcement action and $1,000 penalty was imposed against Hawthorne Ridge, Inc. based on an inspection completed on September 14, 2010 where violations of Systemic Endangerment were identified and cited.

In addition to the above, Catholic Health System, Inc. (**Western New York**), a subsidiary of Trinity Health Corporation, disclosed the following:

- Trinity is one of three members of Catholic Health System, Inc. On October 19, 2017, Catholic Health System, Inc., Home & Community Based Care (Catholic Health) and the Office of Inspector General of the Department of Health and Human Services (OIG) entered into a five-year Corporate Integrity Agreement (CIA) which applies specifically to two sub-acute rehabilitation facilities – Father Baker Manor and McAuley Residence. Over the term of the CIA, an Independent Review Organization will audit billing claims for medical necessity. Additionally, Catholic Health's Compliance Officer, Compliance Committee and key managers will annually certify that departments are annually that departments are in compliance with federal health care program requirements and the CIA.

Regarding affiliated Trinity Health entities **outside** of New York State:

- The State of California reported three separate enforcement actions (January 2012, November 2015 and January 2017) and civil penalties assessed ($50,000, $4,750, and $11,250, respectively) against Saint Agnes Medical Center, a hospital located in Fresno, for (non-repetitive) survey violations.

- The State of Florida reported the following enforcement actions:
    - Winter Haven Hospital was assessed a $1,000 fine on five (5) occasions (January 2011 (twice), March 2011, August 2012 and October 2013) for violations related to Nursing Assessment, Emergency Department Services and Inappropriate Restraints.
    - Mease Dunedin Hospital was assessed a penalty of $6000 in June 2012 for violations related to Patient Assessment and Emergency Department Services. In August 2013, the hospital was assessed a penalty of $320 for nonpayment of Life Safety Code survey fee.
    - Morton Plant Hospital was assessed a penalty of $800 in March 2011 and $1000 on each of four subsequent occasions (March and December 2011, July 2012 and April 2013) for violations related to Nursing Assessment, Goals, Evaluation, Intervention, and Documentation and Nursing Department Policies and Procedures.
    - Morton Plant North Bay Hospital was assessed a penalty of $2000 in October 2011 for violations related to Nursing Assessment, Goals, Evaluation, Intervention, and Documentation.
    - St. Anthony's Hospital was assessed a $5,000 penalty in July 2011 for violations in the areas of MRI Alterations, Renovations, and Installation. In January 2014, the hospital was fined $600 for nonpayment of Life Safety Code survey fee. In March 2015, a fine of $1,000 was assessed for violations related to Nursing Management Functions. In April 2016, a $5,500 penalty was assessed for Failure to Notify Florida State Agency for Health Care Administration of Ownership Change. Finally, in September 2017, the hospital paid the State of Florida $6,024.67 for administrative fees and reimbursement of Medicaid overpayments.
    - St. Joseph's Hospital was assessed a penalty of $1000 in October 2012 for violations related to Discharge Planning. In April 2016, the hospital paid a penalty of $21,500 for Failure to Notify Florida State Agency for Health Care Administration of Ownership Changes.
    - Bartow Regional Medical Center was assessed a penalty of $480 in May 2014 for nonpayment of a Life Safety Code survey fee.
    - Holy Cross Hospital was assessed an administrative fee and required to reimburse the State of Florida for Medicaid overpayments in April 2013, October 2015 and September 2017 in the amounts of $11,937, $87,056.49 and $97,620.48, respectively.

- The State of Indiana reported that, in January 2017, an enforcement action was taken based on a standard recertification survey conducted in September 2016 at the Sanctuary at Holy Cross, a nursing home located in South Bend. Deficient practices were identified relating to Quality of Care: Necessary Care and Services/Highest Practicable Well-Being. A state civil penalty of $3000 was imposed.

- The State of Iowa reported no enforcements, but identified three incidents:
    - In June 2016, Condition level non-compliance was identified at Mercy Home Care, a deemed Home Health Agency surveyed by an accreditation organization. Per federal requirements, the agency has been prohibited from providing home health aide training and testing for a two-year period (6/29/16-6/29/18).
    - In September 2016, Ellen Kennedy Assisted Living Center was cited for violations related to Sufficient Staffing and Nursing Reviews. The matter was resolved with no enforcement or civil penalty.
    - In January 2017, Immediate Jeopardy was identified at Mercy Medical Center. Violations of federal Conditions of Participation included: Governing Body; Quality Assessment and Performance Improvement Program (QAPI); Nursing Services; and Laboratory Services.

- The State of Maryland reported that, in September 2016, an enforcement action was taken against Holy Cross Rehabilitation and Nursing (Sanctuary at Holy Cross). A survey conducted in February 2016 revealed deficient practice relating to Quality of Care: Accidents / Hazards / Environment / Supervision. A federal Civil Monetary Penalty of $74,700 was imposed.

Prevention Agenda

The applicant noted that the CON project does not impact the activities related to St. Peter's Health Partners (SPHP) Prevention Agenda activities or Community Service Plan. The applicant identified the priorities selected for action in the joint Albany County and SPHP most recent community service plan. These priorities include:

- Preventing chronic disease, focusing on reducing obesity and diabetes in children and adults; and
- Promoting mental health and preventing substance abuse, focusing on preventing substance abuse and other mental, emotional and behavioral diseases.

The applicant described the evidence-recommended interventions currently implemented by SPHP to prevent chronic diseases: promoting pre-diabetes screenings and education by using evidence-based tools and adult self-management programs; implementing nutrition and beverage standards in public institutions, worksites, school districts, and childcare centers; and promoting physical activity in childcare centers, school districts, community venues, and worksites.

Interventions to prevent substance abuse and other mental, emotional, and behavioral diseases are: provider education about addiction and pain management, including educating patients about risk of harm and misuse; promoting safe storage and proper disposal of unused prescriptions; offering New York State Opioid Overdose Prevention Training; and establishing ambulatory detox service locations.

SPHP reports that is a founding member and supporter of the regional PHIP and works collaboratively with local health departments, other health care systems and community-based organizations on community health improvement planning.

SPHP shared BRFSS data as evidence for evidence that they are tracking progress. In CSP report, they report activities conducted, participant numbers, and school policies instituted. Their efforts could be strengthened by assessing how the workshop or the policies affected the participants or stakeholders. For example, what were some effects on participants from participating in the workshops.

The applicant did file a Schedule H form with the IRS and the level of Community Benefits spending in the Community Health Improvement Services Category is to be commended. SPHP should continue their level of Community Benefits spending

Conclusion

There will be no changes to beds or services as a result of this application. 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 Analysis

Overview of Master Indenture

SPHP seeks to participate in the Trinity Health Obligated Group to obtain access to capital at reduced rates. Trinity uses the Trinity Health Obligated Group to obtain capital by borrowing in a cost-effective manner in the form of tax-exempt bond financing, which can be used to repay funds that are loaned by Trinity to affiliates through Trinity's intercompany loan program. Trinity enjoys access to low cost debt financing due to their size and financial strength.

Trinity is the sole Obligated Group Member of the Trinity Health Obligated Group, which was formed and implemented through a Master Trust Indenture, now amended to be called the Master Indenture, dated October 3, 2013. The Bank of New York Mellon Trust Company, N.A. serves as master trustee. The Master Indenture establishes a combined financing group, the Credit Group, comprised of the Obligated Group Members and certain tax-exempt Affiliates designated from time to time by the Obligated Group

Members as Designated Affiliates. Designated Affiliates are intended to be Regional Health Ministries (RHM) within the Trinity health system that maintain a governing body that has ownership or control of a designated portion of the Trinity health system, subject to any authorities reserved to Trinity.

Under the Master Indenture, Designated Affiliates become Material Designated Affiliates if their individual total revenues exceed 5% of the combined total revenues of the Trinity health system in any fiscal year. As of September 30, 2017, there were three Material Designated Affiliates. Trinity is required under the Master Indenture to cause Material Designated Affiliates to comply with certain covenants created under the Master Indenture. These include not permitting a Material Designated Affiliate to create, incur or permit to be created or incurred any lien on the Material Designated Affiliate's property, except for permitted encumbrances, if such lien incurs indebtedness of the Material Designated Affiliate. Each Obligated Group Member is jointly and severally liable for payment of any Obligations issued under the Master Indenture. Trinity is currently the sole Obligated Group Member and will continue to be such once SPHP becomes a Designated Affiliate. As a Designated Affiliate, SPHP will participate in a combined financing group comprised of Trinity and other Designated Affiliates.

Affiliates, including Designated Affiliates and Material Designated Affiliates, are not jointly and severally liable under the Master Indenture. However, Trinity has covenanted to cause its Designated Affiliates and Material Designated Affiliates, and through reasonable efforts to cause their respective Affiliates that are not Designated Affiliates, to pay, loan or otherwise transfer to the Trinity Health Obligated Group such amounts as are necessary, in the aggregate, to enable the Obligated Group Members to pay debt service with respect to any obligation issued pursuant to the Master Indenture. Importantly, such upstreaming provision is subject in each case to any contractual, legal and organizational limitations or obligations. Upon PHHPC approval of this application, SPHP will join the Credit Group as a Designated Affiliate like Trinity's other RHMs. Given its current revenues, SPHP will most likely become a Material Designated Affiliate.

SPHP's participation in the Trinity Health Obligated Group is a natural extension of the operation and alignment of health care financing in Trinity's multi-state health system. In 2014, the Department, in part, recognized Trinity's multi-state financing through its approval of certain SPHP health care entities using Trinity's intercompany loan program. The Trinity intercompany loan program was and is a complement to the ability of organizations within the SPHP health system to obtain debt financing on a stand-alone basis. Trinity serves as a financing source for such organizations through an intercompany loan structure like bank financing, where loans can be made directly to organizations within the SPHP health system. Although the Department's review centered on related party interests and loans as well as reimbursement issues, the Department reviewed and recognized the benefits that lower interest rates and a centralized borrowing source can provide to a New York based health care entity within a multi-state system.

System Development Fund

The co-establishment of Trinity with the SPHP Licensed Entities will also allow SPHP to fully participate in Trinity's System Development Fund, which is a pool of funds principally used to finance capital expenditures of the RHMs. The System Development Fund participation fee is 1% of an RHM's total expenses less depreciation and interest, based on 12 months of participation, which would be approximately $12.5 million as of June 30, 2018. As of June 30, 2017, the System Development Fund had an account balance of approximately $1 billion.

Benefits to Co-establishment

According to the applicant, co-establishment of Trinity as the active parent/co-operator of SPHP and the SPHP Licensed Entities and the participation of them in the Trinity Health Obligated Group will result in the following benefits to SPHP and the Licensed Entities:

- SPHP and the Licensed Entities will have access to additional capital resources at reduced rates through a unity of system resources.
- Debt management will be centralized and standardized, and SPHP will have the benefit of Trinity's experience and expertise in managing debt.
- SPHP can participate in the System Development Fund, which provides an alternative to going to the debt market for needed capital.

- Trinity, SPHP and the Licensed Entities may upstream revenues and reallocate financial resources to achieve system and operational stability.
- Operational efficiencies and integration and enhanced system performance will be advanced because Trinity will hold final and dispositive authority over system decision-making.
- SPHP will maintain dispositive management authority over day-to-day operations and other functions best performed at the local level.
- SPHP will fully realize the benefits of being part of a national system, where operations can be streamlined, administrative efficiencies created, and system-wide financial management, operations and quality initiatives across RHMs can be standardized.

Capability and Feasibility

The applicant stated that upon approval of this application by PHHPC, SPHP will obtain consent for the proposed changes from necessary lenders, insurers and trustees. There are no project costs related to this application. In addition, there are no expected changes in the daily operations of any of the Licensed Entities' utilization, services or beds, or to the revenues or expenses of SPHP or the Licensed Entities as a direct and immediate result of this project, although each entity is expected to experience cost benefits from the active parent and obligated group designations.

As of November 29, 2017, Moody's Investors Service, Inc., Standard & Poor's Ratings Services, and Fitch Ratings have assigned high investment grade municipal bond ratings of Aa3, AA-, and AA-, respectively, to the Trinity Health Credit Group.

BFA Attachments B is the consolidated certified financial summaries of SPHP, which has maintained positive working capital, net assets and a net profit of $2,061,000 from operations as of June 30, 2017.

BFA Attachments C is the consolidated certified financial summaries of Trinity, which has maintained positive working capital, net assets and a net loss of $18,115,000 from operations as of June 30, 2017. The net operating loss was due to Trinity repositioning themselves within some markets and right-sizing inpatient physical plant utilization. The offset of non-operating items such as investment earnings, change due to rate swaps and retiring early debt allowed Trinity $1,354,938,000 in excess over revenues.

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

Attachments

BFA Attachment A	Organizational Chart for St. Peter's Health Partners & Trinity
BFA Attachment B	Financial Summary, SPHP Consolidated, as of June 30, 2017
BFA Attachment C	Financial Summary, Trinity Consolidated as of June 30, 2017

Public Health and Health Planning Council

New York State of Opportunity. Department of Health

Project # 182052-E
HQ-WCHN Health System, Inc.

Program:	Hospital	*County:*	Dutchess
Purpose:	Establishment	*Acknowledged:*	August 20, 2018

Executive Summary

Description

Health Quest Systems, Inc. (Health Quest), a New York not-for-profit corporation, requests approval to affiliate with Western Connecticut Health Network, Inc. (WCHN), a Connecticut non-stock corporation, and transfer control of Health Quest and WCHN to HQ-WCHN Health System, Inc. (HQ-WCHN), a to-be-formed New York not-for-profit corporation. HQ-WCHN will become the sole member and active parent of Health Quest and WCHN, and the active grand-parent and co-operator of the Health Quest not-for-profit Article 28 and Article 36 licensed entities located in New York.

Health Quest's New York licensed entities are as follows:

- Northern Dutchess Hospital, an 84-bed acute care hospital located at 6511 Springbrook Avenue, Rhinebeck (Dutchess County);
- Putnam Hospital Center, a 164-bed acute care hospital located at 670 Stoneleigh Avenue, Carmel (Putnam County);
- Vassar Brothers Medical Center, a 365-bed acute care hospital located at 45 Reade Place, Poughkeepsie (Dutchess County);
- Northern Dutchess Residential Care Facility, a 100-bed RHCF located at 6525 Springbrook Avenue, Rhinebeck (Dutchess County); and
- Health Quest Home Care, a CHHA serving Dutchess County and licensed LHCSA) located at 2649 South Road, Poughkeepsie (Dutchess County).

Health Quest will continue to be the sole member of the following Connecticut hospital, an affiliation that began in August 2017:

- Vassar Health Connecticut, Inc. d/b/a Sharon Hospital, a 78-bed acute care community hospital located at 50 Hospital Hill Road, Sharon, Connecticut.

WCHN will continue to be the sole member of its two Connecticut hospitals listed below:

- The Danbury Hospital, a 456-bed (including 26 bassinets) teaching hospital located at 24 Hospital Avenue in Danbury, and its New Milford Hospital campus located at 21 Elm Street in New Milford. In 2014, The Danbury Hospital and The New Milord Hospital transitioned to a single license, combing medical staffs, licensed beds and clinical systems.
- The Norwalk Hospital Association, a 366-bed (including 38 bassinets) Level II Trauma Center hospital located at 34 Maple Street, Norwalk.

The affiliation brings together the Health Quest and WCHN hospitals and their affiliated entities along the New York-Connecticut border, to create a community-based healthcare network in the region of New York's Hudson Valley and Western Connecticut. The proposed system will offer comprehensive primary, secondary, and tertiary care in the service areas currently served by Health Quest and WCHN.

In May 2000, Health Quest became the active parent of Northern Dutchess Hospital and Vassar Brothers Medical Center, along with both of their affiliate entities (CON 992466). In April 2003, Health Quest became the active parent of Putnam Hospital Center (CON 011196).

Approval of this application will give HQ-WCHN Health System, Inc. the ability to exercise certain Article 28 rights, powers and authorities over Health Quest and its New York System Hospitals. The active parent powers under 10 NYCRR 405.1(c) include:

- Appointment and dismissal of management-level employees of New York System Hospitals;
- Approval of the annual capital and operating budgets of New York System Hospitals;
- Approval of the operating policies and procedures of New York System Hospitals;
- Approving and initiating the filing of certificate of need applications by the New York System Hospitals;
- Approval of contracts for management or for clinical services of New York System Hospitals; and
- Approval of any indebtedness and/or settlements litigations of which New York System Hospital is a party to.

The affiliation of Health Quest and WCHN aims to create a health system that will provide residents of New York's Hudson Valley and Western Connecticut with high-quality, compassionate, accessible, and affordable care close to home. There are no costs associated with this project. The Health Systems expects to allocate more resources to patient care by leveraging savings from administrative and technological efficiencies. There are no projected major changes in the staffing, utilization, revenues or expenses for the Health Quest and WCHN affiliates as a direct result of this project. There will be no change in either authorized services or the number or type of beds as a result of this project, except for removing respiratory therapy from the CHHA's operating certificate to reflect the current services being provided. Upon completion, Health Quest and WCHN hospitals and affiliates will remain separate entities, maintaining separate operating certificates and licenses.

HQ-WCHN Health Systems Inc. will be governed by a Board of Trustees comprised of eight representatives of Health Quest, eight representatives of WCHN, the Chief Executive Officer and President of HQ-WCHN. The Board of Trustees of Health Quest and WCHN will mirror the Board of HQ-WCHN.

BFA Attachment A is the current organizational charts for Health Quest Systems, Inc. and Western Connecticut Health Network, Inc. BFA Attachment B is the proposed organizational chart for the newly formed HQ-WCHN Health System, Inc.

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no change to beds or services as a result of this application.

Program Summary

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

Financial Summary

There are no project costs or changes in staffing, utilization, operating expense or operating revenue associated with this application.

Recommendations

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

Office of Primary Care and Health Systems Management
Approval contingent upon:
1. Submission of a copy of the amended and restated certificate of incorporation of Health Quest Systems, Inc., 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
December 13, 2018

Need and Program Analysis

Proposal

HQ-WCHN will become the sole member and active parent of Health Quest and WCHN, and the active grand-parent and co-operator of the Health Quest Not-for-profit Article 28 and Article 36 licensed entities located in New York.

The sole proposed change in services is the removal of Respiratory Therapy from the CHHA's operating certificate to reflect the services currently being offered. Other than that, there will be no change in authorized services or the number and type of beds. Upon completion, Health Quest and WCHN hospitals and affiliates will remain separate entities, maintaining separate operating certificates and licenses.

Character and Competence

The HQ-WCHN Health System Board of Trustees, comprised of eight representatives of WCHN, eight representatives of Health Quest, and the Chief Executive Officer and President of HQ-WCHN Health System, is as follows:

David Cyganowski	Joseph DiVestea
Robert Dyson	Carla Gude
Mark Gudis	Richard Jabara
Steven Lant	Mary Madden
Daniel McCarthy	John McGuiness
Michael Nesheiwat, MD	Gregory Rakow
Anne Roby, PhD	Syed Shahid, MD
Ervin Shames	Andrew Whittingham
Robert Friedburg	John Murphy, MD

The Board of Trustees of Health Quest and WCHN will mirror the Board of HQ-WCHN.

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

Dr. Shahid, a practicing neurosurgeon, disclosed his malpractice history, with one case falling within the 10-year look-back period. In February 2015, 52-year old patient underwent a cervical discectomy with fusion. The complaint alleged improper performance of surgery which resulted in arterial injury and subsequent stroke. On October 30, 2017, the case was settled globally for $3M, split equally on behalf of three defendants.

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.

Nine individuals – **DiVestea, Dyson, Friedberg, Gude, Lant, Madden, McGuinness, Nesheiwat, and Rakow**—disclosed an affiliation with Health Quest Systems, Inc.

In June 2018, Health Quest and its subsidiary hospital, Putnam Health Center (PHC), agreed to a settlement of $15. 6 million ($14.7 million to the federal government and nearly $900,000 to the state of New York), and entered into a Corporate Integrity Agreement with the Department of Health and Human Services Office of Inspector General, to resolve three lawsuits brought by former employees under the qui tam (whistleblower) provisions of the False Claims Act relating to the submission of inflated and ineligible claims for payment. Specifically:

- From April 2009 through June 2015, Health Quest did not sufficiently document claims for evaluation and management services which were billed two levels higher than justified by medical records.
- From April 2011 through August 2014, Health Quest submitted claims for home health services that lacked sufficient medical records to support the claims.
- From March 2014 through December 2014, PHC submitted false claims for in- and outpatient services referred to PHC by two orthopedic surgeons, in violation of the Physician Self-Referral Law (the Stark Law). Additionally, the physicians received above-fair-market-value compensation for administrative services they provided to the hospital to induce referrals resulting in a violation of the Anti-Kickback Statute.

Prevention Agenda

Health Quest identified the following health issues in their latest community service plan:

- Reduce chronic disease and obesity in children and adults
- Reduce falls and associated hospital admissions among vulnerable populations
- Reduce chronic disease and obesity in children and adults
- Promote mental, emotional and behavioral (MEB) well-being in the community and prevent substance abuse and other MEB disorders
- Reduce falls and associated hospital admissions among seniors age 65+

Health Quest is implementing the following interventions to address identified health issues:

- Provides expert resources for Dutchess County Office of the Aging's Matter of Balance Clinic
- Offers chronic disease self-management and diabetes self-management classes to individuals who suffer from ailments that need consistent attention
- Offers the National Diabetes Prevention Program
- Offers suicide prevention trainings at Putnam Hospital Center such as SAFETALK (Suicide Alertness for Everyone) and ASIST (Applied Suicide Intervention Skills Training) in conjunction with Mental Health America - Putnam County and the Putnam County Department of Health

Health Quest collaborates with the following organizations on Prevention Agenda efforts:

- The Dutchess County and Putnam County departments of health
- The Dutchess County Chronic Disease Prevention Workgroup
- Putnam Falls Prevention Task Force

Health Quest reports that they track their Prevention Agenda progress using metrics from:

- National Diabetes Prevention Program participants
- Matter of Balance Program participants

On Schedule H of IRS Form 990s filed by Northern Dutchess Hospital, Vassar Brothers Medical Center, and Putnam Hospital Center for tax year 2016, Health Quest collectively reported $278,912 of spending on community health improvement services (0.03% of total operating expenses). Health Quest is encouraged to increase investments in the Prevention Agenda initiatives they have committed to implement, and reflect them in the community health improvement services category of Schedule H.

Conclusion

Other than a correction to the CHHA operating certificate to remove Respiratory Therapy, there will be no changes to beds or services provided as a result of this application. 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 Analysis

Capability and Feasibility
There are no issues of capability or feasibility, as there are no project costs, budgets or working capital requirements associated with this application.

BFA Attachment C is the 2016-2017 consolidated financial statements of Health Quest and their internal financial statements as of June 30, 2018. As shown, Health Quest had a positive working capital position, positive net assets of $664,603,000 in 2017 and $702,971,000 as of June 30, 2018. Operating income was $68,261,000 for 2017 and $36,495,000 for the first half of 2018.

BFA Attachment D is the 2017 consolidated financial statements of WCHN and their (eight-month YTD) internal financial statements ending May 31, 2018. As shown, WCHN had a positive working capital position, positive net assets of $883,240,000 in 2017 and $880,002,000 as of May 31, 2018. Operating income was $3,002,000 for 2017 with a $18,032,000 loss as of May 31, 2018. The applicant states the May 31, 2018 loss was directly impacted by the costs associated with the implementation of Cerner, WCHN's new electronic health record system, which went live on March 3, 2018. Many ambulatory departments reduced elective schedules for the month of March to allow time for staff to adapt to the new system, which unfavorably impacted patient revenues. Post go-live, the network focused on system stabilization, which required incremental resources, added FTEs and external consulting expertise. WCHN has implemented several cost-cutting measures for the reminder of the year to help offset some of the negative variances. Examples of the initiatives include: a temporary hold on hiring non-essential positions, reductions in overtime and agency usage, elimination of non-critical travel, and non-salary costs reductions in area of purchasing and marketing.

Attachments

BFA Attachment A	Current Organizational Chart
BFA Attachment B	Proposed Organizational Chart
BFA Attachment C	Financial Summary 2016 - 2017 consolidate financial statement and the June 30, 2018 internal financial statements of Health Quest Systems, Inc and Subsidiaries.
BFA Attachment D	Financial Summary 2016 – 2017 consolidated certified financial statement and the May 31, 2018 internal financial statements of Western Connecticut Health Network, Inc and Subsidiaries.

Project # 181277-E
The Surgery Center at Orthopedic Associates, LLC

Program:	**Diagnostic and Treatment Center**	*County:*	**Dutchess**
Purpose:	**Establishment**	*Acknowledged:*	**April 19, 2018**

Executive Summary

Description
The Surgery Center at Orthopedic Associates, LLC (the Center), a proprietary, Article 28 freestanding ambulatory surgery center (FASC) Center located at 1910 South Road, Poughkeepsie (Duchess County), requests approval for indefinite life status. The FASC was approved by the Public Health and Health Planning Council (PHHPC) under CON #112379 as a multi-specialty FASC specializing in pain management and orthopedic services. PHHPC approval was for a five-year limited life and the Center began operations effective August 16, 2013. The applicant notified the Department before their limited life expiration date to request indefinite life status. The Center is not proposing to add or change any services, or expand or renovate the facility. The facility operates under the original lease, which has a ten-year term. Vlad Frenk, M.D. will continue to serve as Medical Director. The facility has transfer agreements with Vassar Brothers Medical Center and the Mid-Hudson Valley Division of Westchester Medical Center, which will remain unchanged on approval of this application.

OPCHSM Recommendation
Approval

Need Summary
Data submission by the applicant, a contingency of CON 112379, has been completed. Based on CON 112379, Medicaid procedures were projected at 15.46 % and Charity Care was projected at 2.18% for Year Three. Actual Charity Care in Year Three (2016) was 1.20 % and Medicaid was 12.45%.

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 budget is as follows:

	Year One
Revenues	$8,609,159
Expenses	$6,607,541
Net Income	$2,001,618

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
December 13, 2018

Need Analysis

Analysis
The primary service area is Dutchess County. The table below provides Year Three utilization, projections and actual, by payor, for CON 112379, and projections for Year One following approval.

Payor	CON 112379 Projected Year 3 (2016)	CON 112379 Actual Year 3 (2016)	CON 181277 Projections Year 1
Medicaid FFS	5.46%	0.08%	0.11%
Medicaid MC	10.00%	12.37%	12.05%
Medicare FFS	39.09%	23.92%	25.06%
Medicare MC	0.00%	6.06%	6.91%
Commercial FFS	20.00%	39.69%	39.00%
Commercial MC	20.00%	0.00%	0.00%
Self-Pay	3.27%	0.14%	0.00%
Charity Care	2.18%	0.16%	0.13%
Other	0.00%	17.58%	16.74%
Total	100.00%	100.00%	100.00%

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 112379.

CON 112379- Procedures	Year 1 (2014)		Year 3 (2016)	
	Projected	Actual	Projected	Actual
Total	5,528	2,929	6,080	5,084

At the request of DOH, the Center has supplied additional information on how the center classified their Uncompensated Care and their financial assistance offered. For those patients coming to the center with insurance plans carrying a high deductible, the center's policy was as follows: confirm with the insurance company the extent of the coverage provided; then, if appropriate, have the patient sign an affidavit attesting to their inability to meet this obligation for their portion of the bill (including the deductible); and then proceed with the surgery, not billing the patient for the services rendered. Since the decision to not bill the patient is made prior to the procedure, this can be considered charity care.

The table below shows the Charity Care and Medicaid based upon the information provided by the center and further analysis done by DOH staff. Based upon these adjusted numbers, the Center has performed well when compared to their original projections for Medicaid and Charity Care. The center over-estimated their amount of Medicaid utilization in the original project and have lowered the Medicaid projections to a more realistic level for Dutchess County going forward. Per Department of Health data, Dutchess County had 12.5% of its population enrolled in Medicaid in 2013 (latest year of data).

	Projections	Actual				Projections
	#112379	2014	2015	2016	2017	#181277
Medicaid	15.46%	7.07%	8.76%	12.45%	12.19%	12.16%
Charity Care	2.18%	1.81%	1.12%	1.20%	1.30%	0.13%
Totals	17.64%	8.88%	9.88%	13.65%	13.49%	12.29%

The Center currently has Medicaid Managed Care contracts with the following health plans: Blue Cross Blue shield (BCBS), Capital District Physicians' Health Plan (CDPHP), Fidelis, Hudson Health Plan, MVP, and MVP – Hudson Health Plan. The center is working to establish a collaborative relationship with Hudson River Health Care to provide service to the under-insured.

Per the PHHPC Ad Hoc Committee recommendation, the department should exercise flexibility to evaluate each ASC according to its totality of its proposed and actual volume of service to the underserved whether Medicaid, Charity Care or a combination of the two. In analyzing the information provided by the Center, the Center has come close to meeting their original combined projections for service to the underserved populations in their service area of Dutchess County. The center's Medicaid utilization has risen to above 10% per year, and the center is projecting this to be at 12% going forward.

Conclusion

The center continues to show reasonable efforts to provide service to the underserved patients in Dutchess County.

Program Analysis

Program Description

The Center's membership consists of 15 physician members each owning 6.7% membership each, and the Center is accredited by the Accreditation Association for Ambulatory Health Care (AAAHC). The Center is not proposing to add any services. Staffing will remain at current levels (23.7 FTEs). Surgical services utilizing four operating rooms will be provided from Mondays through Friday, 7:00 am to 6:00 pm with extended hours as necessary, and Dr. Vlad Frenk will continue to serve as the 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.

Financial Analysis

Operating Budget

The applicant has submitted their current year (2017) and first and third year operating budgets, in 2018 dollars, summarized below:

	Current Year		Year One		Year Three	
Revenues	Per Diem	Total	Per Diem	Total	Per Diem	Total
Comm. FFS	$2,124.25	$4,265,504	$2,124.42	$4,350,814	$2,124.42	$4,350,814
Medicare FFS	$878.36	$1,133,096	$878.23	$1,155,758	$878.23	$1,155,758
Medicare MC	$988.06	$351,750	$988.38	$358,785	$988.38	$358,785
Medicaid FFS	$583.33	$3,500	$0.00	$0	$0.00	$0
Medicaid MC	$1,097.99	$681,857	$1,098.72	$695,494	$1,098.72	$695,494
Other/Private	$2,325.05	$2,004,190	$2,356.66	$2,044,808	$2,356.66	$2,044,808
Total Revenues		$8,439,897		$8,609,159		$8,609,159
Expenses						
Operating	$1,116.70	$5,749,898	$1,122.41	$5,865,462	$1,129.44	$5,902,417
Capital	$139.56	$718,613	$121.50	$742,079	$121.50	$742,079
Total Expenses:	$1,256.26	$6,468,511	$1,243.91	$6,607,541	$1,250.94	$6,644,496
Net Income		$1,971,386		$2,001,618		$1,964,663
Procedures		5,149		5,251		5,251

The applicant based their Commercial and Medicaid rates upon current arrangements. Medicare and Private Pay reimbursement are based in historical and current experience. Depreciation and rent expense are based on the Center's 2017 actual expense.

Year One and Three utilization is based on the Center's 2017 experience increased by 2% to account for expected growth related to the Center's implementation of a Total Joint Replacement Program that began in July 2017.

Capability and Feasibility

There are no project costs associated with this application. The submitted budget indicates a net income of $2,100,618 and $1,964,663 during the first and third year of operation after receiving indefinite life. Revenues and expenses are based on current reimbursement methodologies and the Center's historical experience. The submitted budgets are reasonable.

BFA Attachment A is the Center's internal financial statements as of June 30, 2018, which indicate the facility has a negative working capital of $603,345, a positive members' equity, and generated a net income of $670,632 as of June 30, 2018.

BFA Attachment B is the 2016 and 2017 certified financial statements of the Center. In 2016, the facility had a negative working capital position of $67,875 due to payments on a short-term outstanding line of credit of $450,000 due. The facility paid down $100,000 and re-negotiated a line of credit with a maximum borrowing amount of $1,500,000 as of December 31, 2016. As of December 31, 2017, the outstanding line of credit balance decreased to $350,000 and the facility achieved a positive working capital position of $36,587. In 2016 and 2017 the facility achieved an average positive members' equity and net income position.

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

Attachments

BFA Attachment A	Internal Financial Statements as of June 30, 2018
BFA Attachment B	2016 - 2017 Certified Financial Statements
BFA Attachment C	Current Membership of The Surgery Center at Orthopedic Associates, LLC

Public Health and Health Planning Council

Project # 181183-B
Visiting Services, LLC d/b/a Visiting Docs

Program:	**Diagnostic and Treatment Center**	*County:*	**Rockland**
Purpose:	**Establishment and Construction**	*Acknowledged:*	**March 16, 2018**

Executive Summary

Description
Visiting Services, LLC d/b/a Visiting Docs, a New York State limited liability company, requests approval to establish and construct an Article 28 diagnostic and treatment center (D&TC, the Center) to be located at 240 North Main Street, Spring Valley (Rockland County). The Center will be licensed for Medical Services - Primary Care, providing services on-site at the D&TC's physical location as well as to patients of the Center in their homes. The D&TC will be housed in 2,331 square feet of leased space and will be comprised of three exam rooms, a lab area, waiting room, nurse station and the requisite support space.

The members of Visiting Services, LLC are as follows:

Name	Interest
Eric Newhouse, *manager*	25%
Robert Snyder	25%
Raphael Weiss	25%
Naftali Zelman	25%
Total	**100%**

Visiting Docs intends to provide services to patients of the Center in their homes and anticipates that approximately 20% of their first-year visits will be for off-site home visits. It is noted that on November 28, 2016, Public Health Law (PHL) was amended to add §2803(11), effective March 28, 2017, authorizing outpatient clinics of general hospitals and D&TCs to provide off-site primary care services in a patient's residence that are:

- primary care services ordinarily provided to patients on-site at the outpatient clinic/DTC, and are not home care services under PHL Article 36;
- provided by a primary care practitioner to a patient with a pre-existing clinical relationship with the outpatient clinic/DTC, or with the health care professional providing the service; and
- provided to a patient who is unable to leave their residence to receive services at the outpatient clinic/DTC without unreasonable difficulty due to circumstances, including but not limited to, clinical impairment.

OPCHSM Recommendation
Contingent Approval

Need Summary
Approval of this project will provide for additional access to primary care services for the residents of Rockland County.

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

Financial Summary

Project costs of $452,717 will be met via members' equity of $48,998 and landlord equity of $403,719 for the leasehold improvements. Construction began in December 2017. Fit-out of the space is deemed near completion with minor modifications as necessary to assure code compliance as a D&TC facility.

The landlord is a related entity to the proposed operator via common membership. The projected budget is as follows:

Revenues	$1,176,573
Expenses	$1,108,785
Net Income	$67,788

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 transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
3. Submission of an executed building lease, acceptable to the Department of Health. [BFA]
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 a photocopy of the applicant's Lease Agreement, acceptable to the Department. [CSL]

Approval conditional upon:

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. 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]
3. 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]
4. Per 710.9 the applicant shall notify the appropriate Regional Office at least two months in advance of the anticipated completion of construction date to schedule any required pre-opening survey. Failure to provide such notice may result in delays affecting both the pre-opening survey and authorization by the Department to commence occupancy and/or operations. [AES]
5. Compliance with all applicable sections of the NFPA 101 Life Safety Code (2000 Edition), and the State Hospital Code during the construction period is mandatory. This is to ensure that the health and safety of all building occupants are not compromised by the construction project. This may require the separation of residents, patients and other building occupants, essential resident/patient support services and the required means of egress from the actual construction site. The applicant shall develop an acceptable plan for maintaining the above objectives prior to the actual start of construction and maintain a copy of same on site for review by Department staff upon request. [AES]

Council Action Date
December 13, 2018

Need Analysis

Background
The primary service area is Rockland County, which had a population of 311,687 in 2010. Per the PAD projection data from the Cornell Program on Applied Demographics, the population of Rockland County is estimated to grow to 337,392 by 2025, an increase of 8.2%.

There are currently five Article 28 D&TCs located in Spring Valley (zip code 10977). It is the intent of the Center to also provide services to patients in their homes. The initial physical examination and in-take activities will be done on-site. If a determination is made that the patient would best be treated at home, then the center will work with the patient and care team to schedule and coordinate home visits. The applicant estimates that approximately 20% of visits in the first year will be provided in the patients' home. The hours of operation will be Monday through Friday from 8 am until 8 pm. In-home visits will also be provided during these hours.

The Department received approval from the Centers for Medicare and Medicaid Services of a State Plan Amendment (SPA) authorizing Medicaid reimbursement to outpatient clinics of general hospitals and D&TCs for primary care service visits provided off-site in the patient's home. SPA approval is effective January 1, 2018. The Department is currently developing reimbursement regulations to implement Medicaid payment. Per discussions with the Department's Office of Health Insurance Programs, the payment rate is expected to be model after the FQHC off-site physician payment and is estimated to be approximately $63.13 per visit upstate and $70.67 per visit downstate. Program regulations are also being developed for facility implementation of the off-site home visit service.

Monsey/New Square has been designated a Health Professional Shortage Area for Primary Care Services by HRSA.

The number of projected visits is 9,000 for Year One and 15,000 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 for additional access to primary care services for the residents of Rockland County.

Program Analysis

Program Description

Proposed Operator	Visiting Services, LLC
To Be Known As	Visiting Docs
Site Address	240 North Main Street, Suite 2, Spring Valley, NY 10977 (Rockland County)
Certified Services	Medical Services - Primary Care
Hours of Operation	Sunday through Friday, 8 AM to 8 PM Home visits will be provided during these hours
Staffing (1st Year / 3rd Year)	6.76 FTEs / 9.30 FTEs
Medical Director(s)	Allan R. Santiago, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Expected to be provided by Good Samaritan Hospital 8.0 miles / 21 minutes away

Character and Competence

The members of Visiting Services, LLC are as follows:

Name	Interest
Eric Newhouse, *manager*	25%
Robert Snyder	25%
Raphael Weiss	25%
Naftali Zelman	25%
Total	**100%**

Mr. Newhouse is the founder and Chief Operating Officer of MedWiz Solutions, a long-term care pharmacy and technology company that provides electronic management of medical records and medication management to the long-term care community. He is also the founder and President of Marquis Home Care, as well as The Eliot Group which owns and operates Assisted Living Facilities in New York State.

Mr. Snyder is a licensed Adult Care Facility (ACF) Administrator and the Chief Operating Officer of Aljud Management. In that position, he provides oversight and management to various ACFs. Prior to that, he had over 20 years of experience at an assisted living community in the Bronx where he was responsible for the daily operations and oversight of a 200-bed adult care facility.

Mr. Weiss is a licensed Adult Care Facility Administrator and the Chief Financial Operator of Aljud Management. In that position, he provides oversight and management to various ACFs and certified home care agencies. Prior to that, Mr. Weiss was responsible for the daily operation and oversight of a 232 bed ACF in Westbury, New York for over a decade.

Mr. Zelman is the Chief Operating Officer of Adult Care Management, LLC, a large assisted living/adult care facility management company. He also has nearly 5 years of experience as an administrator of a 130 bed ACF.

Allan Santiago, M.D. attended the University of Santo Tomas (Manila, Philippines) where he earned a Bachelor of Science degree with honors in Pharmacy, and then his medical degree. His medical internship, residency and an infectious disease fellowship were all performed at the Harlem Hospital Center. He holds board certifications in internal medicine and infectious disease medicine. Dr. Santiago has over 20 years of experience and numerous hospital and nursing home affiliations. For past eight years, he has operated a private practice in Brooklyn.

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.

Messrs. Zelman and Newhouse disclosed ownership interest in The Elliot at Catskill and The Sentinel at Amsterdam. The Department has imposed recent enforcements actions on both entities, as follows:

The Eliot at Catskill:

- Fined $5,700 pursuant to a Stipulation and Order (S&O) dated August 30, 2016 for surveillance findings set forth in the reports of inspection dated July 24, 2015, December 8, 2015 and April 8, 2016. Deficiencies were found under 18 NYCRR 487.7(f)(5) Resident Services and 487.11(f)(8) Environmental Standards.
- Fined $2,500 pursuant to a S&O dated December 19, 2016 for surveillance findings set forth in the reports of inspection dated June 8, 2016 and July 29, 2016. Deficiencies were found under 18 NYCRR 487.4(f) Admission Standards, 487.8(c) Food Service, 487.8(e)(1) Food Service, 487.11(f)(8) Environmental Standards, 487.11(g) Environmental Standards, 487.11(h)(5)

Environmental Standards, 487.11(k)(1-3) Environmental Standards, 487.11(k)(5) Environmental Standards and 487.11(k)(16) Environmental Standards.
- Fined $7,770 pursuant to a S&O dated October 16, 2017 for surveillance findings set forth in the reports of inspection dated October 25, 2016, May 11, 2017, and August 30, 2017. Deficiencies were found under 18 NYCRR Environmental Standards regulations.

The Sentinel at Amsterdam:
- Fined $1,065 pursuant to a Stipulation and Order for a survey dated September 28, 2018 which cited violations of Food Service regulations at 18 NYCRR §487.8(d)(1-2).

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.

Financial Analysis

Lease Rental Agreement
The applicant submitted a draft lease rental agreement for the site they will occupy, summarized below:

Premises:	Unit # 240-suite 2 (approximately 2,331 sq. ft.) located at 240 N. Main Street Spring Valley, NY
Lessor:	Valley Square, LLC
Lessee:	Visiting Services, LLC
Term:	10 years
Rental:	Year 1 $60,000 annually, Year 2 $61,500 annually, Year 3 $114,000 annually, Year 4 $117,000 annually, Year 5 $120,000 annually, Year 6 $123,000 annually, Year 7 $126,000 annually, Year 8 $129,000 annually, Year 9 $132,000 annually and Year 10 $135,000 annually.
Provisions:	Triple Net Lease

The lease arrangement is a non-arm's length agreement. The building in which the D&TC will be located is owned by Valley Square, LLC, whose members are Eric Newhouse (90%) and Naftali Zelman (10%). The applicant submitted an affidavit attesting to the relationship between landlord and tenant in that there is common ownership between the entities. The applicant submitted letters from two NYS licensed realtors attesting to the rent being of fair market value. The applicant indicated that the reason for the increased rent in Year Three is due to the landlord granting a reduction in the per sq. ft. rate of 50% for the first two years of operation to allow for typical start-up issues.

Total Project Cost and Financing

Total project cost is estimated at $452,717, further broken down as follows:

Building Acquisition	$403,719
Planning Consultant Fees	$10,200
Other Fees (Consultant)	$5,100
Moveable Equipment	$29,233
CON Fee	$2,000
Additional Processing Fee	$2,465
Total Project Cost	$452,717
Total Reimbursable Cost	**$0**

Project costs were based on a construction start date of December 1, 2017, and a five-month construction period. The applicant advised that construction began in December 2017. Because construction commenced without approval, the costs are not reimbursable.

The applicant's financing plan appears as follows:

Equity	$48,998
Landlord Funding/Contribution	$403,719
Total	$452,717

The landlord financed $403,719 of the construction cost via equity and will not add the leasehold improvement costs to the base rent as the rental amount will cover the landlord's cost construction.

Operating Budget

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

	Year One		Year Three	
	Per Visit	Total	Per Visit	Total
Revenues				
Medicaid MC	$63.13	$170,451	$63.13	$284,085
Medicare FFS	$70.00	$144,900	$70.00	$241,500
Commercial FFS	$100.00	$405,000	$100.00	$675,000
Bad Debt		($14,407)		($24,012)
Total Revenues		$705,944		$1,176,573
Expenses				
Operating	$79.35	$714,128	$65.95	$989,291
Capital	$7.28	$65,494	$7.97	$119,494
Total Expenses	$86.63	$779,622	$73.92	$1,108,785
Net Income/(Loss)		($73,678)		$67,788
Visits		9,000		15,000

Utilization by payor source during the first and third years (identical expectations) is as follows:

Medicaid MC	30%
Medicare FFS	23%
Commercial FFS	45%
Charity Care	2%

Off-site home service visits are projected to account for 20% of the facility's total annual visits (1,800 visits in Year One) and are expected to be 50% Medicaid and 50% Medicare patients. Therefore, 900 of the projected 2,700 Medicaid Year One visits and 900 of the projected 2,070 Medicare Year One visits are expected to be off-site home service visits.

Revenue assumptions are based on current average per visit payment rates by payor for primary care D&TC services. The Medicaid payment rate for off-site home visits is expected to be model after the FQHC off-site physician payment and is estimated to be approximately $63.13 per visit upstate and $70.67 per visit downstate. For budget purposes, the applicant has conservatively estimated their overall Medicaid rate at the proposed payment rate for off-site primary care service home visits.

Utilization assumptions were based on current projected staffing and operating the facility 250 days a year for 8 hours per day, which is similar to the experience of other D&TC facilities in the area. The home service utilization is estimate based on the experience of the members in providing health care services

Expense assumptions for staffing were based on estimates of total hours worked by position and salary by FTE. All other non-staffing expenses were calculated as a percentage of revenue, where applicable, or estimated based on the experience of the members. The significant increase in capital expense in year three is due to the landlord reducing rent in years one and two by 50% to account for start-up.

The assumptions and budget are reasonable.

Capability and Feasibility

Total project cost of $452,717 will be met via members' equity of $48,998 landlord equity of $403,719 for the leasehold improvements. Construction began in December 2017, and fit-out is deemed near completion.

Working capital requirements are estimated at $184,798, which is equivalent to two months of third year expenses. The applicant will cover this amount from their personal resources.   BFA Attachment A is the personal net worth statements of the proposed members of Visiting Services, LLC, which indicates the availability of sufficient funds to meet project cost and working capital equity requirements. BFA Attachment B is the pro forma balance sheet of Visiting Services, LLC d/b/a Visiting Docs as of the first day of operation, which indicates a net asset position of $637,515.

The submitted budget indicates a net loss of $73,678 and a net income of $67,788 during the first and third years, respectively. Revenues are reflective of current reimbursement rates for diagnostic and treatment centers. The Year One losses will be covered by the members' equity. As shown on BFA Attachment A, significant liquid resources are available to cover the Year One loss, the equity requirement and the working capital requirement.

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

Attachments

BFA Attachment A	Personal Net Worth Statement - Proposed Members of Visiting Services, LLC
BFA Attachment B	Pro Forma Balance Sheet of Visiting Services, LLC d/b/a Visiting Docs
BHFP	Map

NEW YORK STATE OF OPPORTUNITY. Department of Health

Public Health and Health Planning Council

Project # 182073-B
Union Square Eye Center, LLC d/b/a Union Square Eye Care - Harlem

Program:	**Diagnostic and Treatment Center**	***County:***	**New York**
Purpose:	**Establishment and Construction**	***Acknowledged:***	**August 22, 2018**

Executive Summary

Description

Union Square Eye Center LLC (USEC), an existing New York limited liability company, requests approval to establish and construct an Article 28 Diagnostic and Treatment Center (D&TC) to be located at 1825 Madison Avenue, New York (New York County). The D&TC will be housed in leased space on the ground floor of an existing building in East Harlem. Upon approval by the Public Health and Health Planning Council (PHHPC), the Center will do business as Union Square Eye Care – Harlem, focusing solely on providing ophthalmology and optometry related services. Accordingly, USEC requests certification of the facility for Medical Services – Other Medical Specialties. The D&TC will include a total of six exam rooms, two diagnostic/exam rooms, two diagnostic rooms, a waiting/reception area, patient sub-waiting rooms in the clinical area, office space and the requisite clinical and staff support spaces.

USEC is currently owned by H. Jay Wisnicki, M.D., a board-certified ophthalmologist who operates a private practice, Union Square Eye Care, PLLC, in the Lower East Side of Manhattan. Upon completion of this project and final PHHPC approval, the members of USEC will be Dr. Wisnicki (80%) and his wife, Stephanie Wisnicki, Ed.D. (20%). Dr. H. Jay Wisnicki will serve as Medical Director. The Center will have a Transfer Agreement for backup and emergency services with Mount Sinai Hospital (MSH), which is located 1.2 miles and seven minutes travel time from the proposed D&TC.

Dr. Wisnicki's private practice currently provides over 33,000 patient visits annually, with over one-third covered by Medicaid. The applicant noted that there is a shortage of ophthalmologists within the proposed Center's Primary Service Area (six per 100,000 population compared to 17.61 per 100,000 within New York County overall and 11.86 per 100,000 statewide). With the recent closure of a private ophthalmology practice in the proposed Center's ZIP code, the D&TC will help fill the immediate eye care needs of the community.

The services to be provided will be comprised of ophthalmologic care, including but not limited to: adult, pediatric and diabetic eye exams; cataract evaluation; glaucoma evaluation and monitoring; retinal disease; strabismus (eye muscle problems); eyelid conditions; eye injuries or trauma; contact lenses; and prescriptions for glasses. The proposed Center will be able to treat and diagnose both routine and complex eye conditions on-site, without the need to go to an urgent care center or emergency room. The applicant has a close working relationship with MSH, and true emergency cases will be sent to MSH's nearby main campus.

OPCHSM Recommendation

Contingent Approval

Need Summary

The Center proposes to provide Medical Services – Other Medical Specialties as the center will be offering ophthalmology and optometry services. The service area currently has fewer ophthalmologist than would be expected for the population. The number of projected visits is 17,397 in Year One and 31,149 in Year Three.

Program Summary

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

Financial Summary

There are no project costs for this application. Prior to becoming certified as a D&TC, USEC is undertaking construction to fit-out and equip the space. Dr. Wisnicki will then operate his private ophthalmology practice at the proposed site (additional office location of Union Square Eye Care, PLLC) while this CON application is under review. The proposed budget is as follows:

Revenues	$3,832,363
Expenses	3,276,960
Gain	$555,403

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 transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
2. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
3. Submission of a photocopy of the applicant's executed Certificate of Amendment of the Articles of Organization, acceptable to the Department. [CSL]
4. Submission of a photocopy of the applicant's amended and executed Operating Agreement, acceptable to the Department. [CSL]
5. Submission of evidence of applicant's 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. 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]

Council Action Date
December 13, 2018

Need and Program Analysis

Program Description

Proposed Operator	Union Square Eye Center LLC
To Be Known As	Union Square Eye Care – Harlem
Site Address	1825 Madison Avenue New York, NY (New York County)
Services	Medical Services – Other Medical Specialties
Hours of Operation	Monday & Friday 8:00 am – 5:00 pm Tuesday & Thursday 8:30 am – 6:00 pm Wednesday 8:30 am – 5:30 pm (Expanded as needed to address demand)
Staffing (1st Year / 3rd Year)	9.0 FTEs / 16.0 FTEs
Medical Director(s)	H. Jay Wisnicki, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Expected to be provided by Mount Sinai Hospital 1.2 miles / 7 minutes away

Analysis

The primary service area is comprised of the neighborhoods of East Harlem and Central Harlem in New York County, which includes the zip codes of 10026, 10027, 10029, 10030, 10035 and 10037. The applicant noted that there is a shortage of ophthalmologists within the proposed Center's Primary Service Area (six per 100,000 population as compared to 17.61 per 100,000 within New York County overall and 11.86 per 100,000 statewide). The Health Resources and Services Administration (HRSA) has designated East Harlem a Medically Underserved Area and a Health Professional Shortage Area for Primary Care. With the recent closure of a private ophthalmology practice in the proposed Center's service area, this D&TC will help fill the immediate eye care needs of the community. The center projects that approximately 40% of visits will be covered by Medicaid.

The center will offer the full range of ophthalmologic care, including but not limited to: adult, pediatric and diabetic eye exams, cataract evaluation, glaucoma evaluation and monitoring, retinal disease, strabismus (eye muscle problems), eyelid conditions., eye injuries or trauma, contact lenses and prescriptions for glasses. The proposed center will be able to treat and diagnose both routine and complex eye conditions onsite, without the need to go to an urgent care center or emergency room. The hours of operation for the center will be Monday and Friday from 8 am until 5 pm, Tuesday and Thursday from 8:30 am until 6 pm, and Wednesday from 8:30 am until 5:30 pm. The center may expand its hours of operation to accommodate additional volume/demand and access, as needed.

The applicant projects 17,397 visits for Year One and 31,149 for Year Three. The applicant is committed to serving all persons in need without regard to ability to pay or source of the payment.

Character and Competence

The members of Union Square Eye Center LLC are:

Name	Interest
H. Jay Wisnicki, M.D.	80%
Stephanie Wisnicki, EdD	20%
Total	100%

Dr. H. Jay Wisnicki is an ophthalmologist in Manhattan who was formerly the Director of Ophthalmology at Mount Sinai Beth Israel for over two decades. Dr. Wisnicki currently operates a private ophthalmology practice with ten eye care providers (Union Square Eye Care, PLLC) that provides over 33,000 annual patient visits at 235 Park Ave South (at 19th Street), in the Lower East Side of Manhattan.

Dr. Stephanie Wisnicki served as the Practice Administrator of Union Square Eye Care, PLLC between 2010 and 2017. In that role, she was responsible for marketing and operational efficiencies, overseeing financial operations, billing, and personnel management. Since 2017, she has been the Chief Operating Officer with a myriad of responsibilities, to include designing and implementing business strategies, plans and procedures and overseeing the daily operations of the company. Prior to her employment with Union Square Eye Care, Dr. Wisnicki was employed by the Clark Mills School District (Manalapan, NJ), culminating in assignment as Principal of Clark Mills School, a position she held for over eight years.

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

Dr. H. Jay Wisnicki disclosed that, in 2017, he was named (as employer) in a malpractice case against a previously employed physician. The complaint alleged negligence in surgical technique during a cataract surgery performed by an employed ophthalmologist in August 2015. The plaintiff claimed the surgery lasted longer than usual and resulted in (known) complications, poor healing and reduced vision (20/40 as opposed to 20/20). The case is in the discovery phase.

Conclusion
Approval of this project will provide for the increased access to ophthalmology and optometry services to the residents of East and Central Harlem neighborhoods and the surrounding communities within New York County. 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 Analysis

Lease Agreement
The applicant has submitted an executed lease agreement, the terms of which are summarized below:

Date:	March 12, 2018
Premises:	4,780 square feet located at 1825 Madison Avenue, New York, New York 10035
Landlord:	1825 Madison Retail, LLC
Tenant:	Union Square Eye Center LLC
Rental:	Base rent of $175,000 per year ($14,583.33 per month) for the first year with a 2.5% increase thereafter. Additional rent of $13,500 will be paid annually for common area spaces.
Term:	20 years
Provisions:	Lessee shall be responsible for real estate taxes, maintenance, insurance and utilities.

The lease arrangement is an arm's length agreement. The applicant has submitted an affidavit attesting that there is no relationship between landlord and tenant. Letters from two New York real estate brokers were submitted attesting to the reasonableness of the rent.

Operating Budget

The applicant has submitted their first and third year operating budget, in 2018 dollars, as shown below:

	Year One		Year Three	
Revenue	Per Visit	Total	Per Visit	Total
Medicare	$130.52	$641,900	$130.60	$1,064,361
Medicaid	$121.64	873,375	$121.38	1,574,216
Commercial	$130.36	609,175	$130.34	1,159,356
Private Pay	$110.00	19,250	$110.00	34,430
Total Revenue		$2,143,700		$3,832,363
Expenses				
Operating	$86.30	$1,501,415	$85.41	$2,660,549
Interest	$6.87	119,445	$2.65	82,689
Rent	$28.73	499,833	$17.13	533,722
Total Expenses	$121.90	$2,120,693	$105.20	$3,276,960
Net Income		$23,007		$555,403
Visits		17,397		31,149
Cost/Visit		$121.90		$105.20

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

	Year One		Year Three	
Payor	Visits	%	Visits	%
Medicare	4,918	28.3%	8,150	26.2%
Medicaid	7,180	41.3%	12,969	41.6%
Commercial	4,673	26.8%	8,895	28.6%
Private Pay	175	1.0%	313	1.0%
Charity Care	101	0.6%	197	0.6%
Other	350	2.0%	625	2.0%
Total	17,397	100%	31,149	100%

The following is noted with respect to the submitted budget:

- Revenues by payor are based upon the average per visit reimbursement experience of Dr. Wisnicki's private practice, with assumptions given for Article 28 status. Private Pay includes patients covered under a sliding fee scale per USEC's policy to provide reduced cost care. Other visits represent actual and expected uncollectible care (bad debt).
- Expense and utilization assumptions are based on the historical experience of Dr. Wisnicki's private practice and similar D&TCs in the geographical area.

Capability and Feasibility

There are no project costs associated with this application. Prior to becoming certified as a D&TC, USEC will undertake construction to fit-out and equip the space. Dr. Wisnicki will then operate his private ophthalmology practice at the proposed site (additional office location of Union Square Eye Care, PLLC) while this CON application is under review.

Working capital requirements are estimated at $546,160 based on two months of third year expenses to be satisfied via members' equity of $292,998 and a $253,162 loan for a three-year term at 3% interest. Banyan Tree Financial has provided a letter of interest at the stated terms. BFA Attachment A is the net worth of the proposed members, which indicates the availability of sufficient funds for stated levels of equity. BFA Attachment B, the pro forma balance sheet for the applicant, indicates that the facility will initiate operations with members equity of $582,596.

The submitted budget indicates the facility will generate net income of $23,007 and $555,403 in the first and third years, respectively. Revenues are based on prevailing reimbursement methodologies for D&TC ophthalmology services.

Attachments

BFA-Attachment A	Net Worth of Proposed Members
BFA-Attachment B	Pro Forma Balance Sheet, Union Square Eye Center LLC
BHFP Attachment	Map

Public Health and Health Planning Council

Project # 172406-B
Queens Boulevard Extended Care Dialysis Center II

Program:	Diagnostic and Treatment Center	*County:*	Queens
Purpose:	Establishment and Construction	*Acknowledged:*	April 20, 2018

Executive Summary

Description

Queens Boulevard Extended Care Dialysis Center II LLC (QBECDC), an existing New York limited liability company, requests approval to establish and construct a 15-station, Article 28 chronic renal dialysis center. The proposed Center will be in separately designated space at Queens Boulevard Extended Care Facility, a 280-bed, proprietary, Article 28 residential health care facility (RHCF) located at 61-11 Queens Boulevard, Woodside (Queens County). The Center will occupy approximately 4,500 square feet on the ground floor of the RHCF, and will offer dialysis services to the RHCF's patients and to community residents, with its primary service area being Queens County.

The proposed members of QBECDC are Anthony Clemenza, Jr. (50%) and James Clemenza (50%). There is a relationship between QBECDC and Queens Boulevard Extended Care Facility Management LLC, the operator of the RHCF, in that the entities have identical membership.

Queens Boulevard Extended Care Dialysis Center LLC, whose members are identical to the applicant members of QBECDC, was previously approved to establish and construct a 15-station, Article 28 chronic renal dialysis center to be located in the RHCF (CON 152313). This facility is currently under construction. Though both dialysis centers will be located in the same RHCF, they will be operated as distinct facilities with separate physical plant space, entrances, and signage. The applicant indicated that this application seeks to address the growing need for dialysis services within the resident population of the RHCF and the community, but that the space approved under CON 152313 cannot be expanded to accommodate the additional stations.

The fit-out and equipping of the Center will be the responsibility of the applicant. The space is currently occupied by a 30-slot adult day health care program (ADHCP) operated by the RHCF. CON 181286 is concurrently under review to relocate the ADHCP, an off-site location directly across the street from the RHCF. The applicant will lease the space from Queens Boulevard Extended Care Facility Management LLC.

OPCHSM Recommendation

Contingent Approval

Need Summary

Queens County has a current need for additional stations. Locating the center within the nursing home will allow for easy transport of the frail elderly nursing home residents needing ESRD treatment.

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 $2,015,340 will be financed with equity of $201,534 from the proposed members' personal resources and a $1,813,806 loan for seven years with interest based on the 7-year U.S. Treasury rate plus 250 basis points, or an indicative rate of 5.64% as of October 4, 2018. Investors Bank has provided a letter of interest. The proposed budget is as follows:

	Year One	Year Three
Revenues	$1,775,328	$2,488,334
Expenses	1,767,049	2,387,158
Net Income	$8,279	$101,176

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, acceptable to the Department of Health. [BFA]
3. Submission of an executed loan commitment for project costs, acceptable to the Department of Health. [BFA]
4. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
5. Submission of a photocopy of an amended Operating Agreement of Queens Boulevard Extended Care Dialysis Center II LLC, which is acceptable to the department. [CSL]
6. Submission of a photocopy of the proposed Certificate of Amendment to the Articles of Organization of Queens Boulevard Extended Care Dialysis Center II LLC, which is acceptable to the department. [CSL]
7. Submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-03. [AER]
8. Submission of Engineering (MEP) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-03. [AER]

Approval conditional upon:

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Construction must start on or before July 1, 2019 and construction must be completed by June, 30, 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 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

December 13, 2018

Need Analysis

Analysis

The primary service area for the facility will be Queens County which had a population estimate of 2,358,582 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 2017

Capacity

The Department's guidelines to estimate capacity for chronic dialysis stations are 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

Queens County Chronic End Stage Renal Disease (Dialysis) Resources / Need Projected Through 2021

County	Existing Stations	Pending Stations	Total Current Stations	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	341	992	1059	67	15	52
As of November 6, 2018							
Column (b): Pending Stations: Includes Stations with Contingent Approval per the Bureau of Project Management and Stations with Recommendations of Approval by the Bureau of Public Need Review, but not yet Contingently Approved in the Bureau of Project Management.							
Column (f): Submitted Projects / Stations Under Review							

Queens Boulevard Extended Care Facility currently has 20 RHCF residents who require dialysis treatment, and must be transported to an off-site facility three days per week. The second proposed dialysis center on-site will enable more residents to receive dialysis on site.

Conclusion

These 15 stations are needed in Queens.

Program Analysis

Program Description
Queens Boulevard Extended Care Dialysis Center II LLC (QBECDC) seeks approval for the establishment and construction of a freestanding 15-station chronic renal dialysis center to be located at Queens Boulevard Extended Care Facility, a 280-bed residential health care facility (RHCF) located at 61-11 Queens Boulevard in Woodside (Queens County).

This project is companion to CON #181286 which proposes to relocate the Adult Day Health Care Program.

Proposed Operator	Queens Boulevard Extended Care Dialysis Center II LLC
Site Address	61-11 Queens Boulevard Woodside, NY 11377 (Queens County)
Approved Services	Chronic Renal Dialysis (15 Stations)
Shifts/Hours/Schedule	Will operate two shifts per day, six days a week. Anticipate going to three shifts per day in the fourth year of operation.
Staffing (1st Year/3rd Year)	11.50 FTEs / 15.20 FTEs
Medical Director(s)	Nimesh A. Patel, MD
Emergency, In-Patient and Backup Support Services Agreement and Distance	Will be provided by: Long Island Jewish Forest Hills Hospital 3.5 miles / 15 minutes

Character and Competence
The members and managers of Queens Boulevard Extended Care Dialysis Center II, LLC are:

Name	%
Anthony Clemenza, Jr.	50%
James Clemenza	50%

The proposed members have extensive experience operating health related facilities and associated programs. Messrs. Clemenza are also owners/members of Queens Boulevard Extended Care Facility Management, LLC, the operator of Queens Boulevard Extended Care Facility, and as such, handle day-to-day operations to include: purchasing, maintenance, housekeeping, dietary, finance, and administration. Additionally, Mr. Anthony Clemenza also serves as In-house Counsel, coordinating the legal affairs of the facility.

Curriculum vitae (C.V.) and disclosure information was submitted and reviewed for the proposed Medical Director, Nimesh A. Patel, MD. Dr. Patel is board-certified in Internal Medicine with sub-certification in Nephrology. He earned his medical degree in India and completed a nephrology fellowship at Metropolitan Hospital and Our Lady of Mercy Medical Center. Currently, he serves as Chief of Nephrology at Mount Sinai Queens Hospital and has over 15 years of experience in the care and treatment of dialysis patients.

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.

Financial Analysis

Lease Rental Agreement
The applicant has submitted a draft sublease agreement for the site to be occupied, as summarized below:

Premises:	4,500 square feet located at 61-11 Queens Boulevard, Woodside, New York
Lessor:	Queens Boulevard Extended Care Facility Management, LLC
Lessee:	Queens Boulevard Extended Care Dialysis Center II LLC
Term:	5-year term with a 5-year renewal period
Rental:	$103,500 annually ($23.00 per sq. ft.)
Provisions:	Lessee shall be responsible for maintenance, utilities, insurance and real estate taxes.

Queens Boulevard Extended Care Facility Management LLC controls the RHCF site through a lease with the property owner, Queens Boulevard Extended Care Facility Corp. These two companies have common ownership.

The proposed sublease is a non-arm's length agreement. The applicant has submitted an affidavit indicating there is common ownership between the lessor and lessee. Two NYS licensed realtors submitted letters attesting to the rent reasonableness.

Total Project Cost and Financing
Total project cost, which is for renovations and the acquisition of moveable equipment, is estimated at $2,015,340 broken down as follows:

Renovation and Demolition	$1,007,780
Design Contingency	100,778
Construction Contingency	100,778
Architect/Engineering Fees	110,856
Other Fees (Consultant)	25,500
Moveable Equipment	577,980
Interim Interest Expense	78,655
CON Fee	2,000
Additional Processing Fee	11,013
Total Project Cost	$2,015,340

Project costs are based on a construction start date of July 1, 2019 and a 12-month construction period.

The applicant's financing plan appears as follows:

Equity	$201,534
Bank Loan (5.64% interest #, 7-year term)	1,813,806

 # Interest to be based on the 7-year U.S. Treasury rate plus 250 basis points. Indicative rate is 5.64% as of October 4, 2018.

Investors Bank has provided a letter of interest for the financing at the stated terms. BFA Attachment A is the net worth statements for the proposed members of QBECDC, which indicated sufficient equity for the transaction.

Operating Budget

The applicant has submitted an operating budget, in 2018 dollars, which is summarized below:

	Year One		Year Three	
	Per Visit	Total	Per Visit	Total
Revenues				
Commercial	$303.90	$331,863	$303.90	$474,091
Medicare FFS	$285.00	$1,378,260	$285.00	$1.956,240
Medicaid MC + FFS	$266.47	$83,138	$266.47	$83,138
Total Revenues		$1,793,261		$2,513,469
Less: Bad Debt		$17.933		$25,135
Net Revenues	$284.51	$1,775,328	$284.84	$2,488,334
Expenses				
Operating	$226.47	$1,413,144	$235.66	$2,058,684
Capital	$56.72	$353,905	$37.60	$328,474
Total Expenses	$283.19	$1,767,049	$273.26	$2,387,158
Net Income		$8,279		$101,176
Utilization (Treatments)		6,240		8,736

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

	Year One	Year Three
Commercial	17.5%	17.9%
Medicare FFS	77.5%	78.6%
Medicaid FFS MC	5.0%	3.6%

Volume assumptions are based on current demand for services within the Queens Boulevard Extended Care Facility resident population and growth driven by demographic trends in Queens County. Revenue assumptions are based upon current reimbursement methodologies by payor for chronic renal dialysis services. Expense and utilization assumptions are based on historical trends for other facilities that provide chronic renal dialysis services in Queens County.

Capability and Feasibility

Project costs of $2,015,340 will be met via equity of $201,534 from the proposed members and a bank loan of $1,813,806 at 4.75% interest for a seven-year term. A bank letter of interest has been provided.

Working capital requirements are estimated at $397,860 based on two months of third year expenses. The applicant will finance $198,930 for a three-year term with interest at Prime plus 50 basis points, or an indicative rate of 5.75% as of October 9, 2018. The remaining $198,930 will be provided from equity. Investors Bank has provided a letter of interest for the proposed financing. BFA Attachment A is the personal net worth statements for the proposed members of QBECDC, which indicates the availability of sufficient funds for the equity contribution to meet the purchase price and working capital requirement.

BFA Attachment B is the pro forma balance sheet of Queens Boulevard Extended Care Dialysis Center II LLC as of the first day of operation, which indicates a positive net asset position of $400,484.

The submitted budget indicates a net income of $8,279 and $101,176 during the first and third years, respectively. Revenues are based on current reimbursement rates for dialysis services.

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

Attachments

BFA Attachment A	Personal net worth statements for the proposed members
BFA Attachment B	Organization chart
BFA Attachment C	Pro Forma Balance Sheet

Public Health and Health Planning Council

Project # 181405-E
Visiting Nurse Hospice and Palliative Care

Program:	Hospice	*County:*	Monroe
Purpose:	Establishment	*Acknowledged:*	July 11, 2018

Executive Summary

Description
Visiting Nurse Hospice and Palliative Care (VNH), a voluntary not-for-profit, Article 40 Hospice operated by Visiting Nurse Service of Rochester and Monroe County Inc. (VNSR), requests approval to merge Ontario-Yates Hospice (OYH), a voluntary not-for-profit, Article 40 Hospice operated by Finger Lakes Visiting Nurse Service Inc. (FLVNS), into its operation. VNH is located at 2180 Empire Boulevard, Webster (Monroe County), and is authorized to provide hospice services in Monroe County. OYH is located at 756 Pre-Emption Road, Geneva (Ontario) and is authorized to provide hospice services in Ontario and Yates counties. Upon approval by the Public Health and Health Planning Council (PHHPC), VNH will be the surviving entity, adding Ontario and Yates counties to its authorized geographic service area. There will be no change in services provided.

FLVNS is controlled by VNSR, and VNSR is controlled by Strong Home Care Group (SHCG). SHCG's sole member is the University of Rochester. As the corporate parent of VNSR and FLVNS, the SHCG Board of Directors approved a corporate restructuring of the entities to streamline their governance and operations, reduce duplication, and increase efficiencies. The goals of the merger include reducing administrative overhead related to bank accounts, payrolls, benefits contracts, vendor contracts and payor contracts, and reducing duplication of effort related to cost and statistical reports, financial statements, audits and IRS filings. VNSR and FLVNS each also operate an Article 36 certified home health agency (CHHA). Merger of the CHHA operations to be licensed under VNSR is concurrently under review (CON 181403).

As part of the corporate reorganization, the agencies will be rebranded to highlight their relationship to the University of Rochester's health care system, UR Medicine. SHCG will change its name to UR Medicine Home Care, Inc. and VNH, the surviving hospice, will be renamed UR Medicine Hospice. BFA Attachment A presents the organizational chart for the System before and after the merger.

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no change in services as a result of this application.

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

Financial Summary
There are no project costs or acquisition price associated with this application. The projected budget is as follows:

	Year One	Year Three
Revenues	$10,971,172	$11,761,312
Expenses	$10,910,186	$11,427,110
Gain/(Loss)	$60,986	$334,202

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 Board Resolution authorizing the Visiting Nurse Service of Rochester to merge with the Ontario-Yates Hospice Program of the Finger Lakes, acceptable to the Department. [CSL]
2. Submission of a Board Resolution authorizing the Ontario-Yates Hospice Program of Finger Lakes Visiting Nurse Service to merge with the Hospice Program of Visiting Nurse Service of Rochester and Monroe County, Inc, acceptable to the Department. [CSL]
3. Submission of the applicant's Plan of Merger, acceptable to the Department. [CSL]
4. Submission of a photocopy of the applicant's proposed Certificate of Merger, 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
December 13, 2018

Need and Program Analysis

Description of Project

Visiting Nurse Service of Rochester and Monroe County, Inc, d/b/a Visiting Nurse Hospice and Palliative Care, a not-for-profit business corporation, seeks approval to acquire and merge the assets of Ontario Yates Hospice under Article 40 of the Public Health Law.

At the close of this transaction, Ontario Yates Hospice will ultimately close and Visiting Nurse Hospice and Palliative Care will be the surviving hospice. Additionally, the name of the surviving hospice will be changed to UR Medicine Hospice.

Currently, the operator of Ontario Yates Hospice is Finger Lakes Visiting Nurse Service, Inc. which is controlled by Visiting Nurse Service of Rochester and Monroe County, Inc. The parent corporation of Visiting Nurse Service of Rochester and Monroe County, Inc. is Strong Home Care Group d/b/a UR Medicine Home Care. The sole member of Strong Home Care Group is the University of Rochester. This structure was approved by the Public Health Council in 1999.

Visiting Nurse Hospice and Palliative Care currently serves Monroe county from an office located at located at 2180 Empire Boulevard, Webster, New York 14580. As a result of this merger, Visiting Nurse Hospice and Palliative Care, to be known as UR Medicine Hospice, will add the counties of Ontario and Yates to their service area.

Character and Competence Review

The Board of Directors of Visiting Nurse Service of Rochester and Monroe County, Inc., d/b/a Visiting Nurse Hospice and Palliative Care, to be known as UR Medicine Hospice, is comprised of the following individuals:

Gloria G. Harrington – Board Member Executive Director, Quail Summit, Inc. Affiliations Danforth Tower (ACF) (2011–2016) Jonathan Child (ACF) (2011– 016) Hudson-Ridge (ACF) (2011–2016) The Northfield (ACF) (2011– 016) Long Pond Senior Apartments (ACF) (2011–2016)	**Daniel A. Mendelson, MD** – Board Member Professor, Attending Physician, University of Rochester Affiliations Visiting Nurse Service of Rochester and Monroe County, Inc. (CHHA) Strong Partners Health System Monroe Community Hospital (2011-2014) The Highlands at Brighton (SNF) (2011- 2014)
Hazel P. Robertshaw, **RN** (NY, UK) – Board Member VP of Patient Care Services/CNO, UR Thompson Health Affiliation F.F. Thompson Hospital (2007 – February 2018)	**Mark S. Cronin** – Chair Chief Operating Officer, Accountable Health Partners, University of Rochester Affiliation St. Ann's Community (SNF) (June 2013 – Present)
Mark F. Prunoske – Board Member Senior Vice President, CFO, F.F. Thompson Hospital Affiliation F.F. Thompson Hospital	**Kathleen R. Whelehan** – Board Member President, CEO, The Upstate National Bank
Mary Savastano Cutting, LMSW – Board Member Director of Case Management/Social Work, Thompson Health	**James E. Dickson II, MD** – Board Member Retired

Ann M. Harrington, RN – Director Executive Director, New York Organization of Nurse Executives Affiliation Visiting Nurse Service of Rochester and Monroe County, Inc. (CHHA) (June 2017 – Present)	**Martha T. Davis** – Board Member Retired
Portia Y. James – Board Member Director, Human Resources, Paychex, Inc. Affiliations St. John's Health Care Corporation (2010 – 2014)	**Alan H. Resnick** – Board Member Retired Affiliations ACM Medical Laboratories Planned Parenthood of Central and Western New York
Diana R. Kurty, CPA – Board Member Partner, Lumina Partners Affiliations Strong Memorial Hospital Eastman Dental Center	**John R. Horvath, CPA** – Board Member Retired
Ann Marie P. Cook – Board Member President/CEO, Lifespan Affiliations Visiting Nurse Service of Rochester and Monroe County, Inc. (CHHA) Highland Hospital	**Jane M. Shukitis, RN** – Ex-Officio Director President, CEO, University of Rochester Medical Center Affiliations Unity Living Center (SNF) (April 2012 – December 2014) Park Ridge Nursing Home (April 2012 – December 2014) Edna Tina Wilson Nursing Home (April 2012 – December 2014) Unity at Home (LHCSA) (2002 – December 2014) Park Ridge at Home (LTHHCP) (1992 – December 2014) Rochester Regional Health System Home Care (CHHA) (2011 – 2014)
Steven I. Goldstein – Board Member President/CEO – University of Rochester Strong Memorial Hospital	**David J. Lipari** – Board Member Principal, Lipari Insurance Agency LLC
Michael E. McRae, NHA – Board Member President/CEO, St. Ann's Community Affiliation St. Ann's Community (April 2014 – Present)	E**lisa DeJesus** – Board Member Director, Family Services Division, Ibero-American Action League, Inc.
Jason S. Feinberg, MD – Board Member Vice President of Medical Affairs, Chief Medical Officer- Finger Lakes Health Affiliation FLH Medical PC	**Jeffrey F. Paille, CPA** – Board Member Partner, Bonadio & Co., LLP
Irene Burke – Board Member Manager of Actuarial Department, Burke Group	

Gloria G. Harrington disclosed that during her period of affiliation with The Northfield an enforcement action was taken against the facilities regarding elopement.

James E. Dickson II disclosed one settled malpractice claim within the past seven years.

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 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 Bureau of Professional Credentialing has indicated that Michael E. McRae, NHA license 04562, 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 Nursing and Midwifery Council of the United Kingdom indicated no issue with the licensure of the health care professionals associated with this application.

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 professionals associated with this application.

The Office of the Professions indicates no issue with the licensure of the Certified Public Accountants associated with this application.

A seven-year review, unless otherwise indicated, of the operations of all facilities in the Strong Home Care Group, as well as all facilities affiliated with members of the board was performed as a part of this review.

The Bureau of Quality and Surveillance reviewed the compliance history of the affiliated Nursing Homes and Skilled Nursing Facilities and reports as follows:

- St. John’s Health Care Corporation was fined $10,000 pursuant to a stipulation and order dated June 20, 2011 for inspection findings on September 27, 2010 for violations of 10 NYCRR Part 415.
- St. John’s Health Care Corporation was fined $10,000 pursuant to a stipulation and order dated March 10, 2016 for inspection findings on August 2, 2012 for violations of 10 NYCRR Part 415.
- Edna Tina Wilson Living Center was fined $10,000 pursuant to a stipulation and order dated September 22, 2015 for inspection findings on October 25, 2013 for violations of 10 NYCRR Part 415.

The Bureau of Quality and Surveillance reported that the remaining affiliated Nursing Homes and Skilled Nursing Facilities have no histories of enforcement action taken.

Division of Adult Care Facilities and Assisted Living Surveillance reviewed the compliance history of the affiliated Adult Care Facilities and reports as follows:

- The Northfield was fined $3,000.00 pursuant to a stipulation and order dated March 11, 2011 for inspection findings on November 3, 2010 for violations of Article 7 of the Social Services Law and 18 NYCRR Part 487.

The Division of Adult Care Facilities and Assisted Living Surveillance reported that the remaining affiliated Adult Care facilities have no histories of enforcement action taken.

The Division of Hospitals and Diagnostic and Treatment Centers has reviewed the compliance histories of the affiliated Hospitals and Diagnostic & Treatment Centers and reports as follows:

- Strong Memorial Hospital was fined $10,000.00 pursuant to a stipulation and order dated October 30, 2018 for inspection findings on April 30, 2018 for violations of Article 28 of the Public Health Law and 10 NYCRR Part 405.7(b)(5).

The Division of Hospitals and Diagnostic & Treatment Centers reported that the remaining affiliated Hospitals and Diagnostic & Treatment Centers have no histories of enforcement action taken.

The Division of Home and Community Based Services reviewed the compliance histories of the affiliated CHHAs, LHCSAs, and Hospice providers and reports as follows:

- Finger Lakes Visiting Nurse Service, Inc. was fined $7,500.00 pursuant to a stipulation and order dated March 20, 2013 for inspection findings on November 18, 2010. The agency was found to be in violation of 10 NYCRR Section 763.11(a), 763.11(b) – Governing Authority; 763.4(h) – Policy and Procedure of Service Delivery; 763.6(b), 763.6(c), 763.6(e) – Patient Assessment and Plan of Care.

The Division of Home and Community Based Services reported that the remaining affiliated LHCSAs, CHHAs, and LTHHCPs have no histories of enforcement action taken.

The information provided by the Clinical Laboratory Evaluation Program has indicated the clinical laboratory associated with this application has met the requirements and regulations of the Public Health Law.

Conclusion
There is no change in services as a result of this application. Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a hospice.

Financial Analysis

Agreement and Plan of Merger
An executed Plan of Merger Agreement between VNSR and FLVNS has be submitted, to be effectuated upon PHHPC approval. The terms are summarized below:

Date:	October 5, 2017 (Governing Boards' adoption date)
Merging Entities:	Visiting Nurse Service of Rochester and Monroe County, Inc. and Finger Lakes Visiting Nurse Service, Inc.
Surviving Entity:	Visiting Nurse Service of Rochester and Monroe County, Inc. to be renamed UR Medicine Home Care, Certified Services, Inc.
Asset Acquired:	All remaining assets
Liabilities Acquired:	All remaining liabilities
Purchase Price:	$-0-

In October 5, 2017, the Governing Boards of SHCG, a New York not-for-profit 501(c)(3) corporation and parent of VNSR and FLVNS, passed a resolution to merge FLVNS into VNSR (surviving corporation). The goal of the merger is to effect significant cost savings in back office and administrative operations and enable a streamlining of the management structure. The merger will allow clinical policies to be consolidated, reduce redundancy in reporting requirements to state and federal agencies, and centralize services to improve care delivery.

BFA Attachment A is the organizational structure before and after approval. VNSR will change its name to UR Medicine Home Care Certified Care Services, Inc. UR Medicine Hospice will be operated under UR Medicine Hospice under UR Medicine Home Care Certified Services. This is all part of the re-branding initiative. There will be no interruption to services and both facilities will remain in their current geographic locations with no changes.

Operating Budget

The applicant has submitted their current operating results (2017) and the combined operating budget, in 2018 dollars, for the first and third years post-merger, as summarized below:

	Current Year	Year One	Year Three
Revenues			
Medicare (General Inpt.)	$2,136,987	$2,157,459	$2,311,906
Medicaid (General Inpt.)	28,224	28,040	30,324
Medicare (Home Care)	5,059,670	7,416,360	7,951,037
Medicaid (Home Care)	29,760	33,089	35,448
Commercial/Other (Inpt.)	768,600	479,232	513,114
Commercial/Other (Home Care)	801,450	856,992	919,483
Total Revenues	$8,824,691	$10,971,172	$11,761,312
Expenses			
Inpatient	$3,565,114	$3,160,641	$3,300,409
Home Care	5,704,373	7,749,545	8,126,701
Total Expenses	$9,269,487	$10,910,186	$11,427,110
Net Income/(Loss)	($444,796)	$60,986	$334,202

Projected utilization by site of service for years one and three is as follows:

Service Site	Current Year	Year One	Year Three
Inpatient Days	4,581	3,975	4,132
Home Care Visits	38,390	51,407	53,463
Total	42,971	55,382	57,595

Projected utilization by payor source for years one and three is as follows:

Payor	Current Year	Year One	Year Three
Medicare	84.1%	88.4%	88.3%
Medicaid	0.5%	0.4%	0.5%
Comm./Private Pay	15.4%	11.2%	11.2%

Budget projections are based on the following:

- Medicaid revenues are based on historical experience.
- Medicare revenues are based on a 2% rate increase per episode based on the trended data in Year One, and a 5% rate increase based on the New Medicare rate methodology slated to begin in 2020 in Year Three.
- Commercial payers are based upon historical experience.
- Utilization increase is based on an increase in referral volume provider through collaboration with University of Rochester Medical Center in creating new revenue streams.
- Revenue and Expenses are based on historical experience adjusted for changes in projected volume and efficiencies related to consolidating operations.

Capability and Feasibility

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

The submitted budget shows positive net income for the first and third years of operation. The Vice President and Chief Financial Officer of the University of Rochester Medical Center (URMC), the passive parent of SHCG, had provided a letter documenting their financial support to VNSR over the years, and reconfirming their commitment to support VNSR in the future should the need arise to ensure the success of the hospice program.

BFA Attachment B is a summary of Strong Home Care Group, Inc.'s 2016-2017 certified financial statements. As shown, the entity had a negative working capital position, negative net asset position, and an operating loss of $4,560,989 in 2017.

BFA Attachment C is a summary of Strong Memorial Hospital's fiscal year ending June 30, 2018 certified financial statements. As shown, the entity has a positive working capital position, position net asset position, and an operating gain of $98,264,204. As of October 10, 2018, VNSR has a $15.2M payable to the URMC and Strong Memorial Hospital for services they provided in support of the agency.

Visiting Nurse Service of Rochester and Monroe County, Inc. has been affiliated with the University of Rochester since 1998 when the University was approved as the passive parent of SHCG. The University strongly supports the merger of VNSR and FLNVS and is committed to support them financially going forward. A HSBC Line of Credit up to a $5.75 million cap, guaranteed by the University of Rochester, is available to VNSR to be used for operational support as needed.

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

Attachments

BFA Attachment A	Organizational Charts
BFA Attachment B	2016 & 2017 Certified Financial Statements Strong Home Care Group, Inc.
BFA Attachment C	06/2017 & 06/2018 Certified Financial Statements Strong Memorial Hospital

Project # 181293-E
Carthage Center for Rehabilitaiton and Nursing

Program:	**Residential Health Care Facility**	*County:*	**Jefferson**
Purpose:	**Establishment**	*Acknowledged:*	**April 27, 2018**

Executive Summary

Description
CLR Carthage LLC d/b/a Carthage Center for Rehabilitation and Nursing, a New York limited liability company, requests approval to transfer a total of 88% ownership interest to an existing member and three new members, with one member withdrawing completely. Carthage Center for Rehabilitation and Nursing is a 90-bed, proprietary, Article 28 residential health care facility (RHCF) located at 1045 West Street, Carthage (Jefferson County). There will be no change in the lease agreement or consulting services agreement, and no change in beds or services provided.

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

CLR Carthage LLC		
Members	Current	Proposed
Amir Abramchik	50%	3%
Hillel Weinberger	41%	0%
Kenneth Rozenberg	9%	85%
Yisroel Wolff	--	4%
Maxwell Mase	--	4%
Nathan Goldman	--	4%

Concurrently under review, the applicant members of CLR Carthage LLC are seeking approval to acquire the operating interests in the following six RHCFs: Glens Falls Center for Rehabilitation and Nursing (CON 181294), New Paltz Center for Rehabilitation and Nursing (CON 181295), Onondaga Center for Rehabilitation and Nursing (CON 181297), Schenectady Center for Rehabilitation and Nursing (CON 181298), Slate Valley Center for Rehabilitation and Nursing (CON 181299) and Troy Center for Rehabilitation and Nursing (CON 181300).

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no Need recommendation.

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

Financial Summary
There are no project costs associated with this application. The applicant members will purchase 88% ownership interest at $10 for each of the five assignments, for a total value of $50. The proposed budget is as follows:

Revenues	$6,755,583
Expenses	6,169,031
Gain/(Loss)	$586,552

Recommendations

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

Office of Primary Care and Health Systems Management
<u>Approval contingent upon</u>:
1. Submission of a photocopy of the applicant's Amended Articles of Organization, acceptable to the Department. [CSL]

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

Council Action Date
December 13, 2018

Program Analysis

Facility Information

	Existing	**Proposed**
Facility Name	Carthage Center for Rehabilitation and Nursing	Same
Address	1045 West St Carthage, NY, 13619	Same
RHCF Capacity	90	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Proprietary	Same
Class of Operator	Proprietary	Same
Operator	CLR Carthage LLC Amir Abramchik 50% Hillel Weinberfer 41% Kenneth Rozenberg 9%	Same Kenneth Rozenberg* 85% Yisroel Wolff 4% Nathan Goldman 4% Maxwell Mase 4% Amir Abramchik 3% *managing member

Character and Competence

Only the new members, Yisroel Wolff, Nathan Goldman, and Maxwell Mase, are subject to a Character and Competence review.

Yisroel Wolff is employed as the Director of Financial Operations of Centers Health Care since 2010, which is a nursing home business office. Mr. Wolff was the CEO of HBS Professional Services; a Health Care Recruitment business. Mr. Wolff discloses the following health facility interests:

Essex Center for Rehabilitation and Health Care (**NY**)	(5%)	03/2014 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Nathan Goldman is currently licensed as a New York nursing home administrator in good standing. He was licensed as a nursing home administrator in New Jersey and Illinois; those licenses have expired. Mr. Goldman is the current Administrator at an RHCF, Triboro Center for Rehabilitation. Mr. Goldman discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Maxwell Mase is the Director of Revenue Cycle at Centers Health Care since 2010. Mr. Mase discloses no other employment prior to 2010. Mr. Mase discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Quality Review

The applicants have stated that the low ratings at Essex and Granville are attributable to two factors (1) staffing and (2) clinical oversight. Applicant indicates that survey results have been impacted by inconsistent practices due to varying competencies, based upon varying comprehension of policies/procedures and varying technical skill proficiencies. Varying competencies were in part due to the difficulty in recruiting and retaining staff, particularly in upstate areas. Low staffing ratings were attributed to the geographic location of the facility. Applicant states that they have experienced difficulties in recruitment and retention of qualified staff due to low population densities and lack of qualified/licensed nursing staff.

Applicant states that Centers Health Care has put corrective measures in place, such as relocating and housing line staff from out of state and offering busing and free transportation for staff to travel to rural areas. Additionally, a staffing support department has been established to address staffing concerns at each facility. Initiatives have been implemented to recruit and retain employees providing direct care services including provision of training and education necessary to receive CNA licensure in exchange for a commitment to accept employment at a facility for a term of one year (with the option to continue after the one-year term has expired). Specific measures implemented include: in-service trainings and staff education; changes in policies and procedures where necessary; demonstration of competencies (all staff must demonstrate competencies in their area of licensure at the time of hire and annually thereafter); buddy system where all direct care employees are paired with an experienced staff member during their first few weeks of employment to ensure new staff member is equipped with the appropriate skills and knowledge of quality assurance policies and procedures.

Provider Name	*Ownership Since*	*Overall*	*Health Inspection*	*Quality Measure*	*Staffing*
Essex Center for Rehabilitation and Healthcare	**Current**	**	**	****	**
	03/2014 *Data 07/2014*	**	*	***	****
Granville Center for Rehabilitation and Nursing	**Current**	**	**	****	**
	10/2017	*	**	****	*
Carthage Center for Rehabilitation and Nursing	*Subject of CON (Current)*	***	**	*****	**
KANSAS					
Serenity Rehabilitation and Nursing Overland Park	06/2018	**	*	***	****
MISSOURI					
Serenity Rehabilitation and Nursing Butler	06/2018	*	*	****	***
Serenity Rehabilitation and Nursing Kansas City	06/2018	*	*	*	****

***Data date**: 09/2018*
***Notes**: Greyed out facilities are not applicable due to recent acquisition; Overland Park Center for Rehab is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Overland Park; Butler Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Butler; Kansas City Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Kansas City*

Granville Center for Rehabilitation and Nursing recently graduated from being a designated Special Focus Facility. The issues surrounding its designation as a Special Focus Facility predate the ownership disclosed on this CON application.

Enforcement History

Essex Center for Rehabilitation and Health Care:

- The facility was fined $20,000 pursuant to a Stipulation and Order NH-18-039 for surveillance findings on June 14, 2018 (4 years, 3 months after proposed owners took over ownership of Essex). Deficiencies were found under 10 NYCRR 415.3(e)(2)(ii)(b) Residents' Right: Right to Clinical Care and Treatment and 415.12(i)(1) Quality of Care: Nutrition.
- The facility incurred a Civil Monetary Penalty of $13,395.25 from 03/04/18 to 03/23/18 (4 years after proposed owners took over ownership of Essex). Paid and closed.
- The facility had an Immediate Jeopardy from a complaint survey on 08/15/2015 (1 year, 5 months after proposed owners took over ownership of Essex) for which resulted in a fine $6,000 pursuant to a Stipulation and Order NH-16-116 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Concern, 415.26 Administration and 415.27(a-c) Administration: Quality Assessment and Assurance.

A review of Granville Center for Rehabilitation and Nursing for the period identified above revealed that there were no enforcements. Affidavits were provided by the applicant for the out of state facilities which disclosed no enforcement issues.

Conclusion

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

Financial Analysis

Assignment of Membership Interests

Executed assignment of membership interest purchase agreements have been submitted as follows:

Date:	February 25, 2018
Description:	Purchase of 47% Membership Interest
Assignor:	Amir Abramchik
Assignee:	Kenneth Rozenberg
Purchase Price:	$10
Payment of Purchase Price:	Equity paid on February 25, 2018

Date:	February 25, 2018
Description	Purchase 41% Membership Interest
Assignor:	Hillel Weinberger
Assignee:	Yisroel Wolff (4%), Nathan Goldman (4%), Maxwell Mase (4%) and Kenneth Rozenberg (29%)
Purchase Price:	$10 each
Payment of Purchase Price:	Equity paid on February 25, 2018

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of June 8, 2018, the facility had no outstanding Medicaid liabilities.

Operating Budget
The applicant has provided the current year (2016) results and the first and third year operating budgets subsequent to the change in ownership, in 2018 dollars, summarized as follows:

	Current Year		First Year		Third Year	
	Per Diem	Total	Per Diem	Total	Per Diem	Total
Revenues						
Medicaid-FFS	$177.23	$4,153,865	$172.10	$4,075,156	$172.10	$4,075,156
Medicaid-MC	$169.52	443,803	$181.25	479,406	$181.25	479,406
Medicare-FFS	$526.03	1,078,891	$468.69	970,657	$468.69	970,657
Medicare-MC	$345.00	214,245	$348.37	218,776	$348.37	218,776
Commercial	$295.00	82,010	$295.00	82,600	$295.00	82,600
Private Pay/Other	$340.23	862,825	362.60	928,988	362.00	928,988
Other Operating		17,176		0		0
Total		$6,852,815		$6,755,583		$6,755,583
Expenses						
Operating	$207.04	$6,530,327	$182.60	$5,818,479	$182.60	$5,818,479
Capital	19.72	622,173	11.30	360,013	11.00	350,552
Total Expenses	$226.76	$7,152,500	$193.90	$6,178,492	$193.60	$6,169,031
Net Income (Loss)		($299,685)		$577,091		$586,552
Patient Days		31,542		31,865		31,865
Utilization %		95.76%		97.0%		97.0%

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

- The current year reflects the facility's 2016 revenues and expenses. CLR Carthage LLC became the new operator of the facility as of September 1, 2017. Therefore, 2018 will be the first full year financial data to be filed with the Department under the new operator. For the 2017 RHCF filing, the new operator will be required to file only Part 1 of the RHCF cost report, which provides statistical information related to the time period the new operator has owned the facility.
- Medicaid revenue is based on the facility's current 2018 Medicaid Regional Pricing rate. The current year Medicare rate is the actual average daily rate experienced by the facility during 2016 and the forecasted Year One and Year Three Medicare rate is the applicant's projection using a more conservative rate. The Private Pay rates were based on the current operator's average rates for 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by approximately 5% through various initiatives including renegotiating contracts.
- The facility's projected utilization for Year One and Year Three is 97%. It is noted that historical utilization for 2017 was 97.07%. The applicant has increased utilization by implementing a number of measures including:
  - Further develop and marketing the facility's short-term rehabilitation program along with implementing a specific initiative to accept more clinically complex and difficult to place residents;
  - Enhance provider relationships and improved collaboration with local health plans, hospital discharge planners, assisted living facilities, and other local health care providers, and seek to partner with the local DSRIP Performing Provider System;
  - Implement a marketing team focused on community outreach and eldercare education;
  - Seek to retain existing staff, implement training and leadership programs and provide career path opportunities; and
  - Implement an improved food service program.

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

Payor	Current Year	Years One and Three
Medicaid	82.61%	82.61%
Medicare	8.47%	8.47%
Private Pay & Commercial	8.92%	8.92%

- The breakeven utilization is projected at 88.72% in the first year.
- The facility's Medicaid admissions of 26.7% in 2016 and 25.7% in 2017 exceeded Jefferson County's 75% threshold rates of 9.8% for 2016 and 13.6% for 2017.

Capability and Feasibility

There are no project costs associated with this application. The applicant will purchase 88% membership interest at $10 for each of the five assignments.

The working capital requirement is estimated at $1,029,749 based on two months of first year expenses, which can be funded through current operations of $686,505 (current assets minus current liabilities as of 12/31/17) and proposed members' equity of $343,244. As previously noted, the applicant members are seeking approval to acquire the operating interests of six other RHCFs that are concurrently under review. BFA Attachment A shows that not all members have sufficient equity to meet the working capital requirements for all seven RHCF acquisitions. Kenneth Rozenberg, an existing 9% member in all of the RHCFs whose ownership interest will increase to 85% upon PHHPC approval of this application, has submitted an affidavit attesting that he will contribute resources to meet any working capital shortfall for the first year of operations.

The submitted budget projects net income of $577,091 and $586,552 from operations in the first and third year, respectively. The budget appears reasonable.

BFA Attachment B is the pro-forma balance sheet as of the first day of operation, which indicates a positive members' equity of $666,568. It is noted that assets include $2,398,939 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill results in members' equity of negative $1,732,371.

BFA Attachment C, the Financial Summary of Carthage Nursing and Rehabilitation Center, indicates that the facility has experienced negative working capital and equity positions, an average net loss of $385,000 for 2015-2016, and an average occupancy of 94.65%. The applicant stated that the operating losses were the results of a combination of the facility's small size and expenditures exceeding reimbursement rates and revenue projections by payor. The losses accumulated over time resulting in the negative positions. Carthage Nursing and Rehabilitation Center has reversed this trend in 2017 through the following initiatives:

- reduced expenses by renegotiating vendor contracts;
- analyzed staff expenses along with reworking staff schedules to keep overtime expenses down; and
- reduced bad debt expenses through an accounts receivable collection plan.

BFA Attachment D is the Financial Summary of the proposed member's affiliated RHCF, which shows the facility maintained positive working capital, positive net assets, and generated positive net income.

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

Attachments

BFA Attachment A	CLR Carthage LLC, Kenneth Rozenberg and Proposed Members' Net Worth
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Financial Summary, Carthage Nursing and Rehabilitation Center, LLC, 2015- 2017
BFA Attachment D	Proposed Member's Affiliated RHCF Financial Summary

Public Health and Health Planning Council

Project # 181294-E
Glens Falls Center for Rehabilitation and Nursing

Program:	**Residential Health Care Facility**	***County:***	**Warren**
Purpose:	**Establishment**	***Acknowledged:***	**April 27, 2018**

Executive Summary

Description

CLR Glens Falls LLC d/b/a Glens Falls Center for Rehabilitation and Nursing, a New York limited liability company, requests approval to transfer a total of 88% ownership interest to an existing member and three new members, with one member withdrawing completely. Glens Falls Center for Rehabilitation and Nursing is a 117-bed, proprietary, Article 28 residential health care facility (RHCF) located at 152 Sherman Avenue, Glens Falls (Warren County). There will be no change in the lease agreement or consulting services agreement, and no change in beds or services provided.

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

CLR Glens Falls LLC		
Members	Current	Proposed
Amir Abramchik	50%	3%
Hillel Weinberger	41%	0%
Kenneth Rozenberg	9%	85%
Yisroel Wolff	--	4%
Maxwell Mase	--	4%
Nathan Goldman	--	4%

Concurrently under review, the applicant members of CLR Glens Falls LLC are seeking approval to acquire the operating interests in the following six RHCFs: Carthage Center for Rehabilitation and Nursing (CON 181293), New Paltz Center for Rehabilitation and Nursing (CON 181295), Onondaga Center for Rehabilitation and Nursing (CON 181297), Schenectady Center for Rehabilitation and Nursing (CON 181298), Slate Valley Center for Rehabilitation and Nursing (CON 181299) and Troy Center for Rehabilitation and Nursing (CON 181300).

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no Need recommendation.

Program Summary

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

Financial Summary

There are no project costs associated with this application. The applicant members will purchase 88% ownership interest at $10 for each of the five assignments, for a total value of $50. The proposed budget is as follows:

Revenues	$10,013,211
Expenses	9,373,577
Gain/(Loss)	$762,634

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 a Certificate of Amendment to the Articles of Organization of CLR Glens Falls LLC, which is acceptable to the Department. [CSL]

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

Council Action Date
December 13, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Glens Falls Center for Rehabilitation and Nursing	Same
Address	152 Sherman Ave Glens Falls, NY, 12801	Same
RHCF Capacity	117	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Proprietary	Same
Class of Operator	Proprietary	Same
Operator	CLR Glens Falls LLC Amir Abramchik 50% Hillel Weinberfer 41% Kenneth Rozenberg 9%	Same Kenneth Rozenberg* 85% Yisroel Wolff 4% Nathan Goldman 4% Maxwell Mase 4% Amir Abramchik 3% *managing member

Character and Competence

Only the new members, Yisroel Wolff, Nathan Goldman, and Maxwell Mase, are subject to a Character and Competence review.

Yisroel Wolff is employed as the Director of Financial Operations of Centers Health Care since 2010, which is a nursing home business office. Mr. Wolff was the CEO of HBS Professional Services; a Health Care Recruitment business. Mr. Wolff discloses the following health facility interests:

Essex Center for Rehabilitation and Health Care (**NY**) (5%)	03/2014 to present
Butler Center for Rehabilitation and Healthcare (MO) (1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO) (1%)	06/2018 to present
Overland Park Center for Rehab (KS) (1%)	06/2018 to present

Nathan Goldman is currently licensed as a New York nursing home administrator in good standing. He was licensed as a nursing home administrator in New Jersey and Illinois; those licenses have expired. Mr. Goldman is the current Administrator at an RHCF, Triboro Center for Rehabilitation. Mr. Goldman discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**) (5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO) (1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO) (1%)	06/2018 to present
Overland Park Center for Rehab (KS) (1%)	06/2018 to present

Maxwell Mase is the Director of Revenue Cycle at Centers Health Care since 2010. Mr. Mase discloses no other employment prior to 2010. Mr. Mase discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**) (5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO) (1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO) (1%)	06/2018 to present
Overland Park Center for Rehab (KS) (1%)	06/2018 to present

Quality Review

The applicants have stated that the low ratings at Essex and Granville are attributable to two factors (1) staffing and (2) clinical oversight. Applicant indicates that survey results have been impacted by inconsistent practices due to varying competencies, based upon varying comprehension of policies/procedures and varying technical skill proficiencies. Varying competencies were in part due to the

difficulty in recruiting and retaining staff, particularly in upstate areas. Low staffing ratings were attributed to the geographic location of the facility. Applicant states that they have experienced difficulties in recruitment and retention of qualified staff due to low population densities and lack of qualified/licensed nursing staff.

Applicant states that Centers Health Care has put corrective measures in place, such as relocating and housing line staff from out of state and offering busing and free transportation for staff to travel to rural areas. Additionally, a staffing support department has been established to address staffing concerns at each facility. Initiatives have been implemented to recruit and retain employees providing direct care services including provision of training and education necessary to receive CNA licensure in exchange for a commitment to accept employment at a facility for a term of one year (with the option to continue after the one-year term has expired). Specific measures implemented include: in-service trainings and staff education; changes in policies and procedures where necessary; demonstration of competencies (all staff must demonstrate competencies in their area of licensure at the time of hire and annually thereafter); buddy system where all direct care employees are paired with an experienced staff member during their first few weeks of employment to ensure new staff member is equipped with the appropriate skills and knowledge of quality assurance policies and procedures.

Provider Name	***Ownership Since***	***Overall***	***Health Inspection***	***Quality Measure***	***Staffing***
Essex Center for Rehabilitation and Healthcare	**Current**	**	**	****	**
	03/2014 *Data 07/2014*	**	*	***	****
Granville Center for Rehabilitation and Nursing	**Current**	**	**	****	**
	10/2017	*	**	****	*
Glens Falls Center for Rehabilitation and Nursing	*Subject of CON (Current)*	***	**	*****	***
KANSAS					
Serenity Rehabilitation and Nursing Overland Park	06/2018	**	*	***	****
MISSOURI					
Serenity Rehabilitation and Nursing Butler	06/2018	*	*	****	***
Serenity Rehabilitation and Nursing Kansas City	06/2018	*	*	*	****

***Data date**: 09/2018*
***Notes**: Greyed out facilities are not applicable due to recent acquisition; Overland Park Center for Rehab is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Overland Park; Butler Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Butler; Kansas City Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Kansas City*

Granville Center for Rehabilitation and Nursing recently graduated from being a designated Special Focus facility). The issues surrounding its designation as a Special Focus Facility predate the ownership disclosed on this CON application.

Enforcement History

Essex Center for Rehabilitation and Health Care:

- The facility was fined $20,000 pursuant to a Stipulation and Order NH-18-039 for surveillance findings on June 14, 2018 (4 years, 3 months after proposed owners took over ownership of Essex). Deficiencies were found under 10 NYCRR 415.3(e)(2)(ii)(b) Residents' Right: Right to Clinical Care and Treatment and 415.12(i)(1) Quality of Care: Nutrition.
- The facility incurred a Civil Monetary Penalty of $13,395.25 from 03/04/18 to 03/23/18 (4 years after proposed owners took over ownership of Essex). Paid and closed.

- The facility had an Immediate Jeopardy from a complaint survey on 08/15/2015 (1 year, 5 months after proposed owners took over ownership of Essex) for which resulted in a fine $6,000 pursuant to a Stipulation and Order NH-16-116 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Concern, 415.26 Administration and 415.27(a-c) Administration: Quality Assessment and Assurance.

A review of Granville Center for Rehabilitation and Nursing for the period identified above revealed that there were no enforcements. Affidavits were provided by the applicant for the out of state facilities which disclosed no enforcement issues.

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

Financial Analysis

Assignment of Membership Interests
Executed assignment of membership interest purchase agreements have been submitted as follows:

Date:	February 25, 2018
Description	Purchase 47% Membership Interest
Assignor:	Amir Abramchik
Assignee:	Kenneth Rozenberg
Purchase Price:	$10
Payment of Purchase Price:	Equity paid on February 25, 2018

Date:	February 25, 2018
Description	Purchase 41.0% Membership Interest
Assignor:	Hillel Weinberger
Assignee:	Yisroel Wolff (4%), Nathan Goldman (4%), Maxwell Mase (4%) and Kenneth Rozenberg (29%)
Purchase Price:	$10 each
Payment of Purchase Price:	Equity paid on February 25, 2018

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of June 6, 2018, the facility had no outstanding Medicaid liabilities.

Operating Budget

The applicant has provided the current year (2016) results and the first and third year operating budgets subsequent to the change in ownership, in 2018 dollars, summarized as follows:

	Current Year		First Year		Third Year	
	Per Diem	Total	Per Diem	Total	Per Diem	Total
Revenues						
Medicaid-FFS	$207.24	$5,084,452	$179.76	$4,498,314	$179.76	$4,592,868
Medicaid-MC	$175.35	594,255	$175.35	606,185	$175.35	618,810
Medicare-FFS	$490.25	1,272,685	$490.25	1,298,672	$490.25	1,326,126
Medicare-MC	$444.64	1,228,978	$444.64	1,283,044	$444.64	1,280,119
Commercial	$395.00	22,910	$395.00	24.095	$395.00	24,490
Private Pay	$338.89	2,181,412	$338.89	2,224,474	$338.89	2,271,241
Other Operating		22,557		0		0
Total		$10,407,249		$9,928,182		$10,013,211
Expenses						
Operating	$238.08	$9,470,164	$220.56	$8,949,016	$216.02	$8,949,016
Interest	0.52	20,598	3.92	159,103	3.66	151,638
Capital	14.54	578,411	7.77	315,220	6.59	272,923
Total Expenses	$253.14	$10,069,173	$232.25	$9,423,339	$226.27	$9,373,577
Net Income (Loss)		$338,076		$504,843		$762,634
Patient Days		39,778		40,575		41,427
Utilization %		90.6%		95.0%		97.0%

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

- The current year reflects the facility's 2016 revenues and expenses. CLR Glens Falls LLC became the new operator of the facility as of September 1, 2017. Therefore, 2018 will be the first full year financial data to be filed with the Department under the new operator. For the 2017 RHCF filing, the new operator will be required to file only Part 1 of the RHCF cost report, which provides statistical information related to the time period the new operator has owned the facility.
- Medicaid revenue is based on the facility's current 2018 Medicaid Regional Pricing rate. The current year Medicare rate is the actual average daily rate experienced by the facility during 2016. The Private Pay rates were based on the current operator's average rates for 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by at least 6.4% and 6.9% through various initiatives including renegotiating contracts for year one and year three, respectively.
- The facility's projected utilization for Year One is 95% and Year Three is 97%. It is noted that historical utilization for 2017 was 96.7%, due in part to a decrease of three RHCF beds implemented under CON 162261, and 93.39% as of June 30, 2018. The applicant is trying to increase utilization by implementing a number of measures including:
  - Further develop and marketing the facility's short-term rehabilitation program along with implementing a specific initiative to accept more clinically complex and difficult to place residents;
  - Enhance provider relationships and improved collaboration with local health plans, hospital discharge planners, assisted living facilities, and other local health care providers, and seek to partner with the local DSRIP Performing Provider System;
  - Implement a marketing team focused on community outreach and eldercare education;
  - Seek to retain existing staff, implement training and leadership programs and provide career path opportunities; and
  - Implement an improved food service program.

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

Payor	Current Year	Years One and Three
Medicaid	70.20%	70.19%
Medicare	13.47%	13.48%
Private Pay & Commercial	16.33%	16.33%

- The breakeven utilization is projected at 90.18% in the first year.
- The facility's Medicaid admissions of 7.7% in 2016 and 9.9% in 2017 exceeded Warren County's 75% threshold rates of 6.2% for 2016 and 7.0% for 2017.

Capability and Feasibility

There are no project costs associated with this application. The applicant will purchase 88% membership interest at $10 for each of the five assignments.

The working capital requirement is estimated at $1,570,557 based on two months of first year expenses, which can be funded through current operations of $799,480 (current assets minus current liabilities as of 12/31/17) and proposed member's equity of $771,077. As previously noted, the applicant members are seeking approval to acquire the operating interests of six other RHCFs that are concurrently under review. BFA Attachment A shows that not all members have sufficient equity to meet the working capital requirements for all seven RHCF acquisitions. Kenneth Rozenberg, an existing 9% member in all of the RHCFs whose ownership interest will increase to 85% upon PHHPC approval of this application, has submitted an affidavit attesting that he will contribute resources to meet any working capital shortfall for the first year of operations.

The submitted budget projects a $504,843 and a $762.634 net income from operations in the first and third year, respectively. Kenneth Rozenberg has submitted an affidavit stating that he will contribute capital as needed for the first and third year of operations. BFA Attachment E presents the budget sensitivity analysis based on current utilization of the facility as of June 30, 2018, which shows the first and third year budgeted revenues would decrease by $380,053 resulting in a net operating income in year one of $124,790 and in year three of $382,581. The budget appears reasonable.

BFA Attachment B presents CLR Glens Falls LLC's pro forma balance sheet as of the first day of operation, which indicates a positive members equity of $789,798. It is noted that assets include $3,232,348 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill results in members' equity of negative $2,442,550.

BFA Attachment C, Financial Summary of Glens Falls Center for Rehabilitation and Nursing, indicates that the facility has experienced positive working capital and equity positions, experienced an average net gain of $373,500 for 2015-2016, and an average occupancy of 89.50%. Glens Falls Center for Rehabilitation and Nursing has an occupancy rate of 96.7% in 2017. Three RHCF beds were decertified effective September 1, 2017, which has resulted in an improved occupancy rate at the new reduced certified bed count (CON 162261).

BFA Attachment D presents the Financial Summary of the proposed member's affiliated RHCF, which shows the facility maintained positive working capital, positive net assets, and generated positive net income.

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

Attachments

BFA Attachment A	CLR Glens Falls LLC, Kenneth Rozenberg and Proposed Members' Net Worth
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Financial Summary, Glens Falls Center for Rehabilitation and Nursing, LLC, 2015- 2017
BFA Attachment D	Proposed member's Affiliated RHCF Financial Summary
BFA Attachment E	Budget Sensitivity

Public Health and Health Planning Council

Project # 181295-E
New Paltz Center for Rehabilitation and Nursing

Program:	**Residential Health Care Facility**	*County:*	**Ulster**
Purpose:	**Establishment**	*Acknowledged:*	**May 3, 2018**

Executive Summary

Description

CLR New Paltz LLC d/b/a New Paltz Center for Rehabilitation and Nursing, a New York limited liability company, requests approval to transfer a total of 88% ownership interest to an existing member and three new members, with one member withdrawing completely. New Paltz Center for Rehabilitation and Nursing is a 77-bed, proprietary, Article 28 residential health care facility (RHCF) located at 1 Jansen Road, New Paltz (Ulster County). There will be no change in the lease agreement or consulting services agreement, and no change in beds or services provided.

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

CLR New Paltz LLC		
Members	Current	Proposed
Amir Abramchik	50%	3%
Hillel Weinberger	41%	0%
Kenneth Rozenberg	9%	85%
Yisroel Wolff	--	4%
Maxwell Mase	--	4%
Nathan Goldman	--	4%

Concurrently under review, the applicant members of CLR New Paltz LLC are seeking approval to acquire the operating interests in the following six RHCFs: Carthage Center for Rehabilitation and Nursing (CON 181293), Glens Falls Center for Rehabilitation and Nursing (CON 181294), Onondaga Center for Rehabilitation and Nursing (CON 181297), Schenectady Center for Rehabilitation and Nursing (CON 181298), Slate Valley Center for Rehabilitation and Nursing (CON 181299) and Troy Center for Rehabilitation and Nursing (CON 181300).

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no Need recommendation.

Program Summary

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

Financial Summary

There are no project costs associated with this application. The applicant members will purchase 88% ownership interest at $10 for each of the five assignments, for a total value of $50. The proposed budget is as follows:

Revenues	$7,220,672
Expenses	6,828,784
Gain/(Loss)	$391,888

Recommendations

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

Office of Primary Care and Health Systems Management
<u>Approval contingent upon</u>:
1. Submission of a photocopy of a Certificate of Amendment to the Articles of Organization of CLR New Paltz LLC, which is acceptable to the Department. [CSL]

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

Council Action Date
December 13, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	New Paltz Center for Rehabilitation and Nursing	Same
Address	1 Jansen Rd New Paltz, NY, 12561	Same
RHCF Capacity	77	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Proprietary	Same
Class of Operator	Proprietary	Same
Operator	CLR New Paltz LLC Amir Abramchik 50% Hillel Weinberfer 41% Kenneth Rozenberg 9%	Same Kenneth Rozenberg* 85% Yisroel Wolff 4% Nathan Goldman 4% Maxwell Mase 4% Amir Abramchik 3% *managing member

Character and Competence

Only the new members, Yisroel Wolff, Nathan Goldman, and Maxwell Mase, are subject to a Character and Competence review.

Yisroel Wolff is employed as the Director of Financial Operations of Centers Health Care since 2010, which is a nursing home business office. Mr. Wolff was the CEO of HBS Professional Services; a Health Care Recruitment business. Mr. Wolff discloses the following health facility interests:

Essex Center for Rehabilitation and Health Care (**NY**)	(5%)	03/2014 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Nathan Goldman is currently licensed as a New York nursing home administrator in good standing. He was licensed as a nursing home administrator in New Jersey and Illinois; those licenses have expired. Mr. Goldman is the current Administrator at an RHCF, Triboro Center for Rehabilitation. Mr. Goldman discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Maxwell Mase is the Director of Revenue Cycle at Centers Health Care since 2010. Mr. Mase discloses no other employment prior to 2010. Mr. Mase discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Quality Review

The applicants have stated that the low ratings at Essex and Granville are attributable to two factors (1) staffing and (2) clinical oversight. Applicant indicates that survey results have been impacted by inconsistent practices due to varying competencies, based upon varying comprehension of policies/procedures and varying technical skill proficiencies. Varying competencies were in part due to the difficulty in recruiting and retaining staff, particularly in upstate areas. Low staffing ratings were attributed to the geographic location of the facility. Applicant states that they have experienced difficulties in recruitment and retention of qualified staff due to low population densities and lack of qualified/licensed nursing staff.

Applicant states that Centers Health Care has put corrective measures in place, such as relocating and housing line staff from out of state and offering busing and free transportation for staff to travel to rural areas. Additionally, a staffing support department has been established to address staffing concerns at each facility. Initiatives have been implemented to recruit and retain employees providing direct care services including provision of training and education necessary to receive CNA licensure in exchange for a commitment to accept employment at a facility for a term of one year (with the option to continue after the one-year term has expired). Specific measures implemented include: in-service trainings and staff education; changes in policies and procedures where necessary; demonstration of competencies (all staff must demonstrate competencies in their area of licensure at the time of hire and annually thereafter); buddy system where all direct care employees are paired with an experienced staff member during their first few weeks of employment to ensure new staff member is equipped with the appropriate skills and knowledge of quality assurance policies and procedures.

Provider Name	***Ownership Since***	***Overall***	***Health Inspection***	***Quality Measure***	***Staffing***
Essex Center for Rehabilitation and Healthcare	**Current**	**	**	****	**
	03/2014 *Data 07/2014*	**	*	***	****
Granville Center for Rehabilitation and Nursing	**Current**	**	**	****	**
	10/2017	*	**	****	*
New Paltz Center for Rehabilitation and Nursing	*Subject of CON (Current)*	****	***	****	****
KANSAS					
Serenity Rehabilitation and Nursing Overland Park	06/2018	**	*	***	****
MISSOURI					
Serenity Rehabilitation and Nursing Butler	06/2018	*	*	****	***
Serenity Rehabilitation and Nursing Kansas City	06/2018	*	*	*	****

***Data date**: 09/2018*
***Notes**: Greyed out facilities are not applicable due to recent acquisition; Overland Park Center for Rehab is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Overland Park; Butler Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Butler; Kansas City Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Kansas City*

Granville Center for Rehabilitation and Nursing recently graduated from being a designated Special Focus facility). The issues surrounding its designation as a Special Focus Facility predate the ownership disclosed on this CON application.

Enforcement History

Essex Center for Rehabilitation and Health Care:

- The facility was fined $20,000 pursuant to a Stipulation and Order NH-18-039 for surveillance findings on June 14, 2018 (4 years, 3 months after proposed owners took over ownership of Essex). Deficiencies were found under 10 NYCRR 415.3(e)(2)(ii)(b) Residents' Right: Right to Clinical Care and Treatment and 415.12(i)(1) Quality of Care: Nutrition.

- The facility incurred a Civil Monetary Penalty of $13,395.25 from 03/04/18 to 03/23/18 (4 years after proposed owners took over ownership of Essex). Paid and closed.
- The facility had an Immediate Jeopardy from a complaint survey on 08/15/2015 (1 year, 5 months after proposed owners took over ownership of Essex) for which resulted in a fine $6,000 pursuant to a Stipulation and Order NH-16-116 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Concern, 415.26 Administration and 415.27(a-c) Administration: Quality Assessment and Assurance.

A review of Granville Center for Rehabilitation and Nursing for the period identified above revealed that there were no enforcements.

Affidavits were provided by the applicant for the out of state facilities which disclosed no enforcement issues.

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

Financial Analysis

Assignment of Membership Interests
Executed assignment of membership interest purchase agreements have been submitted as follows:

Date:	February 25, 2018
Description	Purchase 47% Membership Interest
Assignor:	Amir Abramchik
Assignee:	Kenneth Rozenberg
Purchase Price:	$10
Payment of Purchase Price:	Equity paid on February 25, 2018

Date:	February 25, 2018
Description	Purchase 41% Membership Interest
Assignor:	Hillel Weinberger
Assignee:	Yisroel Wolff (4%), Nathan Goldman (4%), Maxwell Mase (4%), and Kenneth Rozenberg (29%)
Purchase Price:	$10 each
Payment of Purchase Price:	Equity paid on February 25, 2018

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of June 12, 2018, the facility has no outstanding Medicaid liabilities.

Operating Budget

The applicant has provided the current year (2016) results and the first and third year operating budgets subsequent to the change in ownership, in 2018 dollars, summarized as follows:

	Current Year		Year One		Year Three	
	Per Diem	Total	Per Diem	Total	Per Diem	Total
Revenues						
Medicaid FFS	$263.40	$3,771,129	$212.65	$3,197,618	$212.65	$3,265,028
Medicaid MC	$218.36	$880,446	$210.18	$890,112	$210.18	$908,818
Medicare FFS	$460.06	$1,196,604	$530.75	$1,449,478	$530.75	$1,480,262
Medicare MC	$367.00	$635,277	$367.00	$667,206	$367.00	$681,519
Commercial FFS	$349.69	$72,385	$400.00	$86,400	$400.00	$88,400
Private Pay/Other	$280.96	$711,678	$349.57	$929,858	$349.67	$949,342
Other Operating		$10,605		$0		$0
Total Revenues		$7,278,124		$7,220,672		$7,373,369
Expenses						
Operating	$292.68	$7,440,140	$244.34	$6,523,203	$239.30	$6,523,203
Capital	$21.37	$543,160	$11.45	$305,581	$9.64	$262,858
Total Expenses	$314.04	$7,983,300	$255.79	$6,828,784	$248.94	$6,786,061
Net Income (Loss)		(705,176)		391,888		587,308
Patient Days		25,421		26,697		27,260
Max days		28,914		28,105		28,105
Utilization %		87.92%		95.0%		97.0%

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

- The current year reflects the facility's 2016 revenues and expenses. CLR New Paltz LLC became the new operator of the facility as of September 1, 2017. Therefore, 2018 will be the first full year financial data to be filed with the Department under the new operator. For the 2017 RHCF filing, the new operator will be required to file only Part 1 of the RHCF cost report, which provides statistical information related to the time period the new operator has owned the facility.
- The current year 2016 occupancy reflects 79 beds. Under CON 162258 and effective September 1, 2017, two RHCF beds were decertified leaving 77 net beds, which are reflected in the first and third year budget utilization calculations.
- Medicaid revenue is based on the facility's current 2018 Medicaid Regional Pricing rate plus assessments. The current year Medicare rate is the actual daily rate experienced by the facility during 2016 and the forecasted year one and year three Medicare rate is the actual daily rate for 2018. The Private Pay rates were based on the current operator's average rates for 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by approximately 14.5% through various initiatives including re-negotiating contracts. The staffing projections, a reduction of 7.88 FTEs, are based on the new operator's staffing plan as implemented upon the change of ownership. The staffing may be adjusted further based upon resident need.
- The facility's projected utilization for Year One and Year Three is 95% and 97%, respectively. It is noted that utilization for the past four years (2013-2016) has averaged around 86.5% and current occupancy was 85.6% as of December 31, 2017. As of April 30, 2018, the utilization is 95.25%. The applicant has increased utilization by implementing a number of measures including:
  - Further develop and market the facility's short-term rehabilitation program along with implementing a specific initiative to accept more clinically complex and difficult to place residents;
  - Enhance provider relationships and improved collaboration with local health plans, hospital discharge planners, assisted living facilities, and other local health care providers, and seek to partner with the local DSRIP Performing Provider System;
  - Implement a marketing team focused on community outreach and eldercare education;
  - Seek to retain existing staff, implement training and leadership programs, and provide career path opportunities; and
  - Implement an improved food service program.

- Utilization by payor source for the current year (2016) and the first and third year after the change in ownership is summarized below:

Payor	Current Year	Years One and Three
Medicaid	72.19%	72.19%
Medicare	17.04%	17.04%
Private Pay & Commercial	10.77%	10.77%

- The breakeven utilization is projected at 89.8% in the first year.
- The facility's Medicaid admissions of 21.5% in 2016 and 27.8% in 2017 exceeded Ulster County's 75% threshold rate of 19.5% in 2016 and 15.4% in 2017.

Capability and Feasibility

There are no project costs associated with this application. The applicant will purchase 88% membership interest at $10 for each of the five assignments.

The working capital requirement is estimated at $1,138,131 based on two months of first year expenses, which can be funded through current operations of $996,218 (current assets minus current liabilities as of 12/31/2017) and proposed member's equity of $141,913. As previously noted, the applicant members are seeking approval to acquire the operating interests of six other RHCFs that are concurrently under review. BFA Attachment A shows that not all members have sufficient equity to meet the working capital requirements for all seven RHCF acquisitions. Kenneth Rozenberg, an existing 9% member in all of the RHCFs whose ownership interest will increase to 85% upon PHHPC approval of this application, has submitted an affidavit attesting that he will contribute resources to meet any working capital shortfall for the first year of operations.

The submitted budget projects a $391,888 and a $587,308 net income from operations in the first and third year, respectively. The budget appears reasonable.

BFA Attachment B presents the pro forma balance sheet of New Paltz Center for Rehabilitation and Nursing, which indicates positive members' equity of $487,966. It is noted that assets include $2,092,390 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill results in members' equity of negative $1,604,423.

BFA Attachment C, the Financial Summary of New Paltz Center for Rehabilitation and Nursing, indicates that the facility has working capital in the amount of $996,218, positive equity position of $487,966, and net income of $33,194 for the period September 1, 2017 through December 31, 2017. Occupancy for this last quarter of 2017 was at 97%. For the previous 2015-2016 period, the facility experienced negative working capital and equity positions and had an average net loss of $739,954, with average occupancy level of 91.5%. The applicant stated that prior operating losses were the results of a combination of the facility's small size and expenditures exceeding reimbursement rates and revenue projections by payor. The losses accumulated over time resulting in negative positions. The applicant plans to maintain increased occupancy by accepting more clinically complex residents and implementing the above stated measures. The applicant intends to reduce expenses by:

- reducing staff by 7.88 FTEs;
- analyzing staff expenses and re-working staff schedules to keep overtime expenses down;
- re-negotiating vendor contracts; and
- reducing bad debt expenses through an accounts receivable collection plan.

BFA Attachment D presents the Financial Summary of the proposed member's affiliated RHCF, which shows the facility maintained positive working capital, positive net assets, and generated positive net income.

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

Attachments

BFA Attachment A	CLR New Paltz LLC – Kenneth Rozenberg and Proposed Members Net Worth
BFA Attachment B	New Paltz Center for Rehabilitation and Nursing – Pro Forma Balance Sheet
BFA Attachment C	New Paltz Center for Rehabilitation and Nursing – Financial Summary 2015-2017
BFA Attachment D	Proposed Member's Affiliated RHCF Financial Summary

Public Health and Health Planning Council

Project # 181297-E
Onondaga Center for Rehabilitation and Nursing

Program:	**Residential Health Care Facility**	***County:***	**Onondaga**
Purpose:	**Establishment**	***Acknowledged:***	**May 1, 2018**

Executive Summary

Description

CLR Minoa LLC d/b/a Onondaga Center for Rehabilitation and Nursing, a New York limited liability company, requests approval to transfer a total of 88% ownership interest to an existing member and three new members, with one member withdrawing completely. Onondaga Center for Rehabilitation and Nursing is an 80-bed, proprietary, Article 28 residential health care facility (RHCF) located at 217 East Avenue, Minoa, (Onondaga County). There will be no change in the lease agreement or consulting services agreement, and no change in beds or services provided.

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

CLR Minoa LLC		
Members	Current	Proposed
Amir Abramchik	50%	3%
Hillel Weinberger	41%	0%
Kenneth Rozenberg	9%	85%
Yisroel Wolff	--	4%
Maxwell Mase	--	4%
Nathan Goldman	--	4%

Concurrently under review, the applicant members of CLR Minoa LLC are seeking approval to acquire the operating interests in the following six RHCFs: Carthage Center for Rehabilitation and Nursing (CON 181293), Glens Falls Center for Rehabilitation and Nursing (CON 181294), New Paltz Center for Rehabilitation and Nursing (CON 181295), Schenectady Center for Rehabilitation and Nursing (CON 181298), Slate Valley Center for Rehabilitation and Nursing (CON 181299) and Troy Center for Rehabilitation and Nursing (CON 181300).

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no Need recommendation.

Program Summary

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

Financial Summary

There are no project costs associated with this application. The applicant will purchase 88% membership interest at $10 for each of the five assignments, for a total value of $50. The proposed budget is as follows:

Revenues	$8,262,022
Expenses	6,922,273
Gain/(Loss)	$1,339,649

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 Articles of Organization, 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
December 13, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Onondaga Center for Rehabilitation and Nursing	Same
Address	217 East Avenue, Minoa NY, 13116	Same
RHCF Capacity	80	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Proprietary	Same
Class of Operator	Proprietary	Same
Operator	CLR Minoa LLC Amir Abramchik 50% Hillel Weinberfer 41% Kenneth Rozenberg 9%	Same Kenneth Rozenberg* 85% Yisroel Wolff 4% Nathan Goldman 4% Maxwell Mase 4% Amir Abramchik 3% *managing member

Character and Competence

Only the new members, Yisroel Wolff, Nathan Goldman, and Maxwell Mase, are subject to a Character and Competence review.

Yisroel Wolff is employed as the Director of Financial Operations of Centers Health Care since 2010, which is a nursing home business office. Mr. Wolff was the CEO of HBS Professional Services; a Health Care Recruitment business. Mr. Wolff discloses the following health facility interests:

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Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Nathan Goldman is currently licensed as a New York nursing home administrator in good standing. He was licensed as a nursing home administrator in New Jersey and Illinois; those licenses have expired. Mr. Goldman is the current Administrator at an RHCF, Triboro Center for Rehabilitation. Mr. Goldman discloses the following health facility interests:

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Maxwell Mase is the Director of Revenue Cycle at Centers Health Care since 2010. Mr. Mase discloses no other employment prior to 2010. Mr. Mase discloses the following health facility interests:

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Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Quality Review

The applicants have stated that the low ratings at Essex and Granville are attributable to two factors (1) staffing and (2) clinical oversight. Applicant indicates that survey results have been impacted by inconsistent practices due to varying competencies, based upon varying comprehension of policies/procedures and varying technical skill proficiencies. Varying competencies were in part due to the

difficulty in recruiting and retaining staff, particularly in upstate areas. Low staffing ratings were attributed to the geographic location of the facility. Applicant states that they have experienced difficulties in recruitment and retention of qualified staff due to low population densities and lack of qualified/licensed nursing staff.

Applicant states that Centers Health Care have put corrective measures in place, such as relocating and housing line staff from out of state and offering busing and free transportation for staff to travel to rural areas. Additionally, a staffing support department has been established to address staffing concerns at each facility. Initiatives have been implemented to recruit and retain employees providing direct care services including provision of training and education necessary to receive CNA licensure in exchange for a commitment to accept employment at a facility for a term of one year (with the option to continue after the one-year term has expired). Specific measures implemented include: in-service trainings and staff education; changes in policies and procedures where necessary; demonstration of competencies (all staff must demonstrate competencies in their area of licensure at the time of hire and annually thereafter); buddy system where all direct care employees are paired with an experienced staff member during their first few weeks of employment to ensure new staff member is equipped with the appropriate skills and knowledge of quality assurance policies and procedures.

Provider Name	***Ownership Since***	***Overall***	***Health Inspection***	***Quality Measure***	***Staffing***
Essex Center for Rehabilitation and Healthcare	**Current**	**	**	****	**
	03/2014 *Data 07/2014*	**	*	***	****
Granville Center for Rehabilitation and Nursing	**Current**	**	**	****	**
	10/2017	*	**	****	*
Onondaga Center for Rehabilitation and Nursing	*Subject of CON (Current)*	*	*	****	***
KANSAS					
Serenity Rehabilitation and Nursing Overland Park	06/2018	**	*	***	****
MISSOURI					
Serenity Rehabilitation and Nursing Butler	06/2018	*	*	****	***
Serenity Rehabilitation and Nursing Kansas City	06/2018	*	*	*	****

***Data date**: 09/2018*
***Notes**: Greyed out facilities are not applicable due to recent acquisition; Overland Park Center for Rehab is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Overland Park; Butler Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Butler; Kansas City Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Kansas City*

Granville Center for Rehabilitation and Nursing recently graduated from being a designated Special Focus facility (dsff). As a result, there is no current Quintile rating. The issues surrounding its designation as a Special Focus Facility predate the ownership disclosed on this CON application.

Enforcement History

Essex Center for Rehabilitation and Health Care:

- The facility was fined $20,000 pursuant to a Stipulation and Order NH-18-039 for surveillance findings on June 14, 2018 (4 years, 3 months after proposed owners took over ownership of Essex). Deficiencies were found under 10 NYCRR 415.3(e)(2)(ii)(b) Residents' Right: Right to Clinical Care and Treatment and 415.12(i)(1) Quality of Care: Nutrition.
- The facility incurred a Civil Monetary Penalty of $13,395.25 from 03/04/18 to 03/23/18 (4 years after proposed owners took over ownership of Essex). Paid and closed.

- The facility had an Immediate Jeopardy from a complaint survey on 08/15/2015 (1 year, 5 months after proposed owners took over ownership of Essex) for which resulted in a fine $6,000 pursuant to a Stipulation and Order NH-16-116 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Concern, 415.26 Administration and 415.27(a-c) Administration: Quality Assessment and Assurance.

A review of Granville Center for Rehabilitation and Nursing for the period identified above revealed that there were no enforcements.

Affidavits were provided by the applicant for the out of state facilities which disclosed no enforcement issues.

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

Financial Analysis

Assignment of Membership Interests
Executed assignment of membership interest purchase agreements have been submitted as follows:

Date:	February 25, 2018
Description	Purchase of 47% Membership Interest
Assignor:	Amir Abramchik
Assignee:	Kenneth Rozenberg
Purchase Price:	$10
Payment of Purchase Price:	Equity paid on February 25, 2018

Date:	February 25, 2018
Description	Purchase 41% Membership Interest
Assignor:	Hillel Weinberger
Assignee:	Yisroel Wolff (4%), Nathan Goldman (4%), Maxwell Mase (4%) and Kenneth Rozenberg (29%)
Purchase Price:	$10 each
Payment of Purchase Price:	Equity paid on February 25, 2018

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of June 10, 2018, the facility had no outstanding Medicaid liabilities.

Operating Budget

The applicant has provided the current year (2016) results and the first and third year operating budgets subsequent to the change in ownership, in 2018 dollars, summarized as follows:

	Current Year		Year One		Year Three	
	Per Diem	Total	Per Diem	Total	Per Diem	Total
Revenues						
Medicaid-FFS	$245.18	$3,536,981	$219.75	$3,469,853	$219.75	$3,542,810
Medicaid-MC	$243.98	331,813	$233.31	347,632	$233.31	354,865
Medicare-FFS	$514.77	1,601,972	$465.87	1,586,753	$465.87	1,620,296
Medicare-MC	$434.09	780,060	$447.15	879,544	$447.15	897,877
Commercial	$393.49	57,450	$399.43	52,325	$325.00	53,300
Private Pay	$380.95	$1,715,051	$390.89	$1,925,915	390.89	$1,966,177
Other Operating		11,919		0		0
Total		$8,035,246		$8,262,022		$8,435,325
Expenses						
Operating	$292.39	$7,410,048	$237.81	$6,589,887	$242.68	$6,589,887
Capital	18.01	456,359	12.00	332,486	11.08	300,953
Total Expenses	$310.40	$7,866,407	$249.81	$6,922,373	$253.76	$6,890,840
Net Income (Loss)		$168,839		$1,339,649		$1,544,485
Patient Days		25,343		27,741		28,323
Utilization %		84.4%		95.0%		97.0%

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

- The current year reflects the facility's 2016 revenues and expenses.
- Medicaid revenue is based on the facility's current 2018 Medicaid Regional Pricing rate. The current year Medicare rate is the actual daily rate experienced by the facility during 2016 and the forecasted year one and year three Medicare rate is the applicant's projection using a more conservative rate. The Private Pay rates were based on the current operator's average rates for 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by approximately 12% through reducing expenses such as salaries, employee benefits, professional fees, supplies, and purchased contract services. Other capital expenses that will be reduced include depreciation and rent expense.
- Utilization for Year One and Year Three is projected at 95% and 97% respectively. This is anticipated to raise revenue while cutting costs. It is noted that utilization for the past four years has averaged around 86.01% and current occupancy is 84.4% as of the 2016 cost report summary. The applicant plans on increasing utilization by implementing many measures including:
  - Further develop and marketing the facility's short-term rehabilitation program along with implementing a specific initiative to accept more clinically complex and difficult to place residents;
  - Enhance provider relationships and improved collaboration with local health plans, hospital discharge planners, assisted living facilities, and other local health care providers, and seek to partner with the local DSRIP Performing Provider System; and
  - Implement a marketing team focused on community outreach and eldercare education.
- Utilization by payor source for the first and third year after the change in ownership is summarized below:

Payor	Current Year	Years One and Three
Medicaid	62.3%	62.0%
Medicare	19.4%	19.4%
Private Pay & Commercial	18.3%	18.6%

- The breakeven utilization is projected at 85% using current cost (2016) cost report summary.
- The facility's Medicaid admissions of 9.6% in 2016 and 13.4% in 2017 did not meet Onondaga County's 75% threshold rate of 16.6% in 2016 and 14.0% in 2017. To ensure continued access to Medicaid recipients the facility: regularly engages with hospital discharge planners to make them

aware of the facility's Medicaid access program; communicates with hospital discharge planners on a regular basis regarding availability at the facility and informs community resources that serve low income and frail populations who may eventually use the nursing facility and inform them about the facility's Medicaid access program.

Capability and Feasibility

There are no project costs associated with this application. The applicant will purchase 88% membership interest at $10 for each of the five assignments.

The working capital requirement is estimated at $1,153,729 based on two months of first year expenses, which can be funded through current operations of $861,348 (current assets minus current liabilities as of 12/31/2017) and proposed member's equity of $292,381. As previously noted, the applicant members are seeking approval to acquire the operating interests of six other RHCFs that are concurrently under review. BFA Attachment A shows that not all members have sufficient equity to meet the working capital requirements for all seven RHCF acquisitions. Kenneth Rozenberg, an existing 9% member in all of the RHCFs whose ownership interest will increase to 85% upon PHHPC approval, has submitted an affidavit attesting that he will contribute resources to meet any working capital shortfall for the first year of operations.

The submitted budget projects a $1,339,649 and a $1,544,485 net income from operations in the first and third year, respectively. The budget appears reasonable.

BFA Attachment B presents the pro-forma balance sheet as of the first day of operation, which shows a positive members' equity of $990,393. It is noted that assets include $2,184,640 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill results in members' equity of negative $1,194,247.

BFA Attachment C, Financial Summary of Onondaga Center for Rehabilitation and Nursing, indicates that the facility currently has a positive working capital of $861,348 and current positive equity position of $990,391. The facility experienced an average net loss of $155,500 for 2015-2016. The applicant stated that the operating losses were the results of a combination of the facility's small size and expenditures exceeding reimbursement rates and revenue projections by payor. The 2017 draft financial indicate that Onondaga Center for Rehabilitation and Nursing has reversed this trend indicating a net income of $540,489.

BFA Attachment D presents the Financial Summary of the proposed member's affiliated RHCF, which shows the facilities maintained positive working capital, positive net assets, and generated positive net income.

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

Attachments

BFA Attachment A	CLR Minoa LLC, Proposed Members Net Worth
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Financial Summary, Onondaga Center of Rehabilitation and Nursing, 2015 - 2017
BFA Attachment D	Proposed members Affiliated RHCF Financial Summary

Public Health and Health Planning Council

Project # 181298-E
Schenectady Center for Rehabilitation and Nursing

Program:	**Residential Health Care Facility**	*County:*	**Schenectady**
Purpose:	**Establishment**	*Acknowledged:*	**April 27, 2018**

Executive Summary

Description
CLR Schenectady LLC d/b/a Schenectady Center for Rehabilitation and Nursing, a New York limited liability company, requests approval to transfer a total of 88% ownership interest to an existing member and three new members, with one member withdrawing completely. Schenectady Center for Rehabilitation and Nursing is a 240-bed, proprietary, Article 28 residential health care facility (RHCF) located at 526 Altamont Avenue, Schenectady (Schenectady County). There will be no change in the lease agreement or consulting services agreement, and no change in beds or services provided.

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

CLR Schenectady LLC		
Members	Current	Proposed
Amir Abramchik	50%	3%
Hillel Weinberger	41%	0%
Kenneth Rozenberg	9%	85%
Yisroel Wolff	--	4%
Maxwell Mase	--	4%
Nathan Goldman	--	4%

Concurrently under review, the applicant members of CLR Schenectady LLC are seeking approval to acquire the operating interests in the following six RHCFs: Carthage Center for Rehabilitation and Nursing (CON 181293), Glens Falls Center for Rehabilitation and Nursing (CON 181294), New Paltz Center for Rehabilitation and Nursing (CON 181295), Onondaga Center for Rehabilitation and Nursing (CON 181297), Slate Valley Center for Rehabilitation and Nursing (CON 181299) and Troy Center for Rehabilitation and Nursing (CON 181300).

OPCHSM Recommendation
Contingent Approval

Need Summary
There will be no Need recommendation.

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

Financial Summary
There are no project costs associated with this application. The applicant will purchase 88% ownership interest at $10 for each of the five assignments, for a total value of $50. The proposed budget is as follows:

Revenues	$25,255,818
Expenses	24,465,353
Gain/(Loss)	$790,465

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 applicants Certificate of Assumed Name, acceptable to the Department. [CSL]
2. Submission of a photocopy of an amended Lease Agreement, acceptable to the Department. [CSL]
3. Submission of a photocopy of the applicants amended executed and completed Articles or Organization, acceptable to the Department. [CSL]
4. Submission of a photocopy of an amended and executed Operating Agreement, acceptable to the Department. [CSL]
5. Submission of a photocopy of an amended and executed Consulting Services 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
December 13, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Schenectady Center for Rehabilitation and Nursing	Same
Address	528 Altamont Ave, Schenectady, NY 12303	Same
RHCF Capacity	240	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Proprietary	Same
Class of Operator	Proprietary	Same
Operator	CLR Schenectady LLC Amir Abramchik 50% Hillel Weinberfer 41% Kenneth Rozenberg 9%	Same *Kenneth Rozenberg 85% Yisroal Wolff 4% Nathan Goldman 4% Maxwell Mase 4% Amir Abramchik 3% *managing member

Character and Competence

Only the new members, Yisroel Wolff, Nathan Goldman, and Maxwell Mase, are subject to a Character and Competence review.

Yisroel Wolff is employed as the Director of Financial Operations of Centers Health Care since 2010, which is a nursing home business office. Mr. Wolff was the CEO of HBS Professional Services; a Health Care Recruitment business. Mr. Wolff discloses the following health facility interests:

Essex Center for Rehabilitation and Health Care (**NY**)	(5%)	03/2014 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Nathan Goldman is currently licensed as a New York nursing home administrator in good standing. He was licensed as a nursing home administrator in New Jersey and Illinois; those licenses have expired. Mr. Goldman is the current Administrator at an RHCF, Triboro Center for Rehabilitation. Mr. Goldman discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Maxwell Mase is the Director of Revenue Cycle at Centers Health Care since 2010. Mr. Mase discloses no other employment prior to 2010. Mr. Mase discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Quality Review

The applicants have stated that the low ratings at Essex and Granville are attributable to two factors (1) staffing and (2) clinical oversight. Applicant indicates that survey results have been impacted by inconsistent practices due to varying competencies, based upon varying comprehension of policies/procedures and varying technical skill proficiencies. Varying competencies were in part due to the

difficulty in recruiting and retaining staff, particularly in upstate areas. Low staffing ratings were attributed to the geographic location of the facility. Applicant states that they have experienced difficulties in recruitment and retention of qualified staff due to low population densities and lack of qualified/licensed nursing staff.

Applicant states that Centers Health Care has put corrective measures in place, such as relocating and housing line staff from out of state and offering busing and free transportation for staff to travel to rural areas. Additionally, a staffing support department has been established to address staffing concerns at each facility. Initiatives have been implemented to recruit and retain employees providing direct care services including provision of training and education necessary to receive CNA licensure in exchange for a commitment to accept employment at a facility for a term of one year (with the option to continue after the one-year term has expired). Specific measures implemented include: in-service trainings and staff education; changes in policies and procedures where necessary; demonstration of competencies (all staff must demonstrate competencies in their area of licensure at the time of hire and annually thereafter); buddy system where all direct care employees are paired with an experienced staff member during their first few weeks of employment to ensure new staff member is equipped with the appropriate skills and knowledge of quality assurance policies and procedures.

Provider Name	***Ownership Since***	***Overall***	***Health Inspection***	***Quality Measure***	***Staffing***
Essex Center for Rehabilitation and Healthcare	**Current**	**	**	****	**
	03/2014 *Data 07/2014*	**	*	***	****
Granville Center for Rehabilitation and Nursing	**Current**	**	**	****	**
	10/2017	*	**	****	*
Schenectady Center for Rehabilitation and Nursing	*Subject of CON (Current)*	****	***	*****	***
KANSAS					
Serenity Rehabilitation and Nursing Overland Park	06/2018	**	*	***	****
MISSOURI					
Serenity Rehabilitation and Nursing Butler	06/2018	*	*	****	***
Serenity Rehabilitation and Nursing Kansas City	06/2018	*	*	*	****

***Data date**: 09/2018*
***Notes**: Greyed out facilities are not applicable due to recent acquisition; Overland Park Center for Rehab is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Overland Park; Butler Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Butler; Kansas City Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Kansas City*

Granville Center for Rehabilitation and Nursing recently graduated from being a designated Special Focus facility). The issues surrounding its designation as a Special Focus Facility predate the ownership disclosed on this CON application.

Enforcement History

Essex Center for Rehabilitation and Health Care:

- The facility was fined $20,000 pursuant to a Stipulation and Order NH-18-039 for surveillance findings on June 14, 2018 (4 years, 3 months after proposed owners took over ownership of Essex). Deficiencies were found under 10 NYCRR 415.3(e)(2)(ii)(b) Residents' Right: Right to Clinical Care and Treatment and 415.12(i)(1) Quality of Care: Nutrition.

- The facility incurred a Civil Monetary Penalty of $13,395.25 from 03/04/18 to 03/23/18 (4 years after proposed owners took over ownership of Essex). Paid and closed.
- The facility had an Immediate Jeopardy from a complaint survey on 08/15/2015 (1 year, 5 months after proposed owners took over ownership of Essex) for which resulted in a fine $6,000 pursuant to a Stipulation and Order NH-16-116 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Concern, 415.26 Administration and 415.27(a-c) Administration: Quality Assessment and Assurance.

A review of Granville Center for Rehabilitation and Nursing for the period identified above revealed that there were no enforcements. Affidavits were provided by the applicant for the out of state facilities which disclosed no enforcement issues.

Conclusion

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

Financial Analysis

Assignment of Membership Interests

Executed assignment of membership interest purchase agreement have been submitted as follows:

Date:	February 25, 2018
Description	Purchase 47.0% Membership Interest
Assignor:	Amir Abramchik
Assignee:	Kenneth Rozenberg
Purchase Price:	$10
Payment of Purchase Price:	Equity paid on February 25, 2018

Date:	February 25, 2018
Description	Purchase 41.0% Membership Interest
Assignor:	Hillel Weinberger
Assignee:	Yisroel Wolff (4%), Nathan Goldman (4%), Maxwell Mase (4%) and Kenneth Rozenberg (29%)
Purchase Price:	$10 each
Payment of Purchase Price:	Equity paid on February 25, 2018

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of June 8, 2018, the facility had no outstanding Medicaid liabilities.

Operating Budget

The applicant has provided the current year (2016) results and the first and third year operating budgets subsequent to the change in ownership, in 2018 dollars, summarized as follows:

	Current Year		First Year		Third Year	
	Per Diem	Total	Per Diem	Total	Per Diem	Total
Revenues:						
Medicaid-FFS	$256.08	$14,671,574	$228.76	$13,291,414	$228.76	$13,291,414
Medicaid-MC	$265.85	1,221,315	$265.85	1,234,607	$265.85	1,234,607
Medicare-FFS	$571.32	3,657,576	$571.32	3,698,154	$571.32	3,698,154
Medicare - MC	$435.55	2,311,899	$435.55	2,337,161	$435.55	2,337,161
Commercial	$478.79	459,639	$478.79	464,426	$478.79	464,426
Private Pay/Other	$411.31	4,184,649	$411.32	4,230,056	$411.32	4,230,056
Other Operating		65,100		0		0
Total		$26,571,752		$25,255,818		$25,255,818
Expenses						
Operating	$253.70	$21,541,041	$248.28	$21,312,153	$248.28	$21,312,153
Capital	39.63	3,364,758	36.94	3,171,162	34.06	3,153,200
Total Expenses	$293.33	$24,905,799	$285.22	$24,483,315	$285.01	$24,465,353
Net Income (Loss)		$1,665,953		$772,503		$790,465
Patient Days		84,906		85,839		85,839
Utilization %		96.66%		98.0%		98.0%

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

- The current year reflects the facility's 2016 revenues and expenses. CLR Schenectady LLC became the new operator as of September 1, 2017. Therefore, 2018 will be the first full year financial data to be filed with the Department under the new operator. For the 2017 RHCF filing, the new operator will be required to file only Part 1 of the RHCF cost report, which provides statistical information related to the time period the new operator has owned the facility.
- Medicaid revenue is based on the facility's current 2018 Medicaid Regional Pricing rate. The current year Medicare rate is the actual average daily rate experienced by the facility during 2016. The Private Pay rates were based on the current operator's average rates for 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience.
- The facility's projected utilization for Year One and Year Three is 98%. It is noted that the historical utilization for 2017 was 95.32% and 96.98% as of June 30, 2018. The applicant plans on increasing utilization by implementing a number of measures including:
  - Further develop and marketing the facility's short-term rehabilitation program along with implementing a specific initiative to accept more clinically complex and difficult to place residents;
  - Enhance provider relationships and improved collaboration with local health plans, hospital discharge planners, assisted living facilities, and other local health care providers, and seek to partner with the local DSRIP Performing Provider System;
  - Implement a marketing team focused on community outreach and eldercare education;
  - Seek to retain existing staff, implement training and leadership programs and provide career path opportunities; and
  - Implement an improved food service program.
- Utilization by payor source for the first and third year after the change in ownership is summarized below:

Payor	Current Year	Years One &Three
Medicaid	73.10%	73.10%
Medicare	13.79%	13.79%
Private Pay & Commercial	13.11%	13.11%

- The breakeven utilization is projected at 95.0% in the first year.

- The facility's Medicaid admissions of 6.0% in 2016 and 1.6% in 2017 did not meet or exceed Schenectady County's 75% threshold rates of 6.9% for 2016 and 14.2% for 2017. The current operator commenced operation of the facility on September 1, 2017. Currently, 45% of the facility's residents are Medicaid recipients. The applicant indicated that the average of Medicaid admissions at the facility from January 1, 2018 to June 9, 2018 was 8%. In order to ensure continued access to Medicaid recipients the facility:
  - Regularly engages with hospital discharge planners to make them aware of the facility's Medicaid access program;
  - Communicates with local hospital discharge planners on a regular basis regarding bed availability at the facility; and
  - Informs 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 program.

Capability and Feasibility

There are no project costs associated with this application. The applicant will purchase 88% membership interest at $10 for each of the five assignments.

The working capital requirement is estimated at $4,080,553 based on two months of first year expenses, which can be funded through current operations of $2,339,560 (current assets minus current liabilities as of 12/31/17) and proposed members' equity of $ 1,740,993. As previously noted, the applicant members are seeking approval to acquire the operating interests of six other RHCFs that are concurrently under review. BFA Attachment A shows that not all members have sufficient equity to meet the working capital requirements for all seven RHCF acquisitions. Kenneth Rozenberg, an existing 9% member in all of the RHCFs whose ownership interest will increase to 85% upon PHHPC approval, has submitted an affidavit attesting that he will contribute resources to meet any working capital shortfall for the first year of operations.

The submitted budget projects a net operational income of $772,503 and $790,465 in the first year and third year, respectively. Kenneth Rozenberg has submitted an affidavit stating that he will contribute capital as needed for the first and third year of operations. BFA Attachment E presents the budget sensitivity analysis based on current utilization of the facility as of June 30, 2018, which shows the first and third year budgeted revenues would increase by $586,387 resulting in a net operating income in year one of $1,358,890 and in year three of $1,376,852. The budget appears reasonable.

BFA Attachment B is the pro-forma balance sheet as of the first day of operation, which indicates a positive members' equity of $6,959,797. It is noted that assets include $6,225,000 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill results in members' equity of $734,797.

BFA Attachment C, Financial Summary of Schenectady Nursing and Rehabilitation Center, indicates that the facility has maintained positive working capital and equity positions, an average net operational income of $2,002,000 for 2015-2016, and an average occupancy of 96.65%.

BFA Attachment D is the Financial Summary of the proposed member's affiliated RHCF, which shows the facility maintained positive working capital, positive net assets, and generated positive net income.

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

Attachments

BFA Attachment A	CLR Schenectady LLC, Proposed Members Net Worth and Kenneth Rozenberg Net Worth
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Financial Summary, Schenectady Nursing and Rehabilitation Center, LLC, 2015- 2017
BFA Attachment D	Proposed member's Affiliated RHCF Financial Summary
BFA Attachment E	Budget Sensitivity

NEW YORK STATE OF OPPORTUNITY. Department of Health

Public Health and Health Planning Council

Project # 181299-E
Slate Valley Center for Rehabilitation and Nursing

Program:	**Residential Health Care Facility**	***County:***	**Washington**
Purpose:	**Establishment**	***Acknowledged:***	**April 27, 2018**

Executive Summary

Description

CLR Granville LLC d/b/a Slate Valley Center for Rehabilitation and Nursing, a New York limited liability company, requests approval to transfer a total of 88% ownership interest to an existing member and three new members, with one member withdrawing completely. Slate Valley Center for Rehabilitation and Nursing is an 88-bed, proprietary, Article 28 residential health care facility (RHCF) located at 10421 State Route 40, Granville (Washington County). There will be no change in the lease agreement or consulting services agreement, and no change in beds or services provided.

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

CLR Granville LLC		
Members	Current	Proposed
Amir Abramchik	50%	3%
Hillel Weinberger	41%	0%
Kenneth Rozenberg	9%	85%
Yisroel Wolff	--	4%
Maxwell Mase	--	4%
Nathan Goldman	--	4%

Concurrently under review, the applicant members of CLR Granville LLC are seeking approval to acquire the operating interests in the following six RHCFs: Carthage Center for Rehabilitation and Nursing (CON 181293), Glens Falls Center for Rehabilitation and Nursing (CON 181294), New Paltz Center for Rehabilitation and Nursing (CON 181295), Onondaga Center for Rehabilitation and Nursing (CON 181297), Schenectady Center for Rehabilitation and Nursing (CON 181298) and Troy Center for Rehabilitation and Nursing (CON 181300).

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no Need recommendation

Program Summary

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

Financial Summary

There are no project costs associated with this application. The applicant members will purchase 88% ownership interest at $10 for each of the five assignments, for a total value of $50. The proposed budget is as follows:

Revenues	$7,560,406
Expenses	6,927,247
Gain/(Loss)	$633,159

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 applicants amended executed and completed Articles or Organization, acceptable to the Department. [CSL]
2. Submission of a photocopy of an amended and executed Operating Agreement, acceptable to the Department. [CSL]
3. Please submit a photocopy of proof of filing and receipt by the NYS Department of State, of the applicants Certificate of Assumed Name. [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
December 13, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Slate Valley Center for Rehabilitation and Nursing	Same
Address	10421 State Route 40 Granville, NY 12832	Same
RHCF Capacity	88	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Proprietary	Same
Class of Operator	Proprietary	Same
Operator	CLR Granville LLC Amir Abramchik 50% Hillel Weinberfer 41% Kenneth Rozenberg 9%	Same *Kenneth Rozenberg 85% Yisroal Wolff 4% Nathan Goldman 4% Maxwell Mase 4% Amir Abramchik 3% *managing member

Character and Competence

Only the new members, Yisroel Wolff, Nathan Goldman, and Maxwell Mase, are subject to a Character and Competence review.

Yisroel Wolff is employed as the Director of Financial Operations of Centers Health Care since 2010, which is a nursing home business office. Mr. Wolff was the CEO of HBS Professional Services; a Health Care Recruitment business. Mr. Wolff discloses the following health facility interests:

Essex Center for Rehabilitation and Health Care (**NY**)	(5%)	03/2014 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Nathan Goldman is currently licensed as a New York nursing home administrator in good standing. He was licensed as a nursing home administrator in New Jersey and Illinois; those licenses have expired. Mr. Goldman is the current Administrator at an RHCF, Triboro Center for Rehabilitation. Mr. Goldman discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Maxwell Mase is the Director of Revenue Cycle at Centers Health Care since 2010. Mr. Mase discloses no other employment prior to 2010. Mr. Mase discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Quality Review

The applicants have stated that the low ratings at Essex and Granville are attributable to two factors (1) staffing and (2) clinical oversight. Applicant indicates that survey results have been impacted by inconsistent practices due to varying competencies, based upon varying comprehension of policies/procedures and varying technical skill proficiencies. Varying competencies were in part due to the

difficulty in recruiting and retaining staff, particularly in upstate areas. Low staffing ratings were attributed to the geographic location of the facility. Applicant states that they have experienced difficulties in recruitment and retention of qualified staff due to low population densities and lack of qualified/licensed nursing staff.

Applicant states that Centers Health Care has put corrective measures in place, such as relocating and housing line staff from out of state and offering busing and free transportation for staff to travel to rural areas. Additionally, a staffing support department has been established to address staffing concerns at each facility. Initiatives have been implemented to recruit and retain employees providing direct care services including provision of training and education necessary to receive CNA licensure in exchange for a commitment to accept employment at a facility for a term of one year (with the option to continue after the one-year term has expired). Specific measures implemented include: in-service trainings and staff education; changes in policies and procedures where necessary; demonstration of competencies (all staff must demonstrate competencies in their area of licensure at the time of hire and annually thereafter); buddy system where all direct care employees are paired with an experienced staff member during their first few weeks of employment to ensure new staff member is equipped with the appropriate skills and knowledge of quality assurance policies and procedures.

Provider Name	***Ownership Since***	***Overall***	***Health Inspection***	***Quality Measure***	***Staffing***
Essex Center for Rehabilitation and Healthcare	**Current**	**	**	****	**
	03/2014 *Data 07/2014*	**	*	***	****
Granville Center for Rehabilitation and Nursing	**Current**	**	**	****	**
	10/2017	*	**	****	*
Slate Valley Center for Rehabilitation and Nursing	*Subject of CON (Current)*	****	***	*****	***
KANSAS					
Serenity Rehabilitation and Nursing Overland Park	06/2018	**	*	***	****
MISSOURI					
Serenity Rehabilitation and Nursing Butler	06/2018	*	*	****	***
Serenity Rehabilitation and Nursing Kansas City	06/2018	*	*	*	****

Data date*: 09/2018*
Notes*: Greyed out facilities are not applicable due to recent acquisition; Overland Park Center for Rehab is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Overland Park; Butler Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Butler; Kansas City Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Kansas City*

Granville Center for Rehabilitation and Nursing recently graduated from being a designated Special Focus facility). The issues surrounding its designation as a Special Focus Facility predate the ownership disclosed on this CON application.

Enforcement History

Essex Center for Rehabilitation and Health Care:

- The facility was fined $20,000 pursuant to a Stipulation and Order NH-18-039 for surveillance findings on June 14, 2018 (4 years, 3 months after proposed owners took over ownership of Essex). Deficiencies were found under 10 NYCRR 415.3(e)(2)(ii)(b) Residents' Right: Right to Clinical Care and Treatment and 415.12(i)(1) Quality of Care: Nutrition.
- The facility incurred a Civil Monetary Penalty of $13,395.25 from 03/04/18 to 03/23/18 (4 years after proposed owners took over ownership of Essex). Paid and closed.

- The facility had an Immediate Jeopardy from a complaint survey on 08/15/2015 (1 year, 5 months after proposed owners took over ownership of Essex) for which resulted in a fine $6,000 pursuant to a Stipulation and Order NH-16-116 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Concern, 415.26 Administration and 415.27(a-c) Administration: Quality Assessment and Assurance.

A review of Granville Center for Rehabilitation and Nursing for the period identified above revealed that there were no enforcements. Affidavits were provided by the applicant for the out of state facilities which disclosed no enforcement issues.

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

Financial Analysis

Assignment of Membership Interests

Executed assignment of membership interest purchase agreements have been submitted as follows:

Date:	February 25, 2018
Description:	Purchase of 47% Membership Interest
Assignor:	Amir Abramchik
Assignee:	Kenneth Rozenberg
Purchase Price:	$10
Payment of Purchase Price:	Equity paid on February 25, 2018

Date:	February 25, 2018
Description	Purchase 41% Membership Interest
Assignor:	Hillel Weinberger
Assignee:	Yisroel Wolff (4%), Nathan Goldman (4%), Maxwell Mase (4%) and Kenneth Rozenberg (29%)
Purchase Price:	$10 each
Payment of Purchase Price:	Equity paid on February 25, 2018

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of June 21, 2018, the facility had no outstanding Medicaid liabilities.

Operating Budget

The applicant has provided the current year (2016) results and the first and third year operating budgets subsequent to the change in ownership, in 2018 dollars, summarized as follows:

	Current Year		First Year		Third Year	
	Per Diem	Total	Per Diem	Total	Per Diem	Total
Revenues						
Medicaid-FFS	$202.64	$4,308,903	$186.98	$4,018,948	$186.98	$4,103,650
Medicaid-MC	$195.66	244,575	$199.86	252,423	$199.86	257,819
Medicare-FFS	$435.56	1,146,398	$464.86	1,236,992	$464.86	1,263,025
Medicare-MC	$456.25	619,131	$456.25	626,431	$456.25	625,306
Commercial	$249.00	2,739	$249.00	2,988	$249.00	2,988
Private Pay/VA *	$301.31	1,106,396	$341.68	1,266,639	$342.50	1,293,262
Other Operating **		17,367		$0		$0
Total Revenue		$7,445,509		$7,404,421		$7,560,406
Expenses						
Operating	$234.14	$7,067,679	$215.23	$6,567,571	$210.79	$6,567,571
Capital	20.60	621,787	12.44	379,654	11.54	359,676
Total Expenses:	$254.74	$7,689,466	$227.67	$6,947,225	$222.33	$6,927,247
Net Income (Loss)		($243,957)		$457,196		$633,159
Patient Days		30,186		30,514		31,157
Utilization %		94.7%		95%		97%

** Combination of private pay and Veterans Administration.*

*** Other revenues in the current year includes cafeteria, TV rentals, unrestricted investment income, and other miscellaneous income.*

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

- The current year reflects the facility's 2016 actual revenues and expenses based on 88 beds.
- Medicaid revenue is based on the facility's current 2018 Medicaid Regional Pricing rate. The current year Medicare FFS and MC rates are the actual daily rates experienced by the facility during 2016. The forecasted Year One and Year Three Medicare rates are the applicant's projection based on current Medicare FFS and MC reimbursement methodologies. The Medicare FFS rate is projected to increase going forward. The Private Pay rates were based on the current operator's average rates during 2016.
- The total projected Year One decrease in cost is projected to total $742,241 which will positively impact the facility. The expense assumptions are based on the applicant's proposal to decrease costs in Year One and Year Three by implementing a number of measures including:
    - Reducing labor related expenses by approximately $459,798 in the first year. Staff FTE reductions are expected in management, technician/specialist and physical therapy assistant staff. RNs, LPNs and Aides FTEs will be slightly increased.
    - The cost of medical supplies and non-medical supplies will decrease by approximately $113,000 in Year One by renegotiating contracts with vendors.
    - Costs related to purchased services will decrease by $42,493 in Year One.
- Utilization by payor for the first and third year after the change in ownership is summarized below:

Payor	Current Year	Years One &Three
Medicaid	74.6%	74.5%
Medicare	13.2%	13.2%
Private Pay/Comm.	12.2%	10.8%

- The facility's projected utilization is 95% and 97% for Year One and Year Three, respectively. For 2013 through 2016, the facility averaged approximately 92.93% utilization. To increase utilization the applicant intends to strengthen relationships with hospital discharge planners and focus on community outreach.
- The breakeven utilization is projected at 91% in the first year.

- The facility's Medicaid admissions of 10.9% in 2016 did not meet Washington County's 75% threshold rate of 22.8% for 2016. However, the facility's 2017 Medicaid admissions of 17.8% far exceeded Washington County's 75% threshold of 12.9%. To ensure continued access to Medicaid recipients, the applicant stated they will work with community partners such as discharge planners, outreach programs and strengthen existing relationships to service the frail populations who may need this type of service.

Capability and Feasibility

There are no project costs associated with this application. The applicant will purchase 88% membership interest at $10 for each of the five assignments.

The working capital requirement is estimated at $1,157,871 based on two months of first year expenses of which $493,110 can be funded from current operations current assets minus current liabilities as of 12/31/17) and proposed members' equity of $664,761. As previously noted, the applicant members are seeking approval to acquire the operating interests of six other RHCFs that are concurrently under review. BFA Attachment A shows that not all members have sufficient equity to meet the working capital requirements for all seven RHCF acquisitions. Kenneth Rozenberg, an existing 9% member in all of the RHCFs whose ownership interest will increase to 85% upon PHHPC approval of this application, has submitted an affidavit attesting that he will contribute resources to meet any working capital shortfall for the first year of operations.

The submitted budget projects net income of $457,196 and $633,159 from operations in the first and third year, respectively. The budget appears reasonable.

BFA Attachment B is the pro-forma balance sheet as of the first day of operation, which shows a positive members' equity of $529,892. It is noted that assets include $2,380,933 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill results in members' equity of negative $1,851,041.

BFA Attachment C, Financial Summary of Slate Valley Nursing and Rehabilitation Center, indicates that the facility has experienced negative working capital and equity position positions, an average net loss of $408,500 for 2015-2016, and an average occupancy of 93.78%. The applicant stated that the operating losses were the result of a combination of the facility's low occupancy rate (averaging 93.35% during 2015 and 2016). The losses accumulated over time resulting in negative positions. Slate Valley Nursing and Rehabilitation Center has reversed this trend in 2017 through the following initiatives:

- reduced expenses substantially which the 2017 draft revenues ended with a $12,682 positive net income;
- analyzed staff schedules to reduce overtime to reduce staffing and benefit expenses; and
- reduced current liabilities which would also increase cash flow as seen on Attachment C.

BFA Attachment D is the Financial Summary of the proposed member's affiliated RHCF, which shows the facility maintained positive working capital, positive net assets, and generated positive net income.

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

Attachments

BFA Attachment A	CLR Granville LLC, Proposed Members Net Worth
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Financial Summary, Slate Valley Nursing and Rehabilitation Center
BFA Attachment D	Proposed members Affiliated RHCF Financial Summary

Public Health and Health Planning Council

Project # 181300-E
Troy Center for Rehabilitation and Nursing

Program: **Residential Health Care Facility** ***County:*** **Rensselaer**
Purpose: **Establishment** ***Acknowledged:*** **April 27, 2018**

Executive Summary

Description

CLR Troy LLC d/b/a Troy Center for Rehabilitation and Nursing, a New York limited liability company, requests approval to transfer a total of 88% ownership interest to an existing member and three new members, with one member withdrawing completely. Troy Center for Rehabilitation and Nursing is a 78-bed, proprietary, Article 28 residential health care facility (RHCF) located at 49 Marvin Avenue, Troy (Rensselaer County). There will be no change in the lease agreement or consulting services agreement, and no change in beds or services provided.

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

CLR Troy LLC		
Members	Current	Proposed
Amir Abramchik	50%	3%
Hillel Weinberger	41%	0%
Kenneth Rozenberg	9%	85%
Yisroel Wolff	--	4%
Maxwell Mase	--	4%
Nathan Goldman	--	4%

Concurrently under review, the applicant members of CLR Troy LLC are seeking approval to acquire the operating interests in the following other six RHCFs: Carthage Center for Rehabilitation and Nursing (CON 181293), Glens Falls Center for Rehabilitation and Nursing (CON 181294), New Paltz Center for Rehabilitation and Nursing (CON 181295), Onondaga Center for Rehabilitation and Nursing (CON 181297), Schenectady Center for Rehabilitation and Nursing (CON 181298) and Slate Valley Center for Rehabilitation and Nursing (CON 181299).

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no Need recommendation.

Program Summary

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

Financial Summary

There are no project costs associated with this application. The applicant will purchase 88% ownership interest at $10 for each of the five assignments, for a total value of $50. The proposed budget is as follows:

Revenues	$6,764,976
Expenses	6,761,127
Gain/(Loss)	$3,849

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 a Certificate of Amendment to the Articles of Organization of CLR Troy 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
December 13, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Troy Center for Rehabilitation and Nursing	Same
Address	49 Marvin Avenue Troy NY, 12180	Same
RHCF Capacity	78	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Proprietary	Same
Class of Operator	Proprietary	Same
Operator	CLR Troy LLC Amir Abramchik 50% Hillel Weinberfer 41% Kenneth Rozenberg 9%	Same Kenneth Rozenberg* 85% Yisroel Wolff 4% Nathan Goldman 4% Maxwell Mase 4% Amir Abramchik 3% *managing member

Character and Competence

Only the new members, Yisroel Wolff, Nathan Goldman, and Maxwell Mase, are subject to a Character and Competence review.

Yisroel Wolff is employed as the Director of Financial Operations of Centers Health Care since 2010, which is a nursing home business office. Mr. Wolff was the CEO of HBS Professional Services; a Health Care Recruitment business. Mr. Wolff discloses the following health facility interests:

Essex Center for Rehabilitation and Health Care (**NY**)	(5%)	03/2014 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Nathan Goldman is currently licensed as a New York nursing home administrator in good standing. He was licensed as a nursing home administrator in New Jersey and Illinois; those licenses have expired. Mr. Goldman is the current Administrator at an RHCF, Triboro Center for Rehabilitation. Mr. Goldman discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Maxwell Mase is the Director of Revenue Cycle at Centers Health Care since 2010. Mr. Mase discloses no other employment prior to 2010. Mr. Mase discloses the following health facility interests:

Granville Center for Rehabilitation and Nursing (**NY**)	(5%)	10/2017 to present
Butler Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Kansas City Center for Rehabilitation and Healthcare (MO)	(1%)	06/2018 to present
Overland Park Center for Rehab (KS)	(1%)	06/2018 to present

Quality Review

The applicants have stated that the low ratings at Essex and Granville are attributable to two factors (1) staffing and (2) clinical oversight. Applicant indicates that survey results have been impacted by inconsistent practices due to varying competencies, based upon varying comprehension of policies/procedures and varying technical skill proficiencies. Varying competencies were in part due to the

difficulty in recruiting and retaining staff, particularly in upstate areas. Low staffing ratings were attributed to the geographic location of the facility. Applicant states that they have experienced difficulties in recruitment and retention of qualified staff due to low population densities and lack of qualified/licensed nursing staff.

Applicant states that Centers Health Care has put corrective measures in place, such as relocating and housing line staff from out of state and offering busing and free transportation for staff to travel to rural areas. Additionally, a staffing support department has been established to address staffing concerns at each facility. Initiatives have been implemented to recruit and retain employees providing direct care services including provision of training and education necessary to receive CNA licensure in exchange for a commitment to accept employment at a facility for a term of one year (with the option to continue after the one-year term has expired). Specific measures implemented include: in-service trainings and staff education; changes in policies and procedures where necessary; demonstration of competencies (all staff must demonstrate competencies in their area of licensure at the time of hire and annually thereafter); buddy system where all direct care employees are paired with an experienced staff member during their first few weeks of employment to ensure new staff member is equipped with the appropriate skills and knowledge of quality assurance policies and procedures.

Provider Name	***Ownership Since***	***Overall***	***Health Inspection***	***Quality Measure***	***Staffing***
Essex Center for Rehabilitation and Healthcare	**Current**	**	**	****	**
	03/2014 *Data 07/2014*	**	*	***	****
Granville Center for Rehabilitation and Nursing	**Current**	**	**	****	**
	10/2017	*	**	****	*
Troy Center for Rehabilitation and Nursing	*Subject of CON (Current)*	****	***	*****	***
KANSAS					
Serenity Rehabilitation and Nursing Overland Park	06/2018	**	*	***	****
MISSOURI					
Serenity Rehabilitation and Nursing Butler	06/2018	*	*	****	***
Serenity Rehabilitation and Nursing Kansas City	06/2018	*	*	*	****

***Data date**: 09/2018*
***Notes**: Greyed out facilities are not applicable due to recent acquisition; Overland Park Center for Rehab is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Overland Park; Butler Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Butler; Kansas City Center for Rehabilitation is currently listed on Medicare.gov as Serenity Rehabilitation and Nursing Kansas City*

Granville Center for Rehabilitation and Nursing recently graduated from being a designated Special Focus facility). The issues surrounding its designation as a Special Focus Facility predate the ownership disclosed on this CON application.

Enforcement History

Essex Center for Rehabilitation and Health Care:

- The facility was fined $20,000 pursuant to a Stipulation and Order NH-18-039 for surveillance findings on June 14, 2018 (4 years, 3 months after proposed owners took over ownership of Essex). Deficiencies were found under 10 NYCRR 415.3(e)(2)(ii)(b) Residents' Right: Right to Clinical Care and Treatment and 415.12(i)(1) Quality of Care: Nutrition.
- The facility incurred a Civil Monetary Penalty of $13,395.25 from 03/04/18 to 03/23/18 (4 years after proposed owners took over ownership of Essex). Paid and closed.

- The facility had an Immediate Jeopardy from a complaint survey on 08/15/2015 (1 year, 5 months after proposed owners took over ownership of Essex) for which resulted in a fine $6,000 pursuant to a Stipulation and Order NH-16-116 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Concern, 415.26 Administration and 415.27(a-c) Administration: Quality Assessment and Assurance.

A review of Granville Center for Rehabilitation and Nursing for the period identified above revealed that there were no enforcements.

Affidavits were provided by the applicant for the out of state facilities which disclosed no enforcement issues.

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

Financial Analysis

Assignment of Membership Interests
Executed assignment of membership interest purchase agreement have been submitted as follows:

Date:	February 25, 2018
Description	Purchase 47.0% Membership Interest
Assignor:	Amir Abramchik
Assignee:	Kenneth Rozenberg
Purchase Price:	$10
Payment of Purchase Price:	Equity paid on February 25, 2018

Date:	February 25, 2018
Description	Purchase 41.0% Membership Interest
Assignor:	Hillel Weinberger
Assignee:	Yisroel Wolff (4%), Nathan Goldman (4%), Maxwell Mase (4%) and Kenneth Rozenberg (29%)
Purchase Price:	$10 each
Payment of Purchase Price:	Equity paid on February 25, 2018

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of June 6, 2018, the facility had no outstanding Medicaid liabilities.

Operating Budget

The applicant has provided the current year (2016) results and the first and third year operating budgets subsequent to the change in ownership, in 2018 dollars, summarized as follows:

	Current Year		First Year		Third Year	
	Per Diem	Total	Per Diem	Total	Per Diem	Total
Revenues						
Medicaid - FFS	$256.41	$4,503,917	$210.92	$3,912,355	$210.92	$3,994,614
Medicaid - MC	$216.61	886,585	$216.61	936,188	$216.61	955,900
Medicare - FFS	$494.76	980,608	$494.76	1,035,533	$494.76	1,057,302
Medicare - MC	$379.25	504,782	$379.25	533,226	$379.25	544,603
Commercial	$301.41	74,449	$301.41	78,367	$301.41	79,874
Private Pay/Other	$313.67	44,228	$313.67	129,860	$313.67	132,683
Other Operating		10,688		0		0
Total Revenue		$7,005,257		$6,625,529		$6,764,976
Expenses						
Operating	$281.56	$7,211,051	$239.08	$6,465,893	$234.16	$6,465,893
Capital	11.84	303,122	11.64	314,912	10.69	295,234
Total Expenses	$293.40	$7,514,173	$250.72	$6,780,805	$244.85	$6,761,127
Net Income (Loss)		($508,916)		($155,276)		$3,849
Patient Days		25,611		27,044		27,613
Utilization %		87.47%		95.00%		97.00%

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

- The current year reflects the facility's 2016 revenues and expenses. CLR Troy LLC became the new operator of the facility as of September 1, 2017. Therefore, 2018 will be the first full year financial data to be filed with the Department under the new operator. For the 2017 RHCF filing, the new operator will be required to file only Part 1 of the RHCF cost report, which provides statistical information related to the time period the new operator has owned the facility.
- Medicaid revenue is based on the facility's current 2018 Medicaid Regional Pricing rate. The current year Medicare rate is the actual daily rate experienced by the facility during 2016 and the forecasted year one and year three Medicare rate is the applicant's projection using a more conservative rate. The Private Pay rates were based on the current operator's average rates for 2016.
- Expense and staffing assumptions were based on the current operator's model and then adjusted based on the applicant's experience. The applicant expects to reduce operating expenses by approximately 10.0%% through various initiatives including renegotiating contracts.
- The facility's projected utilization is 95.00% for Year One and 97% for Year Three. It is noted that historical utilization for 2017 was 89.35% and 89.17% as of June 30, 2018. The applicant plans on increasing utilization by implementing a number of measures including:
  - Further develop and marketing the facility's short-term rehabilitation program along with implementing a specific initiative to accept more clinically complex and difficult to place residents;
  - Enhance provider relationships and improved collaboration with local health plans, hospital discharge planners, assisted living facilities, and other local health care providers, and seek to partner with the local DSRIP Performing Provider System;
  - Implement a marketing team focused on community outreach and eldercare education;
  - Seek to retain existing staff, implement training and leadership programs and provide career path opportunities; and
  - Implement an improved food service program.

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

Payor	Current Year	Years One and Three
Medicaid	77.07%	84.65%
Medicare	21.24%	12.98%
Private Pay & Commercial	1.69%	2.37%

- The breakeven utilization is projected at 97.21% in the first year.
- The facility's Medicaid admissions of 20.9% in 2017 did not exceed Rensselaer County's 75% threshold rate of 22.2% in 2017. However, the facility's 2016 Medicaid admission of 27.9% far exceeded Rensselaer County's 75% threshold rate of 18.2% for 2016. BFA believes that the new members will make the appropriate effort to maintain the 75% threshold going forward.

Capability and Feasibility

There are no project costs associated with this application. Each of the five assignments will be purchased for $10.

The working capital requirement is estimated at $1,130,134 based on two months of first year expenses, which can be funded through current operations of $654,027 (current assets minus current liabilities as of 12/31/17) and proposed member's equity of $476,107. As previously noted, the applicant members are seeking approval to acquire the operating interests of six other RHCFs that are concurrently under review. BFA Attachment A shows that not all members have sufficient equity to meet the working capital requirements for all seven RHCF acquisitions. Kenneth Rozenberg, an existing 9% member in all of the RHCFs whose ownership interest will increase to 85% upon PHHPC approval of the applications, has submitted an affidavit attesting that he will contribute resources to meet any working capital shortfall for the first year of operations.

The submitted budget projects a $155,276 net loss and a $3,849 net income from operations in the first and third year, respectively. Kenneth Rozenberg has submitted an affidavit stating that he will cover any operational losses sustained by the facility. BFA Attachment E presents the budget sensitivity analysis based on current utilization of the facility as of June 30, 2018, which shows the first-year budgeted revenues would decrease by $30,556 resulting in a net loss in year one of $185,832 and a net loss in year three of $26,707. Utilization was 89.17% as of June 30, 2018. The budget appears reasonable.

BFA Attachment B provides the pro-forma balance sheet as of the first day of operation, which indicates a positive members' equity of $532,714. It is noted that assets include $2,096,461 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill results in members' equity of negative $1,563,747.

BFA Attachment C, Financial Summary of Troy Center for Rehabilitation and Nursing, indicates that the facility has experienced negative working capital, negative equity position and experienced an average net loss of $425,500 for 2015-2016 and an average occupancy of 86.95%. The applicant stated that the operating losses were the results of a combination of the facility's small size and expenditures exceeding reimbursement rates and revenue projections by payor. The losses accumulated over time resulting in negative positions. Troy Nursing and Rehabilitation Center has reversed this trend in 2017 through the following initiatives;

- reduced expenses by renegotiating vendor contracts,
- analyzing staffing expenses along with reworking staff schedules to keep overtime expenses down,
- and reduce bad debt expenses through an accounts receivable collection plan.

BFA Attachment D presents the Financial Summary of the proposed member's affiliated RHCF, which shows the facility maintained positive working capital, positive net assets, and generated positive net income.

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

Attachments

BFA Attachment A	CLR Troy LLC, Proposed Members Net Worth and Kenneth Rozenberg Net Worth *(submitted under CON 181293 CLR Carthage LLC)*
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Financial Summary, Troy Center for Rehabilitation and Nursing, LLC, 2015- 2017
BFA Attachment D	Proposed members Affiliated RHCF Financial Summary
BFA Attachment E	Budget Sensitivity

Public Health and Health Planning Council

Project # 171041-E
Shining Star Home Health Care

Program:	**Certified Home Health Agency**	*County:*	**Kings**
Purpose:	**Establishment**	*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 membership of Shining Star Home Care, LLC consists of Yechiel Landau (80%) and Yvette Henriquez (20%).

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

Need Summary
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 2,999 visits in 2016 and 4,119 for 2017 (unaudited). The applicant anticipates increased visits over the next three years. The agency did not meet the 2% charity care requirement in any of its five years of operation but is projecting 2% going forward.

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 enforcement actions taken against them.

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

	Year One	Year Three
Revenue	$672,132	$692,296
Expenses	604,084	614,633
Net Income	$68,048	$77,663

The projected net income is dependent upon the applicant maintaining utilization levels and cost control efforts. The applicant also requires working capital to fund operations, which is to be provided by majority member Yechiel Landau, or as an interest free personal loan from a friend of Mr. Landa's with repayment when the operation becomes more profitable.

Recommendations

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

Office of Primary Care and Health Systems Management
Approval of a three-year extension of the operating certificate from the date of the Publich Health and Health Planning Council recommendation letter, contingent upon:
1. Submission of a signed agreement with an unrelated, independent entity, acceptable to the Department, to provide annual reports to the Department. The reports shall include, but not be limited to:
   a. Utilization data by payor;
   b. Data comparing the PQI rates of the communities served by the CHHA from the effective date of the CHHA's operating certificate;
   c. Data showing Emergency Department visit rates of patients served compared to the general population in the neighborhoods served by the CHHA;
   d. Data comparing hospital readmission rate of patients served compared to the general population in the neighborhoods served by the CHHA;
   e. Utilization by the diagnosis of the patients served by the CHHA. [CHA]
2. Submission of a photocopy of the Operating Agreement of Shining Star Home Health Care, LLC, which is acceptable to the Department. [CSL]

Approval conditional upon:
1. Services are limited to the special pilot program population of individuals in Bornx, Kings, New York, and Queens Counties identified as being at high risk for hospitalization due to heart disease, stroke, and diabetes.
2. Continued submission of annual reports, prepared by an unrelated, independent entity, providing at a minimum the data required in the contingency, and reporting the percent of patients in compliance with the condition of approval related to the approved special pilot program population. Annual reports must be submitted no later than March 15th of each year for the proceeding calendar year. [CHA]

Council Action Date
December 13, 2018

Need and Program Analysis

Review Summary

This special pilot program CHHA operates from its sole practice location in leased office space at 5922 18th Avenue, Brooklyn, New York 12204. It was approved to serve individuals identified as being at higher risk for hospitalization due to heart disease, stroke, and diabetes, in 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 Public Health Council conditional approval, annual reports by an outside independent agency have been submitted to NYSDOH for years 2012/2013, 2014, 2015 and 2016. The 2016 report was recently submitted on March 9, 2018. The 2017 annual report has not yet been submitted.

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.

Background

Utilization (Visits)	072094 Projected Year One	072094 Projected Year Three	Actual 2013 (1st Full Year)	Actual 2014	Actual 2015 (3rd 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 far below projections in Shining Star's approval. 2017 unaudited total visit volume was 4,119 visits. The applicant believes it can 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 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.

In its five years of operation, the CHHA reports that it has served predominantly the target population:

- 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 two (1.3%) of Shining Star's patients went to the ED, compared with a New York average of 10.7% and a national average of 12.9%. Two (1.3%) of Shining Star's patients were admitted to the hospital, compared to a New York average of 16.4% and a national average of 15.9%.
- 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%.

All 2017 data is self-reported and lacks the required verification of an outside independent entity. It is noted that the 2016 report was only submitted in March 2018. 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, 132 of the 152 patients served in 2016, and 672 of the 768 patients served in 2017, had diagnoses that identified the patient as being at higher risk for hospitalization due to heart disease, stroke, or diabetes. Accordingly, 100% in 2012, 75% in 2013, 82% in 2014, 75% in 2015, 87% in 2016, and 87.5% in 2017 of the patients served by Shining Star Home Care, during its first six years of operation, had diagnoses that identified the patient as being at higher risk for hospitalization due to heart disease, stroke, or diabetes.

Shining Star did not have a minimum of 20 end-of-care episodes that occurred during 2017 and thus could not receive a rating from Medicare.gov Home Health Compare for that period.

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

The applicant submitted their current year (2017) results, their half-year 2018 results, and their first and third year operating budgets subsequent to approval, in 2018 dollars, as shown below:

	Current Year	2018 (6 mos)	Year One	Year Three
Revenues				
Medicare	$74,920	$44,732	$110,093	$113,396
Medicaid	22,035	90,132	57,940	59,678
HMO/MLTC*	339,341	201,202	504,099	519,222
All Other	4,407	0	0	0
Total Revenues	$440,703	$336,066	$672,132	$692,296
Total Expenses				
Operating	$569,612	$229,937	$577,225	$582,465
Space Occupancy	22,977	15,000	26,859	32,168
Total Expenses	$592,589	$244,937	$604,084	$614,633
Net Income/(Loss)	($151,886)	$91,129	$68,048	$77,663
Utilization (visits)	4,119	2875	5,154	5,309
Cost per Visit	$143.87	$85.20	$117.21	$115.77

** Represents Dually-Eligible Manage Medicaid/Medicare*

The following is noted with respect to the submitted budgets:

- Medicare and Medicaid services are reimbursed on an episodic basis. The applicant projected revenues for Year One based on Shining Star's annualized revenues from January 1, 2018 through June 30, 2018 (certified reports). This amount was then increased by 3% for Year Three to account for inflation.
- HMO/MLTC category represents patients who are dually-eligible for both Medicare and Medicaid. These Medicare and Medicaid plans are managed by HMO/MLTC/FIDA plans pursuant to the New York Managed Long-Term Care mandatory enrollment policy. All other revenues are based on existing rates.
- The first and third year utilization projections are based on averages experienced during the same January through June 2018 period plus charity care.

- Internal reports submitted by the applicant indicate that the number of visits through December 31, 2017 grew to 4,119, representing a 37.3% increase over 2016. During the first six months of 2018, visits totaled 2,875 (1,607 visit during the 1st quarter and 1,268 visits in the 2nd quarter). On an annualized basis, this shows continued growth over 2017. The budget projects the number of visits to be about 5,154 (around 1,289 visits per quarter).
- The cost per visit declined from $232 in 2016 to $144 in 2017. The results stem mostly from the increase in utilization and efficiencies through better management of staff time/productivity. The applicant has also improved information technology through the implementation of a new clinical software system (Home Care Home Base) and has partnered with QIRT (Quality In Real Time) to conduct audits on clinical documentation that is expected to ensure access to data for decisions that support preventing re-hospitalizations. During the first half of 2018, the applicant continued to reduce overall costs through efficiencies.
- Utilization by payor source for the submitted current and projected operating budgets is as follows:

Payor	Current Year		2018 (6 Mos.)		Year One		Year Three	
	Visits	%	Visits	%	Visits	%	Visits	%
Medicare	796	19.3%	411	14.3%	762	14.8%	786	14.8%
Medicaid	311	7.6%	485	16.9%	422	8.2%	435	8.2%
All Other*	3012	73.1%	1,979	68.8%	3,866	75.0%	3,982	75.0%
Charity Care	0	0%	0	0%	104	2.0%	106	2.0%
Total	4,119	100%	2,875	100%	5,154	100%	5,309	100%

**Includes Dually-Eligible Manage Medicaid/Medicare*

- The applicant plans on reaching 2% Charity Care utilization in Year One and Year Three because of its relationships with Ahavas Chesed, NYC Health + Hospitals' Woodhull Hospital and Coney Island Hospital and the United Jewish Organizations of Williamsburg and North Brooklyn.

In their 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 have not fulfilled that commitment. The decline in Medicaid utilization is attributed to an increase in the number Medicare post-discharge hospital patients served by the agency. Also contributing are the patients classified as "Dually-Eligible Managed Medicaid/Medicare."

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 already begun to receive patient referrals. The applicant anticipates entering into a Consulting Agreement.

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.

Capability and Feasibility

There are no project costs associated with this application. The budget demonstrates net income in Year One and Year Three of $68,048 and $77,663, respectively. Year One projects a 25.1% increase in utilization over the Current Year 2017. However, using recently provided 2018 half-year utilization data, the Year One projection represents a 10% reduction over 2018 annualized visits. Concurrent with the projected utilization, the applicant projects revenue per visit to increase by 11.1%, going from $117 in 2018 (annualized) to a budgeted per visit rate of $130. As noted above, budgeted revenue and utilization projections were based upon actual results obtained during January through June 2018. Per the recently provided certified 2017 data, the cost per visit has declined 38% between the Current Year (2016) and 2017 (going from $232 in 2016 to $144 in 2017). Using recently provided 2018 half-year cost data, the

Year One projection represents a 38% cost increase (going from $85 per visit in 2018 to $117); however, compared to 2017 the Year One projection represents a cost per visit decrease of 18.5% (going from $144 per visit in 2017 to $117) supporting the applicant's ongoing efforts to efficiently operate the CHHA.

Working capital is estimated at $100,681 based on two months of Year One expenses. However, as shown on BFA Attachments A, B and C (Shining Star's certified 2015, 2016 and 2017 financial statements, respectively), the CHHA has been sustaining operating losses. Each year, member contributions and/or member loans were made, and in 2017 Yechiel Landau (80% member) made an equity contrition of $263,295 and converted a $733,466 loan to equity, bringing the net assets to a negative $393,531. BFA Attachment D is the certified financial statement for the first-half of 2018, which shows net income of $91,129. The applicant further states that a large portion of the $368,657 in accounts payable are for invoices that the vendors couldn't provide documentation to support their validity. They are dated three years or older and per the applicant the vendors have not requested payment in the past two years.

The applicant 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 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. Going forward, Shining Star intends to cover any operating losses with the proceeds of this personal loan, as well as with the personal liquid assets of Mr. Yechiel Landau. 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 2015 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 2015. Also, the entity demonstrated a net loss of $666,069. BFA Attachments B and C are the certified 2016 and 2017 of Shining Star Home Care, LLC. As shown, the entity had ongoing negative working capital and negative net asset positions and achieved an operating loss off $493,675 in 2016 and $151,886 in 2017 (accrual basis). BFA Attachment D is the entity's 2018 certified financials (first six months) which shows negative working capital, negative net assets, and net income of $91,151. The applicant attributes the 2016 loss to low utilization, while results through June 2018 improved based improved efficiency and increased utilization. The applicant asserts that their 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.

Attachments

BFA Attachment A	2015 Certified financial statement of Shining Star Home Care, LLC
BFA Attachment B	2016 Certified financial statement of Shining Star Home Care, LLC
BFA Attachment C	2017 Certified financial statements of Shining Star Home Care, LLC
BFA Attachment D	January-June 2018 Certified financial statements of Shining Star Home Care, LLC

Public Health and Health Planning Council

Project # 181268-E
Oswego Health Home Care, LLC

Program:	**Certified Home Health Agency**	***County:***	**Oswego**
Purpose:	**Establishment**	***Acknowledged:***	**June 20, 2018**

Executive Summary

Description

Oswego Health Home Care, LLC (OHHC), a proprietary, Article 36 certified home health agency (CHHA) located at 113 Schuyler Street, Fulton (Oswego County), requests approval to establish St. Joseph's Health, Inc. (SJHI) as the parent and Trinity Health Corporation (Trinity Health) as the grandparent of the CHHA. The members of OHHC are Embracing Age, Inc. (Embracing Age) and Oswego Health, Inc. (Oswego Health), both New York not-for-profit corporations. Embracing Age holds a 40% membership interest and Oswego Health holds a 60% membership interest in OHHC.

On July 1, 2016, SJHI become the sole member of Embracing Age. SJHI, a New York not-for-profit corporation formed on October 6, 2014, is the parent corporation of a health care system that includes St. Joseph's Hospital Health Center (Hospital), an Article 28 acute care hospital located in Syracuse. The Hospital is also licensed to operate an Article 36 CHHA. SJHI's sole member is Trinity Health, an Indiana non-profit organization with a corporate office in Livonia, Michigan. Trinity Health is the parent of a national health care system with operations across 21 states other than New York. The organization was formed via the affiliation of Trinity Health, Inc. with Catholic Health East (CHE), which joined together in May 2013 forming a new corporation, CHE Trinity, Inc. (sole member of the two entities).

On July 1, 2014, Trinity Health, Inc., CHE and CHE Trinity, Inc. officially merged, and the surviving entity's name became Trinity Health Corporation.

Embracing Age's certificate of incorporation reserves certain governance authorities to SJHI and Trinity Health. As a result, both SJHI and Trinity Health are considered "controlling persons" of the CHHA Program.

BFA Attachment A presents the corporate organizational chart post-closing.

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no change to services as a result of this application.

Program Summary

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

Financial Summary

There are no project costs or budgets associated with this application.

Recommendations

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

Office of Primary Care and Health Systems Management
Approval contingent upon:
1. Submission of an executed management services agreement, acceptable to the Department of Health. [BFA]
2. Submission of a copy of the certificate of incorporation and bylaws of Trinity Health Corporation, acceptable to the Department. [CSL]
3. Submission of a copy of the certificate of incorporation and bylaws of St. Joseph's Health, Inc., acceptable to the Department. [CSL]
4. Submission of a copy of the transfer agreement from the applicant, acceptable to the Department. [CSL]
5. Submission of a copy of the management agreement of the applicant, 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
December 13, 2018

Need and Program Analysis

Background
Oswego Health Home Care, LLC, a limited liability company, seeks approval to establish St. Joseph's Health, Inc., a not-for-profit corporation, as the parent, and Trinity Health Corporation, an Indiana not-for-profit corporation, as the grandparent, of a Certified Home Health Agency under Article 36 of the Public Health Law.

Oswego Health Home Care, LLC serves the residents of Oswego county from an office located at 113 Schuyler Street, Suite 3, Fulton, New York 13069 and provides the following services:

Nursing	Home Health Aide	Nutrition
Speech/Language Pathology	Medical Social Services	Physical Therapy
Occupational Therapy	Medical Supply Equipment & Appliances	

The membership of Oswego Health Home Care, LLC is as follows:
Oswego Health, Inc. 60%
Embracing Age, Inc. 40%

On July 1, 2016, St. Joseph's Health, Inc. became the sole member of Embracing Age, Inc. The sole parent of St. Joseph's Health, Inc. is Trinity Health Corporation.

Oswego Health Home Care, LLC has proposed to enter into a management agreement with St. Joseph's Hospital Health Center which is currently under review by the Department of Health.

The corporate organizational structure of St. Joseph's Health, Inc. includes the following providers:
- St. Joseph's Hospital Health Center (Hospital)
- St. Joseph's Hospital Health Center CHHA (CHHA)
- Iroquois Nursing Home, Inc. (RHCF)
- Oswego Health Home Care, LLC (CHHA)
- Franciscan Health Support, Inc. (LHCSA)

The corporate organizational structure of Trinity Health Corporation includes additional health care providers located in New York State, over which Trinity Health Corporation has control. (See Programmatic Attachment A – Trinity Health Facilities in NYS) The following providers are therefore affiliated with each board member of Trinity Health Corporation named below:

<u>St. Peter's Health Partners (Capital Region)</u>
- St. Peter's Hospital (Hospital)
- Albany Memorial Hospital (Hospital)
- Samaritan Hospital (Hospital)
- Seton Health System, Inc., d/b/a St. Mary's Hospital, Troy (Hospital)
- Sunnyview Hospital and Rehabilitation Center (Hospital)
- St. Peter's Ambulatory Surgery Center, LLC (ASC)
- Villa Mary Immaculate, d/b/a St. Peter's Nursing and Rehabilitation Center (RHCF)
- Our Lady of Mercy Life Center (RHCF)
- Seton Health at Schuyler Ridge Residential Health Care (RHCF)
- The James A. Eddy Memorial Geriatric Center, Inc. (RHCF and ACF/EH)
- The Capital Region Geriatric Center, Inc., d/b/a Eddy Village Green (RHCF)
- Beverwyck, Inc., d/b/a Eddy Village Green at Beverwyck (RHCF and ACF/EH)
- Heritage House Nursing Center, Inc., d/b/a Eddy Heritage House Nursing and Rehab Center (RHCF)
- The Community Hospice, Inc. (Hospice)
- Home Aide Service of Eastern New York, Inc., d/b/a Eddy Visiting Nurse and Rehab Association (CHHA)

- Eddy Licensed Home Care Agency, Inc. (LHCSA)
- Senior Care Connection, Inc., d/b/a Eddy SeniorCare (PACE)
- Glen at Highland Meadows, Inc., d/b/a The Terrace at the Glen (ACF/EH)
- The Marjorie Doyle Rockwell Center, Inc. (ACF)
- Glen Eddy, Inc. (ACF/EH)
- Hawthorne Ridge, Inc. (ACF)

Catholic Health System, Inc. (Western New York)
- Sisters of Charity Hospital (Hospital)
- Kenmore Mercy Hospital (Hospital)
- Mount St. Mary's Hospital (Hospital)
- Mercy Hospital of Buffalo (Hospital)
- Mercy Hospital Skilled Nursing Facility (RHCF)
- Father Baker Manor (RHCF)
- McAuley Residence (RHCF)
- McAuley – Seton Home Care Corporation (CHHA)
- Niagara Homemaker Services, Inc. d/b/a Mercy Home Care of Western New York (LHCSA)
- Catholic Health System Program of All-inclusive Care for the Elderly, Inc. (PACE)
- CHS LIFE (PACE)

In addition, the corporate organizational structure of Trinity Health Corporation also includes over 93 hospitals and 120 community care health care facilities and providers located in 21 additional states. For a complete listing of these out-of-state facilities, please see Programmatic Attachment B – Trinity Health Out-of-State Facilities.

Character and Competence Review

The Board of Directors of St. Joseph's Health, Inc. is as follows:

Craig M. Boise, Esq. – Board Member Dean, Professor of Law, Syracuse University College of Law	**Sr. Helen Marie Burns** – Board Member Retired
James P. Cotelingam – Board Member Vice President, Senior Vice President, Strategy, Trinity Health	**Santo M. Di Fino**, MD – Board Member, Treasurer Oncologist, Hematologist, Hematology-Oncology Associates of CNY
Leslie Paul Luke – Board Member/President/CEO President, CEO, St. Joseph's Health	**John D. Marshall**, CPA – Board Member Senior Counsel, Bonadino & Co, LLP
Michael F. Meath – Board Member Visiting Assistant Professor, Syracuse University	**Gina Myers**, Ph.D., RN – Board Member Adjunct Professor, Le Moyne College Affiliations St. Joseph's College of Nursing St. Joseph's Hospital
Sr. Kathleen Osblet – Board Member Founder, Executive Director, Director of Mission Outreach, Francis House, Inc.	**Merriette Chance Pollard** – Board Member Retired
Pawan Rao, MD – Board Member, Vice Chair Nephrologist, Nephrology Hypertension Associates of CNY, PC Medical Director, St. Joseph's Dialysis Program Affiliation St. Joseph's Dialysis Program	**William Roberts** – Board Member Retired
Vincent P. Sweeney – Board Member, Chair President, Syracuse Office Environments	**Paul G. Tremont** – Board Member President, CEO, SRC Inc.

Lowell A. Seifter, Esq. – Board Officer, Secretary General Counsel, St. Joseph's Hospital Health Center <u>Affiliation</u> St. Joseph's Hospital Health Center	

The Board of Directors of Trinity Health Corporation is as follows:

Kevin P. Barnett – Board Member Senior Investigator, Public Health Institute <u>Affiliation</u> Trinity Health (MI)	**James Bentley**, Ph.D. – Board Member, Chair Retired <u>Affiliations</u> Catholic Health East (PA) CHE Trinity Health (MI) Trinity Health (MI)
Joseph Betancourt, MD (MA) – Board Member Physician, Director of Disparities Solutions Center, Massachusetts General Hospital President, Co-Founder, Owner, Quality Interactions <u>Affiliations</u> Neighborhood Health Plan Trinity Health	**Melanie C. Dreher**, Ph.D, RN (IL) – Board Member Retired <u>Affiliations</u> Wellmark Trinity Health
Mary M. Fanning, RSM – Board Member Retired <u>Affiliations</u> Trinity Health (MI) Mercy Health Services (MD) Catholic Health East (PA)	**Richard J. Gilfillan** – President, CEO President, CEO, Trinity Health <u>Affiliation</u> Trinity Health (MI)
Mary Catherine Karl – Vice-Chair Retired <u>Affiliations</u> BayCare Health System (FL) St. Anthony's Hospital (FL) BayCare Health System Insurance (FL) Catholic Health East (PA) Surgical Safety Institute (FL) Trinity Health (MI)	**George M. Philip**, Esq. – Board Member Retired <u>Affiliations</u> St. Peter's Hospital Catholic Health East (PA) Trinity Health (MI)
Sr. Kathleen M. Popko, SP – Board Member President, Sisters of Providence <u>Affiliations</u> Trinity Health Corporation (MI) Catholic Health East (PA) Sisters of Providence Health System (MA) Saint Joseph of the Pines, Inc. (NC) Mary's Meadow at Providence Place (MA)	**David Southwell** – Board Member Retired <u>Affiliations</u> Trinity Health (MI)
Sr. Joan Marie Steadman, CSC – Board Member Full Time Ministry <u>Affiliations</u> Loyola University Medical Center (IL) Gottlieb Memorial Hospital, (IL) O'Connor Hospital (CA) Saint Louise Regional Hospital (CA) Seton Medical Center (CA) Saint Agnes Medical Center (CA) Hospice of the Valley (CA)	**Roberta Waite**, Ed.D., RN (PA) – Board Member Assistant Dean, Professor, Drexel University <u>Affiliations</u> Catholic Health East Trinity Health

Larry Warren – Board Member Retired <u>Affiliation</u> Trinity Health (MI)	**Linda J. Werthman**, LMSW (MI) – Board Member Retired Adjunct Associate Professor of Social Work and Field Liaison, University of Detroit Mercy <u>Affiliations</u> CHE Trinity Health Trinity Health
Cynthia Clemence, CPA (MI) – Board Officer, Treasurer Interim CFO/Treasurer	**Paul G. Neumann**, Esq. (MI, CO, CA) – Board Officer, Secretary Executive Vice President, General Counsel, Trinity Health Corporation

The Board Members of St. Joseph's Health, Inc. disclosed an investigation on issues related to Medicare and/or Medicaid fraud. On June 4, 2016, the United States Attorney's office for the Northern District of New York filed a Civil Investigation Demand as a result of the complaint of a qui tam relator. As a result of this investigation, the hospital entered into a settlement agreement with the Federal and State governments on August 1, 2016. The hospital accepted responsibility for submitting claims to Medicaid as if one member of the CPEP Professional Staff was present for all Mobil Crisis Outreach visits when in actuality that was not the case. Since the regulations require one member of the CPEP Professional staff to be present for all Mobil Crisis Outreach visits, the hospital's bills to Medicaid were not in compliance with the law. The hospital paid $3,200,000 in full settlement of this claim.

Craig M. Boise is currently a defendant in a lawsuit filed by a terminated employee of a law school where Mr. Boise previously served as dean. The suit was dismissed on summary judgement at the U.S. District Court, Northern District of Ohio. This case is now on appeal with the U.S. Court of Appeals 6th Circuit.

William Roberts disclosed that during his time practicing urology he was named as a defendant/co-defendant in three malpractice suits. Only one of these suits occurred within the past ten years. The final closing of this case occurred on June 3, 2015 and resulted in a total settlement of $875,000, of which Dr. Roberts portion was $437,500.

The Pennsylvania Department of State, Bureau of Professional and Occupational Affairs and the Massachusetts Board of Registration in Medicine, indicate no issues with the licensure of the health professionals associated with this application.

The Office of the Professions of the State Education Department, the New York State Physician Profile and the Office of Professional Medical Conduct, indicate no issues with the licensure of the health professionals 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.

A Certificate of Good Standing was received for all attorneys 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 NYS Department of Health Division of Hospitals and Diagnostic and Treatment Centers has reviewed the compliance histories of the affiliated Hospitals and Ambulatory Surgery Centers for the time-period 2011 through 2018, and reports as follows:

- An enforcement action was taken against St. Joseph's Hospital Health Center in September 2012, based on a survey completed in August 2010, for an incident relating to a patient's fall. A civil penalty in the amount of $22,000 was imposed and paid.
- An enforcement action was taken against St. Peter's Hospital in August 2016, based on a survey completed in January 2016, for an Immediate Jeopardy situation in Food and Dietetic Services. A civil penalty in the amount of $2000 was imposed and paid.

The NYS Department of Health Division of Hospitals and Diagnostic and Treatment Centers reported that during the time-period 2011 to 2018, the remaining affiliated Hospitals and Ambulatory Surgery Centers have no histories of enforcement action taken.

The NYS Department of Health Division of Nursing Homes and Intermediate Care Facilities/IID has reviewed the compliance histories of the affiliated Nursing Homes for the time-period 2011 to 2018, and reports as follows:

- An enforcement action was taken against Capital Region Geriatric Center, Inc., d/b/a Eddy Village Green (RHCF) in March 2017, based on a survey completed on August 17, 2016, citing a violation in 10 NYCRR 415.12 Quality of Care: Highest Practicable Potential. A state civil penalty in the amount of $2000 was imposed and paid. In addition, a federal Civil Monetary Penalty of $3963 was imposed and paid.
- An enforcement action was taken against Iroquois Nursing Home, Inc. (RHCF) in January 2017, based on a survey completed on April 13, 2016, citing Immediate Jeopardy and violations in 10 NYCRR 415.4(b) Staff Treatment of Residents: Free from Mistreatment, Neglect, and Misappropriation of Property; 415.4(b) Staff Treatment of Residents: Policy and Procedure Manual Development Regarding Staff Treatment of Residents; 415.4(b)(1)(i) Abuse: Verbal, Sexual, Physical, Mental, Corporal Punishment, and Involuntary Seclusion; and 415.26 Administration. A state civil penalty in the amount of $16,000 was imposed and paid. No federal Civil Monetary Penalty was imposed.

The NYS Department of Health Division of Nursing Homes and Intermediate Care Facilities/IID reported that during the time-period 2011 to 2018, the remaining affiliated Nursing Homes have no histories of enforcement action taken.

The NYS Department of Health Division of Home and Community Based Services reviewed the compliance histories of the affiliated Certified Home Health Agencies, Licensed Home Care Services Agencies, and Hospice, for the time-period 2011 to 2018, and reports as follows:

- An enforcement action was taken against McAuley – Seton Home Care Corporation (CHHA) in June 2013, based on a survey completed on September 15, 2011, citing violations in 10 NYCRR 763.11(b) Governing Authority; 763.5(a) Patient Referral, Admission, and Discharge; 763.6(b) Patient Assessment and Plan of Care; 763.6(c) Patient Assessment and Plan of Care; and 763.7(a) Clinical Records. A civil penalty in the amount of $5500 was imposed and paid.

The NYS Department of Health Division of Home and Community Based Services reported that during the time-period 2011 to 2018, the remaining affiliated Certified Home Health Agencies, Licensed Home Care Services Agencies, and Hospice have no histories of enforcement action taken.

The NYS Department of Health Division of Adult Care Facilities and Assisted Living Programs reviewed the compliance histories of the affiliated Adult Care Facilities/Assisted Living Programs and Enriched Housing Programs, for the time-period 2011 to 2018, and reports as follows:

- An enforcement action was taken against Hawthorne Ridge, Inc. (ACF) in March 2012, based on an inspection completed on September 14, 2010, citing a violation in 18 NYCRR 486.5(a)(4)(iii) Systemic Endangerment. A civil penalty in the amount of $1000 was imposed and paid.
- Hawthorne Ridge was fined nine hundred twenty-four dollars pursuant to a stipulation and order dated August 15, 2018 for inspection findings on November 23, 2016 and March 8, 2018. Upon inspection, violations of Article 7 of the Social Services Law, Article 46-B of the Public Health Law and 10 NYCRR 1001.7(k)(5).

The NYS Department of Health Division of Adult Care Facilities and Assisted Living Programs reported that during the time-period 2011 to 2018, the remaining affiliated Adult Care Facilities/Assisted Living Programs and Enriched Housing Programs have no histories of enforcement action taken.

The NYS Department of Health Office of Health Insurance Programs, Bureau of Managed Long-Term Care, reviewed the compliance histories of the affiliated PACE / LIFE Programs for the time-period 2011 to 2018, and reported that during that time-period, the affiliated PACE / LIFE Programs have all remained in compliance with no histories of enforcement action taken.

Out-of-state compliance requests were sent to all the states identified in Programmatic Attachment B – Trinity Health Out-of-State Facilities. The out-of-state compliance information used for this review was taken from Project 172230, which received contingent approval from the Public Health and Health Planning Council on April 16, 2018. The applicant has submitted a signed affidavit attesting to out-of-state findings from April 2018 – Present. Please see Programmatic Attachment C: Affidavit of Out-of-State Enforcement Actions.

- The State of Maryland reports that, during the time-period 2011 – 2018, an enforcement action was taken against Holy Cross Rehabilitation and Nursing (Sanctuary at Holy Cross), a nursing home located in Maryland, in September 2016, based on a February 2016 standard survey, citing violations in Quality of Care: Accidents/Hazards/Environment/Supervision. A federal Civil Monetary Penalty of $74,700 was imposed and paid. The remaining Maryland providers / facilities have no histories of enforcement for the time-period 2011 – 2018, and all providers / facilities are in current compliance.
- The State of Indiana reports that, during the time-period 2011 – 2018, an enforcement action was taken against Sanctuary at Holy Cross, a nursing home located in Indiana, in January 2017, based on a September 2016 standard recertification survey, citing violations in Quality of Care: Necessary Care and Services/Highest Practicable Well-Being. A state civil penalty of $3000 was imposed and paid. The remaining Indiana providers / facilities have no histories of enforcement for the time-period 2011 – 2018, and all providers / facilities are in current compliance.
- The State of Iowa reports no enforcements, but does report the following three issues for the time-period 2011 - 2018:
    - An Immediate Jeopardy situation was identified at Mercy Medical Center (Hospital) in January 2017, citing violations in the federal Conditions of Participation for 42 CFR 482.12 Governing Body; 42 CFR 482.21 Quality Assessment and Performance Improvement Program; 42 CFR 482.23 Nursing Services; and 42 CFR 482.27 Laboratory Services. However, the Immediate Jeopardy and citations were ultimately not enforced.
    - Condition level non-compliance was identified at Mercy Home Care (CHHA), a deemed Home Health Agency surveyed by an accreditation agency, in June 2016. Per federal requirements, the agency was ultimately prohibited from providing home health aide training and testing for the two-year period from 6/29/2016 through 06/29/2018. No state enforcement was imposed.
    - Ellen Kennedy Assisted Living Center (ALP) had violations cited in September 2016, in Sufficient Staffing and Nursing Reviews. The matter was resolved in November 2016, with no civil penalty enforcement action taken.
- The State of California reports that, during the time-period 2011 – 2018, three separate enforcement actions were taken against Saint Agnes Medical Center, a hospital located in Fresno, California, as follows:
    - Violations based on a survey conducted on January 13, 2012, resulted in a civil penalty of $50,000 imposed on September 26, 2012. Violations based on a survey conducted on November 17, 2015, resulted in a civil penalty of $4750 imposed on March 24, 2016. Violations based on a survey conducted on January 11, 2017, resulted in a civil penalty of $11,250 imposed on February 2, 2017. The State of California reports that none of these enforcement actions involved repetitive violations, and all were resolved as noted above.
- The State of Florida reports that, during the time-period 2011 – 2018, the following enforcement actions were taken:
    - Winter Haven Hospital was assessed an administrative penalty of $1000 in January 2011 for violations in the areas of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation; an administrative penalty of $1000 in January 2011 for violations in the area of Emergency Department Services; an administrative penalty of $1000 in March 2011 for violations in the area of Emergency Department Services; an administrative penalty of $1000 in August 2012 for violations in the area of Emergency Department Services; and an administrative penalty of $1000 in October 2013 for violations in the area of Inappropriate Restraints.

- Mease Dunedin Hospital was assessed an administrative penalty of $6000 in June 2012 for violations in the areas of Patient Assessment and Emergency Department Services; and an administrative penalty of $320 in August 2013 for nonpayment of Life Safety Code survey fee.
- Morton Plant Hospital was assessed an administrative penalty of $800 in March 2011 for violations in the areas of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation; an administrative penalty of $1000 in December 2011 for violations in the area of Nursing Department Policies and Procedures; an administrative penalty of $1000 in July 2012 for violations in the area of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation; an administrative penalty of $1000 in April 2013 for violations in the area of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation; and an administrative penalty of $1000 in July 2013 for violations in the area of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation.
- Morton Plant North Bay Hospital was assessed an administrative penalty of $2000 in October 2011 for violations in the areas of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation.
- St. Anthony’s Hospital was assessed an administrative penalty of $5000 in July 2011 for violations in the areas of MRI Alterations, Renovations, and Installation; an administrative penalty of $600 in January 2014 for nonpayment of Life Safety Code survey fee; an administrative penalty of $1000 in March 2015 for violations in the area of Nursing Management Functions; an administrative penalty of $5500 in April 2016 for a violation in the area of Failure to Notify Florida State Agency for Health Care Administration of Ownership Change in 2014; and an administrative fee of $471.36, and a reimbursement to the State of $5553.31, for a total payment of $6024.67, in September 2017 for recoupment of Medicaid overpayments.
- St. Joseph’s Hospital was assessed an administrative penalty of $1000 in October 2012 for violations in the area of Discharge Planning; and an administrative penalty of $21,500 in April 2016 for a violation in the area of Failure to Notify Florida State Agency for Health Care Administration of Ownership Changes in 2014 at St. Joseph’s Hospital, St. Joseph’s Hospital North, St. Joseph’s Hospital South, and St. Joseph’s Hospital Behavioral Health Center.
- Bartow Regional Medical Center was assessed an administrative penalty of $480 in May 2014 for nonpayment of Life Safety Code survey fee.
- Holy Cross Hospital was assessed an administrative fee of $572.59, and a reimbursement to the State of $11,364.51, for a total payment of $11,937.10, in April 2013 for recoupment of Medicaid overpayments; was assessed an administrative fee of $73.84, and a reimbursement to the State of $86,982.65, for a total payment of $87,056.49, in October 2015 for recoupment of Medicaid overpayments; and was assessed a reimbursement payment to the State of a total payment of $97,620.48, in September 2017 for recoupment of Medicaid overpayments.

CHHA Quality of Patient Care Star Ratings as of November 13, 2018 **New York Average:** 3 out of 5 stars **National Average:** 3.5 out of 5 stars	
CHHA Name	**Quality of Care Rating**
St. Joseph’s Hospital Health Center CHHA	3 out of 5 stars
Oswego Health Home Care, LLC	3.5 out of 5 stars
Eddy Visiting Nurse and Rehab Association	4 out of 5 stars
McAuley – Seton Home Care Corporation	4.5 out of 5 stars

Conclusion

There will be no change in services as a result of this application. Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a certified home health agency.

Financial Analysis

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

Date:	To Be Determined
Facility:	Oswego Health Home Care, LLC (OHHC)
Consultant:	St. Joseph's Hospital Health Center (SJHHC)
Services Provided:	Management Services, Clinical Oversight Services, Administrative Services, Financial Services and Review of Services.
Term:	3-year term
Fee:	Annual Fee of $76,584 ($6,383 per month)

While SJHHC will provide all the above services, the Licensed Operator retains ultimate authority, responsibility and control for the operations.

There are no projected changes in the utilization, revenues or expenses of OHHC CHHA as a direct result of this project.

Capability and Feasibility
There are no project costs or budgets associated with this application. BFA Attachment B is the consolidated certified financial statements of Trinity Health for the years ended June 30, 2018, 2017 and 2016. As shown, the entity maintained positive working capital and net asset positions from 2016 through 2018. Trinity Health had an operating income of $46,379,000 in 2016 and $136,926,000 in 2018, but experienced an operating loss of $18,115,000 in 2017 due to the following two charges to operations:

- $248,070,000 of non-cash fixed asset impairment charges that are helping the System right-size inpatient physical plant utilization and reposition in some markets; and
- $36,184,000 of restructuring charges primarily related to severance and benefits under cost reduction and staffing initiatives currently positioning Trinity Health for lower labor costs in fiscal year 2018.

Trinity Health offset these net operating losses with several nonoperating items, including investment income and equity in earnings of unconsolidated affiliates. Trinity's excess of revenue over expenses, including nonoperating items, was $1,336,823,000 for 2017 and $949,130,000 for 2018.

BFA Attachment C is the consolidated certified financial statements of St. Joseph's Health, Inc. and Subsidiaries for the years ending June 30, 2018 and 2017, which shows the entity maintained positive working capital and net asset positions, had operating income of $3,296,000 in 2017, but experienced an operating loss of $2,860,000 in 2018. The 2018 loss was due to a continuation of the comprehensive performance improvement plan, including workforce reductions, that were implemented in 2017 to realign the System's cost structure. Excluding the restructuring cost loss of $3,856,000 (Unusual Item), the facility would have had a net income of $996,000 in 2018.

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

Attachments

Program Attachment A	Trinity Health Facilities in NYS
Program Attachment B	Trinity Health Out-of-State Facilities
Program Attachment C	Affidavit of Out-of-State Enforcement Actions
BFA Attachment A	St. Joseph's Health – Proposed corporate organizational chart
BFA Attachment B	Trinity Health – June 30, 2018, 2017 and 2016 certified financial statements
BFA Attachment C	St. Joseph's Health, Inc. & Subsidiaries–June 30, 2018 and 2017 certified financial statements

Public Health and Health Planning Council

Project # 181403-E
Visiting Nurse Service of Rochester and Monroe County

Program:	**Certified Home Health Agency**	***County:***	**Monroe**
Purpose:	**Establishment**	***Acknowledged:***	**June 11, 2018**

Executive Summary

Description

Visiting Nurse Service of Rochester and Monroe County, Inc. (VNSR), a voluntary not-for-profit, Article 36 Certified Home Health Agency (CHHA) located at 2180 Empire Boulevard, Webster (Monroe County), requests approval to merge Finger Lakes Visiting Nurse Service, Inc. (FLVNS), a voluntary not-for-profit, Article 36 CHHA located at 756 Pre-Emption Road, Geneva (Ontario County), into its operation. VNSR is authorized to serve Monroe, Livingston, Ontario, Wayne and Wyoming counties. FLVNS is authorized to serve Ontario, Wayne, Seneca and Yates counties. Both CHHAs are certified to provide Home Health Aide, Personal Care, Medical Social Services, Medical Supplies/Equipment and Appliances, Nursing, Nutritional, Occupational Therapy, Physical Therapy and Speech Language Pathology services. Upon approval by the Public Health and Health Planning Council (PHHPC), VNSR will be the surviving entity, adding Seneca and Yates counties to its authorized geographic service area. There will be no change in services provided.

Strong Home Care Group (SHCG), whose sole member is the University of Rochester, is the corporate parent of VNSR and FLVNS. The SHCG Board of Directors approved a corporate restructuring of the entities to streamline their governance and operations, reduce duplication, and increase efficiencies. The goals of the merger include reducing administrative overhead related to bank accounts, payrolls, benefits contracts, vendor contracts and payor contracts, and reducing duplication of effort related to cost and statistical reports, financial statements, audits and IRS filings. VNSR and FLVNS each also operate an Article 40 Hospice. Merger of the Hospice operations to be licensed under VNSR is under review (CON 181405).

As part of the corporate reorganization, the agencies will be rebranded to highlight their relationship to the University of Rochester's health care system, UR Medicine. SHCG will change its name to UR Medicine Home Care, Inc. and VNSR, the surviving CHHA, will be renamed UR Medicine Home Care, Certified Services, Inc. BFA Attachment A presents the organizational chart for the System before and after the merger.

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no change in services as a result of this application.

Program Summary

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

Financial Summary

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

	Year One	Year Three
Revenues	$30,683,000	$33,520,000
Expenses	$28,817,107	$30,143,714
Gain/(Loss)	$1,865,893	$3,376,286

Recommendations

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

Office of Primary Care and Health Systems Management
<u>Approval contingent upon</u>:
1. Submission of a copy of the bylaws of the applicant, acceptable to the Department. [CSL]
2. Submission of a cop of the certificate of assumed name or amendment to the certificate of incorporation of the applicant, acceptable to the Department. [CSL]

<u>Approval conditional upon</u>:
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]

Council Action Date
December 13, 2018

Need and Program Analysis

Description of Project

Visiting Nurse Service of Rochester and Monroe County, Inc, a not-for-profit business corporation which operates a Certified Home Health Agency (CHHA), seeks approval to acquire and merge the assets of Finger Lakes Visiting Nurse Service, Inc. CHHA.

At the close of this transaction, Fingers Lakes Visiting Nurse Service, Inc. will ultimately close and Visiting Nurse Service of Rochester and Monroe County, Inc. will be the surviving Certified Home Health Agency. Additionally, the name of the surviving CHHA will be changed to UR Medicine Home Care, Certified Service, Inc.

Currently, Finger Lakes Visiting Nurse Service, Inc. is controlled by Visiting Nurse Service of Rochester and Monroe County, Inc. The parent corporation of Visiting Nurse Service of Rochester and Monroe County, Inc. is Strong Home Care Group d/b/a UR Medicine Home Care. The sole member of Strong Home Care Group is the University of Rochester. This structure was approved by the Public Health Council in 1999.

Visiting Nurse Service of Rochester and Monroe County, Inc. currently serves the following counties from an office located at located at 2180 Empire Boulevard, Webster, New York 14580:

Monroe	Livingston	Ontario	Wayne	Wyoming

As a result of this merger, Visiting Nurse Service of Rochester and Monroe County, Inc. will add the following counties to their service area:

Seneca	Yates

Visiting Nurse Service of Rochester and Monroe County, Inc. provides the following services:

Home Health Aide	Occupational Therapy	Nutrition
Personal Care	Nursing	Medical Supplies & Equipment
Medical Social Services	Physical Therapy	Speech Language Pathology

This project will have no impact on the services being provided by Visiting Nurse Service of Rochester and Monroe County, Inc.

Character and Competence Review

The Board of Directors of Visiting Nurse Service of Rochester and Monroe County, Inc., to be known as UR Medicine Home Care, Certified Service, Inc. is as follows:

Gloria G. Harrington – Board Member Executive Director, Quail Summit, Inc. <u>Affiliations</u> Danforth Tower (ACF) (2011–2016) Jonathan Child (ACF) (2011– 016) Hudson-Ridge (ACF) (2011–2016) The Northfield (ACF) (2011– 016) Long Pond Senior Apartments (ACF) (2011–2016)	**Daniel A. Mendelson, MD** – Board Member Professor, Attending Physician, University of Rochester <u>Affiliations</u> Visiting Nurse Service of Rochester and Monroe County, Inc. (CHHA) Strong Partners Health System Monroe Community Hospital (2011-2014) The Highlands at Brighton (SNF) (2011- 2014)

Hazel P. Robertshaw, **RN** (NY, UK) – Board Member VP of Patient Care Services/CNO, UR Thompson Health <u>Affiliation</u> F.F. Thompson Hospital (2007 – February 2018)	**Mark S. Cronin** – Chair Chief Operating Officer, Accountable Health Partners, University of Rochester <u>Affiliation</u> St. Ann's Community (SNF) (June 2013 – Present)
Mark F. Prunoske – Board Member Senior Vice President, CFO, F.F. Thompson Hospital <u>Affiliation</u> F.F. Thompson Hospital	**Kathleen R. Whelehan** – Board Member President, CEO, The Upstate National Bank
Mary Savastano Cutting, LMSW – Board Member Director of Case Management/Social Work, Thompson Health	**James E. Dickson II, MD** – Board Member Retired
Ann M. Harrington, RN – Director Executive Director, New York Organization of Nurse Executives <u>Affiliation</u> Visiting Nurse Service of Rochester and Monroe County, Inc. (CHHA) (June 2017 – Present)	**Martha T. Davis** – Board Member Retired
Portia Y. James – Board Member Director, Human Resources, Paychex, Inc. <u>Affiliations</u> St. John's Health Care Corporation (2010 – 2014)	**Alan H. Resnick** – Board Member Retired <u>Affiliations</u> ACM Medical Laboratories Planned Parenthood of Central and Western New York
Diana R. Kurty, CPA – Board Member Partner, Lumina Partners <u>Affiliations</u> Strong Memorial Hospital Eastman Dental Center	**John R. Horvath, CPA** – Board Member Retired
Ann Marie P. Cook – Board Member President/CEO, Lifespan <u>Affiliations</u> Visiting Nurse Service of Rochester and Monroe County, Inc. (CHHA) Highland Hospital	**Jane M. Shukitis, RN** – Ex-Officio Director President, CEO, University of Rochester Medical Center <u>Affiliations</u> Unity Living Center (SNF) (April 2012 – December 2014) Park Ridge Nursing Home (April 2012 – December 2014) Edna Tina Wilson Nursing Home (April 2012 – December 2014) Unity at Home (LHCSA) (2002 – December 2014) Park Ridge at Home (LTHHCP) (1992 – December 2014) Rochester Regional Health System Home Care (CHHA) (2011 – 2014)
Steven I. Goldstein – Board Member President/CEO – University of Rochester Strong Memorial Hospital	**David J. Lipari** – Board Member Principal, Lipari Insurance Agency LLC
Michael E. McRae, NHA – Board Member President/CEO, St. Ann's Community <u>Affiliation</u> St. Ann's Community (April 2014 – Present)	E**lisa DeJesus** – Board Member Director, Family Services Division, Ibero-American Action League, Inc.

Jason S. Feinberg, MD – Board Member Vice President of Medical Affairs, Chief Medical Officer- Finger Lakes Health <u>Affiliation</u> FLH Medical PC	**Jeffrey F. Paille, CPA** – Board Member Partner, Bonadio & Co., LLP
Irene Burke – Board Member Manager of Actuarial Department, Burke Group	

Gloria G. Harrington disclosed that during her period of affiliation with The Northfield an enforcement action was taken against the facilities regarding elopement.

James E. Dickson II disclosed one settled malpractice claim within the past seven years.

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 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 Bureau of Professional Credentialing has indicated that Michael E. McRae, NHA license 04562, 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 Nursing and Midwifery Council of the United Kingdom indicated no issue with the licensure of the health care professionals associated with this application.

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 professionals associated with this application.

The Office of the Professions indicates no issue with the licensure of the Certified Public Accountants associated with this application.

A seven-year review, unless otherwise indicated, of the operations of all facilities in the Strong Home Care Group, as well as all facilities affiliated with members of the board was performed as a part of this review.

The Bureau of Quality and Surveillance reviewed the compliance history of the affiliated Nursing Homes and Skilled Nursing Facilities and reports as follows:

- St. John's Health Care Corporation was fined $10,000 pursuant to a stipulation and order dated June 20, 2011 for inspection findings on September 27, 2010 for violations of 10 NYCRR Part 415.
- St. John's Health Care Corporation was fined $10,000 pursuant to a stipulation and order dated March 10, 2016 for inspection findings on August 2, 2012 for violations of 10 NYCRR Part 415.
- Edna Tina Wilson Living Center was fined $10,000 pursuant to a stipulation and order dated September 22, 2015 for inspection findings on October 25, 2013 for violations of 10 NYCRR Part 415.

The Bureau of Quality and Surveillance reported that the remaining affiliated Nursing Homes and Skilled Nursing Facilities have no histories of enforcement action taken.

Division of Adult Care Facilities and Assisted Living Surveillance reviewed the compliance history of the affiliated Adult Care Facilities and reports as follows:

- The Northfield was fined $3,000.00 pursuant to a stipulation and order dated March 11, 2011 for inspection findings on November 3, 2010 for violations of Article 7 of the Social Services Law and 18 NYCRR Part 487.

The Division of Adult Care Facilities and Assisted Living Surveillance reported that the remaining affiliated Adult Care facilities have no histories of enforcement action taken.

The Division of Hospitals and Diagnostic and Treatment Centers has reviewed the compliance histories of the affiliated Hospitals and Diagnostic & Treatment Centers and reports as follows:

- Strong Memorial Hospital was fined $10,000.00 pursuant to a stipulation and order dated October 30, 2018 for inspection findings on April 30, 2018 for violations of Article 28 of the Public Health Law and 10 NYCRR Part 405.7(b)(5).

The Division of Hospitals and Diagnostic & Treatment Centers reported that the remaining affiliated Hospitals and Diagnostic & Treatment Centers have no histories of enforcement action taken.

The Division of Home and Community Based Services reviewed the compliance histories of the affiliated CHHAs, LHCSAs, and Hospice providers and reports as follows:

- Finger Lakes Visiting Nurse Service, Inc. was fined $7,500.00 pursuant to a stipulation and order dated March 20, 2013 for inspection findings on November 18, 2010. The agency was found to be in violation of 10 NYCRR Section 763.11(a), 763.11(b) – Governing Authority; 763.4(h) – Policy and Procedure of Service Delivery; 763.6(b), 763.6(c), 763.6(e) – Patient Assessment and Plan of Care.

The Division of Home and Community Based Services reported that the remaining affiliated LHCSAs, CHHAs, and LTHHCPs have no histories of enforcement action taken.

The information provided by the Clinical Laboratory Evaluation Program has indicated the clinical laboratory associated with this application has met the requirements and regulations of the Public Health Law.

CHHA Quality of Patient Care Star Ratings as of November 8, 2018 **New York Average:** 3 out of 5 stars **National Average:** 3.5 out of 5 stars	
CHHA Name	**Quality of Care Rating**
Visiting Nurse Service of Rochester and Monroe County, Inc.	3 out of 5 stars
Finger Lakes Visiting Nurse Service, Inc	3 out of 5 stars

Conclusion

There will be no change in services as a result of this application. Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a certified home health agency.

Financial Analysis

Agreement and Plan of Merger

An executed Plan of Merger Agreement between VNSR and FLVNS has be submitted, to be effectuated upon PHHPC approval. The terms are summarized below:

Date:	October 5, 2017 (Governing Boards' adoption date)
Merging Entities:	Visiting Nurse Service of Rochester and Monroe County, Inc. and Finger Lakes Visiting Nurse Service, Inc.
Surviving Entity:	Visiting Nurse Service of Rochester and Monroe County, Inc. to be renamed UR Medicine Home Care, Certified Services, Inc.
Asset Acquired:	All remaining assets
Liabilities Acquired:	All remaining liabilities
Purchase Price:	$-0-

In October 5, 2017, the Governing Boards of SHCG, a New York not-for-profit 501(c)(3) corporation and parent of VNSR and FLVNS, passed a resolution to merge FLVNS into VNSR (surviving corporation). The goal of the merger is to effect significant cost savings in back office and administrative operations and enable a streamlining of the management structure. The merger will allow clinical policies to be consolidated, reduce redundancy in reporting requirements to state and federal agencies, and centralize services to improve care delivery.

BFA Attachment A presents the organizational structure before and after approval. VNSR will change its name to UR Medicine Home Care Certified Care Services, Inc. UR Medicine Home Care, Certified Services, Inc. will be operated under UR Medicine Home Care, Inc. This is all part of the re-branding initiative. There will be no interruption to services and both facilities will remain in their current geographic locations with no changes.

Operating Budget

The applicant has submitted their current operating results (2017) and the combined operating budget, in 2018 dollars, for the first and third years post-merger, summarized below:

	Current Year	First Year	Three Year
Revenues			
Commercial FFS	$10,065,000	$5,228,000	$5,636,000
Commercial MC	0	9,294,000	10,016,000
Medicare MC	9,055,000	14,253,000	15,829,000
Medicaid FFS	0	113,000	242,000
Medicaid MC	1,042,000	1,762,000	1,768,000
Private Pay	4,900	16,000	11,000
Other	0	17,000	18,000
Total Revenue	$20,211,000	$30,683,000	33,520,000
Expenses			
Operating	$20,486,725	$28,648,724	$29,973,647
Capital	144,785	168,383	170,067
Total Expenses	$20,631,510	$28,817,107	$30,143,714
Net Income	($420,510)	$1,865,893	$3,376,286
Utilization - Visits	147,742	215,269	224,689
HHA Hours	17,364	29,884	30,610

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

Payor	Current Year Visits	Current Year %	Year One Visits	Year One %	Year Three Visits	Year Three %
Commercial FFS	86,853	58.79%	40,531	18.83%	42,383	18.86%
Commercial MC	0	0%	72,059	33.47%	75,348	33.53%
Medicare MC	51,416	34.80%	81,917	38.05%	85,676	38.13%
Medicaid FFS	0	0%	545	.25%	1,153	.51%
Medicaid MC	8,911	6.03%	19,582	9.10%	19,631	8.74%
Private Pay	462	.31%	467	9.10%	337	.15%
Charity Care	100	.07%	47	.02%	34	.02%
Other	0	0%	121	.06%	127	.06%
Total	147,742	100%	215,269	100%	224,689	100%

Expense, utilization and revenue assumptions are based on the historical experience of the CHHAs. Revenues reflect current payment rates, which are expected to remain flat for Year One and Year Three. Year One is based on 2018 budgeted data, due to the fact much of the consolidation of back-office functions has already been completed.

Capability and Feasibility

There are no issues of capability or feasibility, as there are no project costs associated with this application. The submitted budget shows positive net income for the first and third years of operation. The Vice President and Chief Financial Officer of the University of Rochester Medical Center (URMC), the passive parent of SHCG, had provided a letter documenting their financial support to VNSR over the years, and reconfirming their commitment to support VNSR in the future should the need arise to ensure the success of the CHHA program.

BFA Attachment B is a summary of Strong Home Care Group, Inc.'s 2016-2017 certified financial statements. As shown, the entity had a negative working capital position, negative net asset position, and an operating loss of $4,560,989 in 2017.

BFA Attachment C is a summary of Strong Memorial Hospital's fiscal year ending June 30, 2018 certified financial statements. As shown, the entity has a positive working capital position, position net asset position, and an operating gain of $98,264,204. As of October 10, 2018, VNSR has a $15.2M payable to the URMC and Strong Memorial Hospital for services they provided in support of the agency.

Visiting Nurse Service of Rochester and Monroe County, Inc. has been affiliated with the University of Rochester since 1998 when the University was approved as the passive parent of SHCG. The University strongly supports the merger of VNSR and FLNVS and is committed to support them financially going forward. A HSBC Line of Credit up to a $5.75 million cap, guaranteed by the University of Rochester, is available to VNSR to be used for operational support as needed.

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

Attachments

BFA Attachment A	Organizational Charts
BFA Attachment B	2016 & 2017 Certified Financial Statements Strong Home Care Group, Inc.
BFA Attachment C	06/2017 & 06/2018 Certified Financial Statements Strong Memorial Hospital

Application Number: **182030**
Name of Agency: **Amerita of New York LLC d/b/a Amerita**
Address: **New Hyde Park**
County: **Nassau**
Structure: **Limited Liability Company**

Amerita of New York LLC d/b/a Amerita, a limited liability company, requests approval to become the operator of a licensed home care services agency currently operated by Alexander Infusion, LLC d/b/a Avanti Health Care Services through the 100% purchases of Avanti's assets.

Based on the specialty nature of the applicant and the applicant services (specialty pharmacy and complex infusion provider), this requested change in ownership meets the Licensed Home Care Services Agency moratorium exception for applications that address a serious concern such as a lack of access to home care services in a geographic area or lack of appropriate care, language and cultural competence or special needs services. If the existing provider was not able to sell their agency and instead closed, resulting in the loss of specialty infusion services in the area, there is not enough capacity by other specialty infusion providers to accommodate the patients in the region.

Alexander Infusion, LLC d/b/a Avanti Health Care Services, was previously approved as a home care services agency by the Public Health Council at its March 20, 1998 meeting and subsequently licensed 0708L001 effective May 21, 1998. An additional site was subsequently approved for this provider: 0708L002 effective February 9, 2007. At the time of Public Health Council approval, 4 members were approved: Alexander Myers, Pietro Piacquadio, Joseph Stanilewicz, and Kathleen Kelly. The membership interest of Alexander Myers was subsequently redeemed by the company in accordance with applicable provisions of the LLC's Operating Agreement. Following the redemption, the ownership of the LLC was reallocated among its 3 remaining members in equal shares. The reallocation was the subject of a licensure application (application no. 0939) approved by the Public Health Council on January 21, 2000. A second application (application no. 1204) was submitted following the death of Kathleen Kelly and approved by PHC on May 16, 2003. The remaining approved members of Alexander Infusion, LLC are Alexander Myers and Pietro Piacquadio.

Amerita of New York, LLC d/b/a Amerita, a New York State Limited Liability Company, is a wholly-owned subsidiary of Amerita, Inc. Amerita, Inc., a Kentucky Business Corporation, is a wholly-owned subsidiary of Pharmacy Corporation of America. The Board Members of Amerita, Inc. comprises the following individuals:

Richard D. Iriye, Pharmacist – Director
President, Amerita, Inc.

Thomas A. Caneris, Esq. – Director
Vice President/Secretary/General Counsel, PharMerica Corporation

Scott R. Danitz, CPA – Director
CFO, Amerita, Inc.

Gregory S. Weishar – Director
President/CEO, PharMerica Corporation

Robert E. Dries, CPA – Director
Executive Vice President/CFO/Treasurer, PharMerica Corporation

Pharmacy Corporation of America, a Delaware Business Corporation, is a wholly-owned subsidiary of PharMerica Holdings, Inc. The Board Members of Pharmacy Corporation of America comprises the following individuals:

Gregory S. Weishar – Director
(Previously Disclosed)

Robert E. Dries, Director
(Previously Disclosed)

Thomas A. Caneris, Esq. – Director
(Previously Disclosed)

PharMerica Holdings, Inc., a Kentucky Business Corporation, is a wholly-owned subsidiary of PharMerica Corporation. The Board Members of PharMerica Holdings, Inc. comprises the following individuals:

Gregory S. Weishar – Director
(Previously Disclosed)

Thomas A. Caneris, Esq. – Director
(Previously Disclosed)

Robert E. Dries, Director
(Previously Disclosed)

PharMerica Corporation, a California Business Corporation, is a wholly-owned subsidiary of Phoenix Guarantor, Inc. The Board Members of PharMerica Corporation comprises the following individuals:

Gregory S. Weishar – CEO/Director
(Previously Disclosed)

Thomas A. Caneris, Esq. – General Counsel/Director
(Previously Disclosed)

Robert E. Dries, Executive Vice President/Director
(Previously Disclosed)

Phoenix Guarantor, Inc., a Delaware Business Corporation, is a wholly-owned subsidiary of Phoenix Intermediate Holdings, Inc. The Board Members of Phoenix Guarantor, Inc. comprises the following individuals:

Gregory S. Weishar – CEO/Director
(Previously Disclosed)

Thomas A. Caneris, Esq. – General Counsel/Director
(Previously Disclosed)

Robert E. Dries, Executive Vice President/Director
(Previously Disclosed)

Phoenix Intermediate Holdings, Inc., a Delaware Business Corporation, is a wholly-owned subsidiary of Phoenix Parent Holdings, Inc. The Board Members of Phoenix Intermediate Holdings, Inc. comprises the following individuals:

Gregory S. Weishar – CEO/Director
(Previously Disclosed)

Thomas A. Caneris, Esq. – General Counsel/Director
(Previously Disclosed)

Robert E. Dries, Executive Vice President/Director
(Previously Disclosed)

The Board Members of Phoenix Parent Holdings, Inc., a Delaware Business Corporation, comprises the following individuals:

Gregory S. Weishar – CEO/Director
(Previously Disclosed)

Thomas A. Caneris, Esq. – General Counsel/Director
(Previously Disclosed)

Robert E. Dries, Executive Vice President/Director
(Previously Disclosed)

Neelaksh K. Varshney – Director
Director, Kohlberg Kravis Roberts & Co. L.P.

Max C. Lin – Director
Member, Kohlberg Kravis Roberts & Co. L.P.

David E. Schreibman – Director
Consultant, DES Fremont Consulting

James C. Momtazee – Director
Member, Kohlberg Kravis Roberts & Co. L.P.

Affiliations:
Eastern Paramedics, Inc.
Corning Ambulance Services, Inc.
Beacon Transportation, Inc.
National Ambulance & Oxygen Service, Inc.
American Medical Response of New York, LLC
LaSalle Ambulance, Inc.
Town's Ambulance Services, Inc.
Med-Trans Corporation d/b/a SkyHealth

Hari K. Avula – Director
Senior Vice President/CFO, Walgreens Boots Alliance, Inc.

A search of the Thomas Caneris on the Supreme Court of Ohio Attorney Directory and the Kentucky Bar Association revealed that the individual is currently registered and has no disciplinary actions taken against them.

A search of Robert Dries on the Accountancy Board of Ohio revealed that the individual is currently registered and has no disciplinary actions taken against them.

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

On May 11, 2015, PharMerica Corporation (PharMerica) entered into a five-year Corporate Integrity Agreement (CIA) with the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS). The CIA relates to PharMerica's Long Term Care Division and, to a limited extent, to its infusion business. The CIA specifically addresses the areas of Compliance with Written Standards (that is, with applicable PharMerica policies and procedures), Code of Conduct and Training. In particular, the CIA is focused on the capture and documentation of all required elements for the proper dispensing of Category II controlled substances. In accordance with the CIA, PharMerica is required to submit an annual report to OIG that documents compliance with all provisions of the CIA and, between annual reports, to notify the OIG Monitor of changes, updates and other events that occur during each reporting period. In addition, all of PharMerica's long-term care pharmacy locations are subject to review if and when selected by IPRO. The CIA will terminate on May 10, 2020.

A seven-year review of the operations of the following facilities was performed as part of this review (unless otherwise noted). The information provided by the Bureau of EMS has indicated that the EMS agencies above have had no enforcement actions against them.

The applicant proposes to continue to serve the residents of the following counties from an office located at 23-50 Waters Edge Drive, Suite PG, Bayside, New York 11360:

Bronx	Kings	New York	Queens
Richmond	Westchester		

The applicant proposes to continue to serve the residents of the following counties from an office located at 75 Nassau Terminal Road, New Hyde Park, New York 11040:

Nassau	Suffolk

The applicant proposes to provide the following health care services:

Nursing	Medical Supplies, Equipment and Appliances

The review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

Office of Primary Care and Health Systems Management

Approval Contingent Upon:

1. Submission of a photocopy of the applicant's Certificate of Assumed Name, acceptable to the Department. [CSL]
2. Submission of a photocopy of an amended and executed Operating Agreement, acceptable to the Department. [CSL]

Application Number: 182014
Name of Agency: The Mohawk Homestead, Inc. d/b/a The Mohawk Homestead Licensed Home Care Services Agency
Address: Mohawk
County: Herkimer
Structure: Not-for-Profit Corporation

The Mohawk Homestead, Inc. d/b/a The Mohawk Homestead Licensed Home Care Services Agency, a not-for-profit corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

This LHCSA will be associated with the Assisted Living Program to be operated by The Mohawk Homestead, Inc., which currently operates a 41-bed Adult Home and has been awarded 20 Assisted Living Program (ALP) beds as part of the ALP 3400 Initiative. The LHCSA and the ALP have identical membership.

The Board of Directors of The Mohawk Homestead, Inc. d/b/a The Mohawk Homestead Licensed Home Care Services Agency is comprised of the following individuals:

Sharon M. Palmer – Board Member Retired	**Larry S. Briggs** – First Vice President Owner, Larry S. Briggs Insurance
Mary Lou VanDerwiel – Board Member Retired	**David Dudgeon** – Assistant Treasurer Associate Broker, Bruce Ward & Company
Dolores C. Aloisio – Board Member Retired	**Deborah J. Marley** – Second Vice President Marketing Representative, Medicine Shoppe
Claudia C. Gloo – Corresponding Secretary Retired	**Sharon L. Murray** – Recording Secretary Retired
Timothy R. Daly – Treasurer Bank Manager, Berkshire Bank	**Peter W. Eramo** – President Retired

All the individuals have been board members of the Adult Home, with several members serving since 2011. A search of the individuals and The Mohawk Homestead, Inc revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The LHCSA will be restricted to serving the residents of the associated Assisted Living Program in Herkimer County from an office located at 62 East Main Street, Mohawk, New York 13407.

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care Aide
Physical Therapy	Occupational Therapy	

A seven-year review of the operations of The Mohawk Homestead (Adult Home) was performed.
- The Mohawk Homestead was fined $118,000.00 pursuant to a stipulation and order dated November 1, 2016 for inspection findings on March 11, 2016 for violations of Article 7 of the Social Services Law and 18 NYCRR Part 487.

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

Office of Primary Care and Health Systems Management
Approval Contingent upon:
1. Submission of a copy of the bylaws of the applicant, acceptable to the Department. [CSL]

Approval Condition upon:
1. The Agency is restricted to serving the residents of the associated Assisted Living Program

Application Number: **182076**
Name of Agency: **The Eliot at Troy, LLC**
Address: **Troy**
County: **Rensselaer**
Structure: **Limited Liability Company**

The Eliot at Troy, LLC, a limited liability company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law. This LHCSA is associated with The Eliot at Troy Assisted Living Program (ALP).

The following individual is the sole member of The Eliot at Troy, LLC:

Eric E. Newhouse, Esq. – 100% Membership, Managing Member
CEO, The Eliot at Erie Station
CEO, MedWiz Solutions, Inc.
CFO, Adult Care Management, LLC
President, Marquis Home Care LLC

Affiliations:
The Eliot at Erie Station (ALP) (05/07-present)
The Eliot at Erie Station (LHCSA) (05/07-present)
The Eliot at Catskill (AH) (08/10-present)
Marquis Home Care LLC (LHCSA) (10/13-present)
The Sentinel at Amsterdam (AH/ALP) (2016-present)
The Sentinel at Amsterdam (LHCSA) (2016-present)

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 search of the individual named above on the New York State Unified Court System revealed that the individual is currently registered and has no disciplinary actions taken against them.

A seven-year review of the operations of the above facilities was performed as part of this review (unless otherwise noted).

The Eliot at Catskill:

- was fined $5,700.00 pursuant to a stipulation and order dated August 30, 2016 for surveillance findings set forth in the reports of inspection dated July 24, 2015, December 8, 2015 and April 8, 2016. Deficiencies were found under 18 NYCRR 487.7(f)(5) Resident Services and 487.11(f)(8) Environmental Standards.
- was fined $2,500.00 pursuant to a stipulation and order dated December 19, 2016 for surveillance findings set forth in the reports of inspection dated June 8, 2016 and July 29, 2016. Deficiencies were found under 18 NYCRR 487.4(f) Admission Standards, 487.8(c) Food Service, 487.8(e)(1) Food Service, 487.11(f)(8) Environmental Standards, 487.11(g) Environmental Standards, 487.11(h)(5) Environmental Standards, 487.11(k)(1-3) Environmental Standards, 487.11(k)(5) Environmental Standards and 487.11(k)(16) Environmental Standards.
- was fined $7,770.00 pursuant to a stipulation and order dated October 16, 2017 for surveillance findings set forth in the reports of inspection dated October 25, 2016, May 11, 2017 and August 30, 2017. Deficiencies were found under 18 NYCRR Environmental Standards regulations.

The Sentinel at Amsterdam:

- signed a Stipulation and Order with a fine of $1,065.00 for a survey dated September 28, 2018 for violations to Food Service regulations at 18 NYCRR §487.8(d)(1-2).

The information provided by the Division of Adult Care Facilities and Assisted Living Surveillance and 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 LHCSA will be restricted to serving the residents of the associated Assisted Living Program in Rensselaer County from an office located at 2909 Upper Tibbits Avenue, Troy, New York 12180.

The applicant proposes 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.

OPCHSM Recommendation

Approval conditional upon:

1. The Agency is restricted to serving the residents of the associated Assisted Living Program

Application Number:	**182078**
Name of Agency:	**Deer Run at River Ridge, LLC d/b/a The Sentinel of Amsterdam**
Address:	**Amsterdam**
County:	**Montgomery**
Structure:	**Limited Liability Company**

Deer Run at River Ridge, LLC d/b/a The Sentinel of Amsterdam, 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. This LHCSA is associated with Deer Run at River Ridge Assisted Living Program (ALP).

Deer Run at River Ridge, LLC d/b/a The Sentinel at Amsterdam was previously approved as a home care services agency by the Public Health Council at its February 9, 2017 meeting and subsequently licensed 2296L001 effective October 11, 2017. At that time the membership was as follows: Castlerock at Deer Run, LLC - 90.1% and The Sentinel at Amsterdam, LLC – 9.9 %.

Through an Asset Purchase Agreement, The Sentinel of Amsterdam will become the sole member of the LHCSA.

The following entity is the proposed sole member of Deer Run at River Ridge, LLC d/b/a The Sentinel of Amsterdam:

The Sentinel of Amsterdam, LLC – 100%

The members of The Sentinel of Amsterdam, LLC comprises the following individuals:

Eric E. Newhouse, Esq. - 66 2/3%

Naftali (Neil) Zelman - 33 1/3%
COO, Adult Care Management, LLC

Affiliations:
- The Eliot at Erie Station (AH/ALP) (04/10-present)
- The Eliot at Erie Station (LHCSA) (04/10-present)
- The Eliot at Catskill (AH) (09/10-present)
- Marquis Home Care (LHCSA) (12/12-present)

Eric E. Newhouse is exempt from character and competence review because he was previously approved by the Public Health and Health Planning Council for this operator.

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-year review of the above facilities was performed as part of this review.

The Eliot at Catskill:
- was fined $5,700.00 pursuant to a stipulation and order dated August 30, 2016 for surveillance findings set forth in the reports of inspection dated July 24, 2015, December 8, 2015 and April 8, 2016. Deficiencies were found under 18 NYCRR 487.7(f)(5) Resident Services and 487.11(f)(8) Environmental Standards.
- was fined $2,500.00 pursuant to a stipulation and order dated December 19, 2016 for surveillance findings set forth in the reports of inspection dated June 8, 2016 and July 29, 2016. Deficiencies were found under 18 NYCRR 487.4(f) Admission Standards, 487.8(c) Food Service, 487.8(e)(1) Food Service, 487.11(f)(8) Environmental Standards, 487.11(g) Environmental Standards, 487.11(h)(5) Environmental Standards, 487.11(k)(1-3) Environmental Standards, 487.11(k)(5) Environmental Standards and 487.11(k)(16) Environmental Standards.

- was fined $7,770.00 pursuant to a stipulation and order dated October 16, 2017 for surveillance findings set forth in the reports of inspection dated October 25, 2016, May 11, 2017 and August 30, 2017. Deficiencies were found under 18 NYCRR Environmental Standards regulations.

The Sentinel at Amsterdam signed a Stipulation and Order with a fine of $1,065.00 for a survey dated September 28, 2018 for violations to Food Service regulations at 18 NYCRR §487.8(d)(1-2).

The information provided by the Division of Home and Community Based Services and the Division of Adult Care Facilities and Assisted Living Surveillance 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 LHCSA will be restricted to serving the residents of the associated Assisted Living Program in Montgomery County from an office located at 10 Market Street, Amsterdam, New York 12010.

The applicant proposes 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.

Office of Primary Care and Health Systems Management

Approval Contingent Upon:

1. Submission of a copy of the articles of organization of the applicant, acceptable to the Department.

Approval Conditional upon:

1. The Agency is restricted to serving the residents of the associated Assisted Living Program