

STATE OF NEW YORK
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

AGENDA

December 5, 2024

*Immediately following the Committee on Codes, Regulations and Legislation Meeting
(Codes scheduled to begin at 9:30 a.m.)*

90 Church Street, 4th Floor, Conference Rooms 4 A/B, NYC, 10007

I. INTRODUCTION OF OBSERVERS

Jeffrey Kraut, Chair

II. APPROVAL OF MINUTES

September 12, 2024 PHHPC Meeting Minutes

III. REPORT OF DEPARTMENT OF HEALTH ACTIVITIES

A. Report of the Department of Health

James V. McDonald, M.D., M.P.H., Commissioner of Health

B. Report of the Office of Primary Care and Health Systems Management

Douglas G. Fish, M.D., Deputy Commissioner, Office of Primary Care
and Health Systems Management

IV. PUBLIC HEALTH SERVICES

Report on the Activities of the Public Health Committee

Jo Ivey Boufford, M.D., Chair of Public Health Committee

V. HEALTH POLICY

Report on the Activities of the Health Planning Committee

John Rugge, M.D., Chair of Health Planning Committee

VI. REGULATION

Report of the Committee on Codes, Regulations and Legislation

Thomas Holt, Chair of the Committee on Codes, Regulations and Legislation

For Adoption

24-01 Amendment of Section 405.19 of Title 10 NYCRR (General Hospital Emergency Services Behavioral Health)

VII. PROJECT REVIEW RECOMMENDATIONS AND ESTABLISHMENT ACTIONS

A. Report of the Committee on Establishment and Project Review

Peter Robinson, Chair of Establishment and Project Review Committee

APPLICATIONS FOR CONSTRUCTION OF HEALTH CARE FACILITIES

CATEGORY 1: Applications Recommended for Approval – No Issues or Recusals, Abstentions/Interests

CON Applications

Acute Care Services – Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	242088 C	BronxCare Hospital Center (Bronx County)	Contingent Approval

Ambulatory Surgery Center - Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	231170 C	St Johns Episcopal Hospital So Shore (Queens County)	Contingent Approval

Diagnostic and Treatment Center – Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	242051 C	ColumbiaDoctors/NewYork-Presbyterian Imaging (Westchester County)	Contingent Approval

CATEGORY 2: Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Without Dissent by HSA
- ❖ Without Dissent by Establishment and Project Review Committee

CON Application

Acute Care Services - Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	241095 C	Long Island Jewish Medical Center (Queens County) Mr. Kraut – Recusal	Contingent Approval

CATEGORY 3: Applications Recommended for Approval with the Following:

- ❖ No PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendations by HSA

NO APPLICATIONS

CATEGORY 4: Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendation by HSA

NO APPLICATIONS

CATEGORY 5: Applications Recommended for Disapproval by OHSM or
Establishment and Project Review Committee - with or without
Recusals

NO APPLICATIONS

CATEGORY 6: Applications for Individual Consideration/Discussion

NO APPLICATIONS

**APPLICATIONS FOR ESTABLISHMENT AND CONSTRUCTION OF
HEALTH CARE FACILITIES**

CATEGORY 1: Applications Recommended for Approval – No Issues or Recusals,
Abstentions/Interests

CON Applications

Ambulatory Surgery Centers - Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	232123 E	Fifth Avenue Surgery Center (New York County)	Contingent Approval
2.	241081 E	JM Care Services, LLC d/b/a Meridian Surgery Center (Queens County)	Contingent Approval
3.	241082 B	ASC of Brooklyn (Kings County)	Contingent Approval
4.	242018 B	Woodside ASC, LLC (Queens County)	Contingent Approval
5.	242077 B	Rego Park Endo, LLC (Queens County)	Contingent Approval

Diagnostic and Treatment Centers – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	241185 E	Felix Health New York, LLC d/b/a Felix Health (Bronx County)	Contingent Approval
2.	241236 B	East 180 Operating, LLC d/b/a East 180th Street Health and Treatment Center (Bronx County)	Contingent Approval
3.	242028 B	Gamms, LLC d/b/a Zelcare Family Health Network (Orange County)	Contingent Approval

Home Care Service Agency Licensures

New Licensed Home Care Services Agencies

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	231215 E	Covenant Care of New York, LLC (Please see exhibit for list of Geographical Service Area)	Approval
2.	241261 E	Brookdale Licensed Home Care Services Agency (Please see exhibit for list of Geographical Service Area)	Contingent Approval

Changes of Ownership

1.	222211 E	Nurturing Angels Homecare, Inc. (Please see exhibit for list of Geographical Service Area)	Contingent Approval
2.	222224 E	Responsible Homecare, Inc. (Please see exhibit for list of Geographical Service Area)	Approval
3.	231099 E	1st Class Home Care Services of NY INC (Please see exhibit for list of Geographical Service Area)	Approval

Certificates

Certificate of Assumed Name

<u>Applicant</u>	<u>E.P.R.C. Recommendation</u>
Catholic Health Specialty Pharmacy	Approval
Catholic Health Home Infusion Pharmacy	Approval
A Better Way NY	Approval
Summer Hill Behavioral Services	Approval

Restated Certificate of Incorporation

<u>Applicant</u>	<u>E.P.R.C. Recommendation</u>
START Treatment & Recovery Centers, Inc.	Approval

Certificate of Amendment of the Certificate of Incorporation

Applicant

The Door – A Center for Alternatives, Inc.

E.P.R.C. Recommendation

Approval

CATEGORY 2: Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Without Dissent by HSA
- ❖ Without Dissent by Establishment and Project Review Committee

CON Application

Ambulatory Surgery Center – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	232236 B	Central Nassau ASC LLC d/b/a Peakpoint Central Nassau ASC (Nassau County) Dr. Lim – Recusal	Contingent Approval
2.	242107 E	Queens Endoscopy ASC, LLC (Queens County) Mr. Kraut – Recusal	Approval

Diagnostic and Treatment Centers – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	241113 B	Jem NYC Consulting LLC d/b/a EMJ Healthcare Clinic (Kings County) Dr. Lim – Interest	Contingent Approval

Home Care Service Agency Licensures

New Licensed Home Care Services Agencies

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	241128 E	Mount Sinai Home Health, LLC (Please see exhibit for list of Geographical Service Area) Dr. Lim – Recusal	Approval

CATEGORY 3: Applications Recommended for Approval with the Following:

- ❖ No PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendations by HSA

NO APPLICATIONS

CATEGORY 4: Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendation by HSA

NO APPLICATIONS

CATEGORY 5: Applications Recommended for Disapproval by OHSM or Establishment and Project Review Committee - with or without Recusals

NO APPLICATIONS

CATEGORY 6: Applications for Individual Consideration/Discussion

NO APPLICATIONS

VIII. ADMINISTRATIVE LAW JUDGE’S REPORT AND RECOMMENDATION

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

IX. NEXT MEETINGS

January 23, 2025 (NYC)
February 6, 2025 (NYC)

X. ADJOURNMENT

******Agenda items may be called in an order that differs from above******

State of New York
Public Health and Health Planning Council

Minutes
September 12, 2024

The meeting of the Public Health and Health Planning Council was held on Thursday, September 12, 2024 at the Empire State Plaza, Concourse Level, Meeting Room 6, Albany, New York. Jeffrey Kraut, Chair presided.

COUNCIL MEMBERS PRESENT

Dr. Howard Berliner	Ms. Ann Monroe
Dr. Jo Ivey Boufford	Mr. Stanfort J. Perry
Dr. Lawrence E. Eisenstein	Mr. Peter Robinson
Mr. Tom Holt	Dr. John Rugge
Dr. Gary Kalkut	Dr. Denise Soffel
Mr. Jeffrey Kraut	Ms. Nilda Soto
Mr. Scott LaRue	Mr. Hugh Thomas
Mr. Harvey Lawrence	Dr. Kevin Watkins
Dr. Sabina Lim	Dr. Wendy Wilcox
Ms. Michelle T. Mazzacco	Commissioner McDonald –Ex-Officio
Dr. Mario Ortiz	

DEPARTMENT OF HEALTH STAFF PRESENT

Ms. Tomi Akanbi - Albany	Ms. Kathy Marks – Albany
Mr. David Abrams – Zoom	Ms. Marthe Ngwashi - Albany
Ms. Zahra Alaali – Albany	Mr. Thurain Nyunt – Albany
Ms. Lynn Baniak – Zoom	Mr. Jason Riegert – Zoom
Mr. Vince DiCocco - Albany	Ms. Carol Rodat – Albany
Mr. Kenneth Evans - Albany	Mr. William Sacks – Albany
Ms. Gina Gillooley – Zoom	Ms. Jaclyn Sheltry – Albany
Ms. Shelly Glock – Albany	Ms. Kirsten Siegenthaler – Albany
Mr. Drew Hanchett – Albany	Mr. Michael Stelluti – Albany
Dr. Eugene Heslin – Albany	Dr. Elizabeth Whalen – Albany
Mr. Jonathan Karmel – Zoom	Ms. Patricia Wrobel – Albany
Mr. Usman Khan – Albany	
Ms. Colleen Leonard – Albany	
Ms. Emily Lutterloh – Albany	
Mr. George Macko – Albany	

INTRODUCTION

Mr. Kraut called the meeting to order and welcomed Council members, Dr. McDonald, meeting participants and observers.

APPROVAL OF THE MINUTES OF THE APRIL 11, 2024 AND JUNE 20, 2024 FULL COUNCIL MEETINGS

Mr. Kraut asked for a motion to approve the April 11, 2024 and June 20, 2024 Minutes of the Public Health and Health Planning Council meeting. Dr. Berliner motioned for approval which was seconded by Dr. Kalkut. The minutes were unanimously adopted. Please refer to page 1 of the attached transcript.

REPORT OF DEPARTMENT OF HEALTH ACTIVITIES

Report on the Department of Health

Mr. Kraut introduced Dr. McDonald to give the Report on the Activities of the Department.

Dr. McDonald covered several key public health topics, reflecting the broad scope of work the New York State Department of Health was engaged in. He began by thanking healthcare facilities that participated in the Health Equity Impact Assessment Survey, emphasizing the need for continued input to refine the process and better serve healthcare facilities and communities.

Dr. McDonald then turned to Avian Influenza (H5N1), a significant concern due to its sporadic human cases and its spread among 201 bird species. Despite a low risk to humans, vigilance is key, especially in monitoring for possible mutations that could lead to a more serious pandemic threat. He acknowledged the U.S. Department of Agriculture and other state health departments' roles in monitoring the disease and highlighted the CDC's efforts to vaccinate livestock workers to prevent the potential genetic admixture of H5N1 with seasonal flu.

Dr. McDonald also discussed the ongoing monitoring of Mpox, particularly given recent outbreaks in other countries, though the risk in the U.S. remains low. He mentioned vaccination efforts to protect high-risk populations and explained measures taken to simplify access to the MPox vaccine, including allowing pharmacists to administer it.

Dr. McDonald expressed concern about the increasing presence of arboviruses, particularly Eastern Equine Encephalitis (EEE) and West Nile Virus, were another focus. These viruses could have possibly been exacerbated by climate change. He shared prevention tips, such as using insect repellent and reducing standing water where mosquitoes breed. Despite the high mortality associated with EEE, New York has not seen a human case since 2011, though animal cases have been reported. West Nile Virus, though less deadly, also remains a concern with rising cases in New York.

Shifting gears, Dr. McDonald talked about respiratory diseases like COVID-19, flu, and RSV (Respiratory Syncytial Virus). He encouraged vaccination against these illnesses, especially as the summer surge in COVID cases subsided. His goal is to minimize hospitalizations and severe outcomes through increased vaccination, addressing common barriers to care by simplifying access to vaccines.

Dr. McDonald also addressed the workforce shortage in hospitals, noting that the Department is working to enforce hospital staffing laws. Complaints regarding staffing have increased, leading to more investigations, and the department remains committed to resolving these issues to ensure safe patient care.

Finally, Dr. McDonald highlighted the Department's efforts in maternal health. He praised the work of several committees focused on reducing maternal mortality, particularly among marginalized communities. Key initiatives included expanding Medicaid coverage postpartum and enhancing community health worker programs. He ended by introducing Dr. David Holtgrave, a new senior policy adviser on overdose work, underscoring the importance of addressing the opioid crisis and staffing issues that have persisted since the pandemic.

Dr. McDonald concluded his report, please see pages 1 through 11 to view the complete report and members questions.

Report on the Activities of the Office of Public Health

Mr. Kraut introduced Dr. Whalen to give the Report on the Activities of the Office of Public Health.

Dr. Whalen provided a comprehensive update from the Office of Public Health, starting with the Wadsworth Center's construction project. The new facility on the Harriman Campus in Albany aims to centralize operations currently spread across five sites and provide state-of-the-art lab facilities that will serve the state for over 50 years. The project is in the schematic design phase, with construction anticipated to be completed by 2030. The Wadsworth Center was also awarded funding for a bio-monitoring program to assess exposure to environmental hazards like PFAS, pesticides, and metals. This funding will enhance lab capabilities, with \$1 million annually for three years beginning in September 2024. The center is also working on community outreach through programs like the Summer Public Health Academy and collaborations with local schools to inspire future public health professionals.

Dr. Whalen noted that the Center for Environmental Health is advancing initiatives to protect residents from contaminants, including drafting regulations for a lead safety inspection program and modernizing regulations on ionizing radiation. They are also working on templates to document lead service lines, which is a step towards replacing them and reducing lead exposure in drinking water. The center is also addressing climate change risks, with efforts to develop a state multi-agency extreme heat action plan and collaborate with local communities to build resilience against climate impacts.

Dr. Whalen highlighted the Center for Community Health updates. The Division of Chronic Disease Prevention has developed a comprehensive and useful cancer related data and reports public website. The WIC program, which has seen a 25% increase in caseload since 2020, faces challenges due to insufficient federal funding, potentially leading to caseload management strategies that could affect food assistance and outreach efforts.

Lastly, Dr. Whalen stated the 2025 Prevention Agenda is nearing its planning phase completion and will focus on social determinants of health, such as economic stability, education, and access to healthcare. An inter-agency task force is being established for cross-sector collaboration. Dr. Whalen also noted successes in opioid data, with significant reductions in opioid prescriptions and prescribing to opioid-naïve patients.

Dr. Whalen concluded her report, please see pages 11 through 14 to view the complete report and members questions.

Report on the Activities of the Office of Long Term Care

Mr. Kraut introduced Ms. Rodat to give the Report on the Activities of the Office of Public Health.

Ms. Rodat discussed the various initiatives the office has undertaken in its two years of existence. The office has established eight centers focused on areas such as licensure, workforce data collection, home and community-based services, and hospice and palliative care. She highlighted several key activities, including efforts to modernize the Adult Care Facility (ACF) licensing process, simplify procedures, and update need methodologies for hospice care, which have not been revised since 1986.

Ms. Rodat mentioned funding received from the American Rescue Plan Act, which provided \$40 million to the assisted living program and \$6 million to adult healthcare centers, helping to offset pandemic-related impacts. She emphasized the importance of education for providers and staff, particularly given the turnover in facilities such as nursing homes and ACFs, with training initiatives covering areas like infection control and psychotropic medication use.

Ms. Rodat stated that the office is implementing new requirements in Public Health Law to ensure nursing home and ACF residents' rights related to sexual orientation, gender identity, and expression are respected, with cultural competency training for direct care workers.

Lastly, Ms. Rodat discussed the work of the Most Integrated Setting Coordinating Council, which focuses on long-term care plans for individuals with intellectual, physical, developmental, and mental health disabilities. She concluded by inviting questions from the audience.

Ms. Rodat concluded her report, please see pages 14 through 17 to view the complete report and members questions.

PUBLIC HEALTH SERVICES

Mr. Kraut introduced Dr. Boufford to give the Report on the Activities of the Public Health Committee.

Dr. Boufford provided an in-depth overview of the structure, and purpose of the proposed resolution on the Prevention Agenda. She began by welcoming Dr. Whalen, who has played a key role in advancing this agenda, and expressing appreciation for the contributions of the Public Health Committee, who have worked tirelessly over the past 18 months and remain committed to the work of Prevention Agenda, a plan designed to reduce premature morbidity and mortality across New York by focusing on key social determinants of health rather than solely on clinical causes.

Dr. Whalen introduced Ms. Zahra Alaali, the Prevention Agenda Coordinator to give a power point presentation about significant developments regarding the 2025-2030 Prevention Agenda. Ms. Alaali outlined the comprehensive planning and implementation timeline, which commenced in March 2023 with partner engagement from the Ad Hoc Committee. This initial phase involved collecting data for the State Health Assessment and soliciting feedback from stakeholders about pressing health challenges over an 18-month period. Through this collaborative effort, a total of 44 health issues and challenges were identified, spanning various health conditions, behaviors, and social determinants of health. A prioritization tool was subsequently employed to rank these issues, culminating in a newly structured prevention agenda framework that features 24 key priorities.

Ms. Alaali explained that as the planning process evolves, the formation of working groups is underway to develop actionable plans, with over 200 participants expressing interest in contributing. Data for the assessment were collected from multiple sources, including state health profiles and local health department plans. She noted that the Ad Hoc Committee itself comprises over 120 representatives from various health sectors, including local health departments, hospitals, and community organizations. The extensive data analysis highlighted a range of issues grouped into six primary themes: economic well-being, mental health and substance use, safe and healthy communities, maternal and child health, healthcare access, and education quality. The integration of social determinants of health into the new agenda is a critical recommendation, aiming to address both direct and indirect factors influencing health outcomes and aligning with national initiatives like Healthy People 2030.

Ms. Alaali further elaborated on the new framework's structure, which emphasizes a shift from merely aiming to be the healthiest state to a more robust focus on achieving health equity. The framework retains four foundational principles: health equity, prevention across the lifespan, health in all policies, and local collaboration. Each priority will have specific, measurable, achievable, relevant, time-based, inclusive, and equitable (SMARTIE) objectives, marking a methodological shift from previous cycles. The new approach aims to enhance cross-sector collaboration among hospitals, local health departments, and community organizations, ensuring that health equity remains a central focus.

Ms. Alaali also detailed the transition in submission timelines for health assessments and community health improvement plans. While local health departments will shift to a six-year cycle, hospitals will maintain a three-year cycle to meet federal requirements. This collaborative framework encourages joint submissions of health plans, fostering partnerships throughout the assessment and implementation phases. Ms. Alaali emphasized the importance of interagency collaboration and the establishment of a new Interagency Working Group dedicated to social determinants of health, which will provide a platform for resource sharing and collective action across governmental sectors.

In conclusion, Ms. Alaali highlighted the structured timeline leading up to the new Prevention Agenda's implementation in January 2025. Key milestones include defining the mission and roles of the new working group by October 2024 and initiating member recruitment by January 2025. This proactive approach aims to cultivate a culture that prioritizes health equity across New York State, setting the stage for collaborative efforts to address the multifaceted challenges of public health effectively.

Ms. Alaali concluded her presentation.

Dr. Boufford highlighted that the Prevention Agenda is at its fourth iteration and has evolved significantly over the past decade. The latest shift represents a strategic move towards addressing social determinants, recognizing that individuals' health outcomes are heavily influenced by factors such as socio-economic conditions, housing, education, and the built environment. This broadening focus aligns with the national trend in public health to integrate population-level health improvement with clinical care to achieve better health outcomes. Dr. Boufford noted that the Council holds statutory responsibility for approving the Prevention Agenda, a requirement embedded in both state and federal law due to its importance in shaping health interventions for hospitals and other healthcare providers.

Dr. Boufford detailed the extensive collaboration and consultation process that has shaped this version of the Prevention Agenda. Several meetings were held involving a variety of state agencies, hospital associations, and public health advocates, stakeholders reviewed the previous agenda structure and proposed updates to enhance its impact. This effort was also supported by the Ad Hoc Committee for the Prevention Agenda, a group representing a broad array of organizations, nonprofits, and advocacy bodies, which engaged in a series of meetings to ensure community voices and priorities were reflected.

Dr. Boufford stated that in June 2024, the Council's Chair agreed to delegate approval authority to the Public Health Committee to prevent further delays in the agenda's guidance issuance, streamlining the process while keeping the council informed.

Dr. Boufford presented a Resolution which included three parts that frame the Prevention Agenda. The first part sets a foundation by establishing 24 priority actions for state health departments, ideally in collaboration with hospitals, to focus on specific health determinants. The second part addresses the importance of social determinants and proposes an interagency approach, stressing the need for the Health Department to leverage cross-agency efforts effectively. Dr. Boufford mentions that specific guidance on implementation, oversight, and interagency collaboration will be clarified to maximize the agenda's impact across communities. The Resolution represents a forward-looking and collaborative framework, aiming to integrate clinical and social health factors to comprehensively improve public health across New York State.

Dr. Boufford moved to adopt the Resolution, Dr. Berliner seconded the motion. Council members discussed the Resolution and agreed to accept Mr. Lawrence's minor revisions. Dr. Boufford and Berliner accepted the revised Resolution. The Resolution was unanimously.

Dr. Boufford concluded her report. Please see pages 17 through 27 of the transcript.

REGULATION

Mr. Kraut introduced Mr. Holt to provide the Report of the Committee on Codes, Regulations and Legislation.

Report of the Committee on Codes, Regulation and Legislation

For Adoption

Mr. Holt introduced the proposed Amendment of Part 12 of Title 10 NYCRR and Section 505.2(e) of Title 18 NYCRR (Reproductive Health Care Standards) and motioned for adoption. Dr. Berliner seconded the motion. The motion carried with Dr. Eisenstein and Mr. LaRue's abstentions. Please see page 28 of the transcript.

Mr. Holt introduced the proposed Amendment of Section 2.6 of Title 10 NYCRR (Disease Outbreak Investigation and Response Clarifications). Mr. Holt motioned for adoption. Dr. Berliner seconded the motion. The motion to adopt carried. Please see page 29 of the transcript.

Lastly, Mr. Holt called the addition of Addition of Section 405.46 to Title 10 NYCRR (Hospital Cybersecurity Requirements) Mr. Holt motioned for adoption. Dr. Soffel seconded the motion. The motion carried. Please see page 29 of the transcript.

Mr. Holt concluded his report.

PROJECT REVIEW RECOMMENDATIONS AND ESTABLISHMENT ACTIONS

Mr. Kraut thanked Mr. Holt for his report and introduced Mr. Robinson to give the Report of the Committee on Establishment and Project Review.

PROJECT REVIEW RECOMMENDATIONS AND ESTABLISHMENT ACTIONS

Report of the Committee on Establishment and Project Review

APPLICATIONS FOR CONSTRUCTION OF HEALTH CARE FACILITIES

CATEGORY 1: Applications Recommended for Approval – No Issues or Recusals, Abstentions/Interests

CON Applications

Acute Care Services – Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	241134 C	New York-Presbyterian Westchester Behavioral Health Center (Westchester County)	Contingent Approval

Acute Care Services Ambulatory Surgery– Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	241220 C	Columbia Memorial Hospital (Greene County)	Contingent Approval

Mr. Robinson called applications 241134 and 241220. Mr. Robinson motioned for approval, Mr. LaRue seconds the motion. The motion passes. Please see page 30 of the transcript.

CATEGORY 2: Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Without Dissent by HSA
- ❖ Without Dissent by Establishment and Project Review Committee

CON Application

Certified Home Health Agency - Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	241214 C	Home Health Aide Service of Eastern New York d/b/a Eddy Visiting Nurse & Rehab Association (Rensselaer County) Ms. Mazzacco – Recusal	Contingent Approval

Mr. Robinson called application 241214 separately because of Ms. Mazzacco's conflict and recusal. Ms. Mazzacco left the meeting room. Mr. Robinson motioned for approval, Mr. Berliner seconds the motion. The motion passed with Ms. Mazzacco's noted recusal. Ms. Mazzacco returned to the meeting room. Please see page 30 of the transcript.

CATEGORY 3: Applications Recommended for Approval with the Following:

- ❖ No PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendations by HSA

NO APPLICATIONS

CATEGORY 4: Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendation by HSA

NO APPLICATIONS

CATEGORY 5: Applications Recommended for Disapproval by OHSM or Establishment and Project Review Committee - with or without Recusals

NO APPLICATIONS

CATEGORY 6: Applications for Individual Consideration/Discussion

NO APPLICATIONS

**APPLICATIONS FOR ESTABLISHMENT AND CONSTRUCTION OF
HEALTH CARE FACILITIES**

CATEGORY 1: Applications Recommended for Approval – No Issues or Recusals,
Abstentions/Interests

CON Applications

Ambulatory Surgery Centers - Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	232010 B	Bridge Street ASC (Kings County)	Contingent Approval
2.	241060 E	West ASC, LLC d/b/a Camillus Surgery Center (Onondaga County)	Contingent Approval

Diagnostic and Treatment Centers – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	222153 B	CareFullMD Beacon Inc. (Dutchess County)	Contingent Approval
2.	241178 B	Harmony FH, LLC (Queens County)	Contingent Approval
3.	241202 B	NY Metabolic & Wellness Center (Kings County)	Contingent Approval
4.	241211 E	Interborough Developmental and Consultation Center, Inc. d/b/a IDCC Health Services (Kings County)	Contingent Approval

Home Care Service Agency Licensures

Changes of Ownership

1.	231059 E	Caring Enterprises, Inc. d/b/a Health Force (Please see exhibit for list of Geographical Service Area)	Approval
2.	231088 E	Allegiant Home Care, LLC (Please see exhibit for list of Geographical Service Area)	Approval

Mr. Robinson called applications 232010, 241060, 222153, 241178, 241202, 241211, 231059 and 231088. Mr. Robinson motioned for approval, Dr. Berliner seconds the motion. The motion passes. Please see page 31 of the transcript.

Certificates

Certificate of Dissolution

<u>Applicant</u>	<u>E.P.R.C. Recommendation</u>
The Blocher Homes, Inc.	Approval
Flushing Manor Care Center, Inc. (FMCC)	Approval
FMNH, LLC	Approval
Hudson Headwaters Health Foundation, Inc.	Approval
Moses-Ludington Hospital	Approval

Certificate of Amendment of the Certificate of Incorporation

<u>Applicant</u>	<u>E.P.R.C. Recommendation</u>
Rochester Community Individual Practice Association, Inc.	Approval

Mr. Robinson called the Certificate of Dissolutions for The Blocher Homes, Inc., Flushing Manor Care Center, Inc. (FMCC), FMNH, LLC, Hudson Headwaters Health Foundation, Inc, and Moses-Ludington Hospital and the Certificate of Amendment the Certificate of Incorporation of Rochester Community Individual Practice Association, Inc. Dr. Rugge declared an interest for the Hudson Headwaters Health Foundation Inc. certificate. Mr. Robinson motioned for approval and Dr. Berliner seconded the motion. The motion passed. Please see page 32 of the transcript.

CATEGORY 2: Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Without Dissent by HSA
- ❖ Without Dissent by Establishment and Project Review Committee

CON Application

Acute Care Services – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	241192 E	NYU Langone Hospitals d/b/a Long Island Community Hospital (Suffolk County) Dr. Kalkut – Recusal	Contingent Approval

- | | | | |
|----|----------|--|---------------------|
| 2. | 241249 E | Vassar Brothers Medical Center
(Dutchess County)
Dr. Friedrich – Recusal (Not present at meeting)
Mr. Kraut – Recusal | Contingent Approval |
|----|----------|--|---------------------|

Mr. Robinson called application 241192. Mr. Robinson noted for the record that Dr. Kalkut declared a conflict and has exited the meeting room. Mr. Robinson motioned for approval, Dr. Berliner seconds the motion. The motion passed with Dr. Kalkut's noted recusal. Dr. Kalkut returned to the meeting room. Please see page 32 of the transcript.

Mr. Robinson called application 241249 and noted Mr. Kraut's conflict. Mr. Kraut exited the meeting room. Mr. Robinson motioned for approval, Dr. Berliner seconds the motion. The motion passed with Mr. Kraut's recusal. Please see page 33 of the transcript.

Home Care Service Agency Licensures

Changes of Ownership

- | | | | |
|----|----------|---|----------|
| 1. | 241251 E | Health Quest Home Care, Inc.
(Licensed)
(Please see exhibit for list of Geographical Service Area)
Mr. Kraut – Recusal | Approval |
|----|----------|---|----------|

Mr. Robinson called application 241251 and noted that Mr. Kraut had declared a conflict. Mr. Kraut remained outside the meeting room. Mr. Robinson motioned for approval, Dr. Berliner seconds the motion. The motion passed with Mr. Kraut's noted recusal. Mr. Kraut returned to the meeting room.. Please see page 38 of the transcript.

Certificates

Certificate of Dissolution

- | | <u>Applicant</u> | <u>E.P.R.C. Recommendation</u> |
|----|---|---------------------------------------|
| 1. | Lakeside Memorial Hospital, Inc.
Mr. Robinson - Recusal | Approval |
| 2. | Lakeside-Beikirch Care Center, Inc.
Mr. Robinson – Recusal | Approval |

Mr. Robinson declared a conflict on the Certificate of Dissolution of Lakeside Memorial Hospital, Inc. and the Certificate of Dissolution of Lakeside-Beikirch Care Center, Inc. and exited the meeting room. Dr. Boufford motioned for approval, Dr. Berliner seconds the motion. The motion passed with Mr. Robinson's noted recusals. Mr. Robinson returned to the meeting room. Please see page 39 of the transcript.

CATEGORY 3: Applications Recommended for Approval with the Following:

- ❖ No PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendations by HSA

NO APPLICATIONS

CATEGORY 4: Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendation by HSA

NO APPLICATIONS

CATEGORY 5: Applications Recommended for Disapproval by OHSM or Establishment and Project Review Committee - with or without Recusals

NO APPLICATIONS

CATEGORY 6: Applications for Individual Consideration/Discussion
NO APPLICATIONS

Mr. Robinson concluded his report. Mr. Kraut thanked Mr. Robinson.

HEALTH POLICY

After the Report of the Committee on Establishment and Project Review, Mr. Kraut introduced Dr. Rugge to give a report on the recent activities of the Health Planning Committee.

Dr. Rugge began by addressing an ongoing issue that emerged in late 2022, when the State Emergency Services Council (SEMSCO) raised alarms to the New York Department of Health regarding significant delays in ambulances gaining access to emergency rooms (ERs). In response, the Department referred the matter to the Planning Committee in early 2023. The committee recognized that the problem went beyond ambulance delays, reflecting broader issues of ER overload. As a result, they expanded their investigation to encompass emergency room overuse, focusing particularly on two sectors where inappropriate ER treatment was common: mental health and dental care.

Regarding mental health, Dr. Rugge highlighted the committee's admiration for Commissioner Sullivan's approach from the Office of Mental Health. Sullivan proposed that diverting mental health crises away from ERs could be effectively managed through the 988 mental health hotline. This service, coupled with a dedicated mental health care continuum outside of emergency settings, would allow professionals with relevant expertise to address these

cases. Although mental health was critical, the committee chose to place greater emphasis on addressing dental care, which they found often burdened ERs unnecessarily. Two alternative models for diverting non-emergency dental 911 calls were explored, one from California and another from Rochester, New York, both offering promising strategies to alleviate ER congestion.

These efforts, Dr. Rugge explained, appeared to influence state government policy, notably contributing to the Governor's emphasis on restructuring Emergency Medical Services (EMS) in the State of the State message. This resulted in significant legislative action, with \$650 million allocated over three years specifically to address dental care. A draft report summarizing these findings was prepared and shared confidentially with Planning Committee members and the Public Health and Health Planning Council (PHHPC), inviting feedback but limiting responses to two specific network staff members to maintain control over the process.

In conclusion Dr. Rugge explained that the Health Planning Committee intends to revise the draft report based on received feedback and eventually submit the final version to the executive chamber for further consideration. Once deemed appropriate, the issue will return to the Council for further discussions and approval. Dr. Rugge also noted that an upcoming meeting will finalize the agenda and determine the next steps to address the committee's concerns.

Dr. Rugge concluded his update, please see page 39 through 40 of the Full Council transcript.

ADJOURNMENT:

Mr. Kraut announced the upcoming PHHPC meetings and adjourned the meeting.

NEW YORK STATE DEPARTMENT OF HEALTH
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL
FULL COUNCIL MEETING
September 12, 2024 10:15 AM
EMPIRE STATE PLAZA, CONCOURSE LEVEL, MEETING ROOM 6, ALBANY
TRANSCRIPT

Mr. Kraut I am Jeff Kraut. I have the privilege to call to order the September 12th, 2024, meeting of the Public Health and Health Planning Council. We'll be joined shortly by Commissioner McDonald, participants, observers and council members. Mr. Holt had described some of the rules with regarding the webcasting. We've asked everybody for our audience to fill out the form of your attendance here. That's a requirement of Executive Law Section 166. There's papers out on the table. You may also do so online or writing directly to Ms. Leonard, who is our Executive Secretary. Today, we're going to hear under the Department of Health reports, we're going to hear from Dr. McDonald, followed by Dr. Whalen for an update on the Office of Public Health and then the Office of Aging and Long Term Care. Dr. Boufford is going to provide an update of the activities of the Public Health Committee and the Ad Hoc Committee to lead the State Health Improvement Plan, followed by Dr. Rugge with report on the health planning activities. Mr. Holt will present the regulations of the Codes Committee and then Mr. Robinson, under the category of project review recommendation, establishment actions. We'll review the CON applications that had been previously reviewed at a meeting of the EPRC. I just want to remind members that if you have any conflicts, most of our guests I think, understand how we've organized the agenda. If you've take the time to look at the agenda, if there's any applications that we've batched or you want to project moved from one category to another, please let us know before we call the EPRC Codes Committee.

Mr. Kraut I'd like now to have a motion to adopt the April 11th, 2024 meeting minutes and the June 2024 PHHPC meeting minutes.

Mr. Kraut I have a motion by Dr. Berliner.

Mr. Kraut I have a second by Dr. Kalkut.

Mr. Kraut Any corrections/notations/changes?

Mr. Kraut All those in favor of accepting those minutes say, "aye."

All Aye.

Mr. Kraut Opposed?

Mr. Kraut We accept it.

Mr. Kraut Now, it's my pleasure to hear from Dr. McDonald who's going to update the council about the department's activity since our last meeting.

Dr. McDonald Thank you very much.

Dr. McDonald Good to see everybody again today. A lot's happened since we last had a chance to visit. You know, first let me just start off with thanking, particularly for those who are the health care facilities that helped us with our Health Equity Assessment Survey we

sent out last month. This went to all Article 28 facilities that have submitted a Health Equity Impact Assessment to the department. As the surveys continue to come in until the middle of September I do you want to encourage anyone who hasn't yet had an opportunity to share their input and ideas regarding the Health Equity Impact Assessment process please let us know. Ultimately, this will assist the department in revising and streamlining the Health Equity Impact Assessment to better meet the needs of health care facilities, independent entities and community stakeholders. First topic I'd like to touch base with you is Avian Influenza. You know, the department remains vigilant about Avian Influenza, H5N1. It's been in the news recently, and I just thought I'd make sure you knew where I'm looking at this issue from. You know, part of the reason that made the news was there's a recent story about someone in Missouri regarding an H5 infection with no known animal contact. This is still being investigated. The person did recover and the final subtyping event was not completed. Not sure it will be. You know, I wonder sometimes when we talk about these H's and N's if that means anything to people. There actually is a little bit of science behind that. There's only eighteen different H's, which stands for the hemagglutinin glycoprotein. There's only eleven different N's. Those are the neuraminidase. This has a lot to do with how influenza A viruses are subtype. I do like to remove the mystery sometimes of these things. You know, we're used to H1's and H3's that cause seasonal influenza. We're used to type B's. That's what we're used to. When we talk about H5N1, I just make sure we have context about it because it is still unusual. Fourteen human cases since 2022. Of course, it's been in the news because what's been going on mostly in people who work with livestock. I do think it's important, though, just to make sure we have context about this. Although there's no known animal exposure to this individual, and I don't want to be speculating here, but I just think it's important to remember that the US Department of Agriculture tells us 201 different avian species do carry and spread H5N1. You know, birds are birds. They leave their donations all over. I'm not saying I know how this got transmitted, but I do think it's important to say, like, why did I stop what I was doing when I heard this, right? What I was concerned about was how was this discovered? When you have a positive flu test inside of a hospital where this was... You know, they do flu tests. They did say, well, is it H1 or H3? When it wasn't a routine public health activity post pandemic needs to go get this subtyping done. There's been a lot that we've learned from the pandemic. This is one of the things that was learned. It was determined that it wasn't H1/H3. They found out it was H5. This is what got everybody to really be vigilant about this. What I did with my team was I just found out what is flu doing throughout the United States right now because H5N1 has been a problem. Lot of state health departments, including ours, have been following influenza throughout the year, regular influenza. Just so you know, we don't normally follow it during the Summer because it isn't usually prevalent enough to do that. Just so you know, the week ending August 31st in New York, there were nine people admitted to a hospital with seasonal influenza. To give you a little context about that because, nine doesn't sound like a very big number. It doesn't sound like a big number because it's not a big number. But like last December 30th, when we were at our peak in New York, it was a little over 2,500 people were admitted to the hospital. It's been tracking very low in New York like we would expect. We're not seeing increases of flu in New York. There's not increases anywhere in the United States right now. I think this isolated case right now is something that people need to be vigilant about, but I don't think it's a cause for undue concern. We keep track of this. You know, with Avian Influenza, it's only been a little over five and a half months since we really started talking about there was April 1st when we started about the person in Texas who tested positive, exposed from cattle. You know, it's like there's a lot going on. The risk to humans is still very low. The commercial milk supply is still safe. We do a lot of work with the AG and Markets here in New York. Richard Ball and I talk quite a bit. Other state health departments are working with us as well as the Centers for Disease Control. I

feel like we have a lot of conversation about this. One of the strategies CDC is doing, which I thought was really positive this year is there's a recognition that there's livestock workers across the United States. Not all of them are insured for whatever reason. One of the things the CDC did was make \$5 million available to the states that had active cases among cattle to give flu vaccine to their livestock workers. If you're wondering why that strategy was done, it's because of the small but... You know, real risk of what's called a genetic admixture. In other words, if someone were to get H5N1 at the same time as seasonal flu they might create a new strain that would be unwise and dangerous, more pandemic threat. It's a low risk, but it's a nice strategy the CDC is doing. States are participating in that. New York wasn't funded for that because we don't have animals in New York that were positive. That isn't something for. New York's going to do that anyway. It was something once the Governor heard about it she authorized us to go ahead and do that. We anticipate vaccinating over 10,000 seasonal livestock workers through our partners with state funds. Whether people are insured, documented or whatever, we're going to be offering seasonal flu vaccine. I think it's a nice/positive public health intervention just to make sure we really do what we can to minimize the spread of seasonal flu. You know, just another reminder. We all know seasonal flu vaccine is important. I, as a State Health Commissioner, sometimes my job is to point out the obvious. I think this year it's more important than ever. Just encourage people to do that. You know, it's funny, when I come here, I feel like sometimes I just talk about one infectious disease and then hit to another one. I'm going to talk about MPox now because MPox is in the news too. You know, and I think sometimes when we get all these theories infectious disease about like you're wondering like, what do I need to worry about? There's MPox 1. There's 1A and 1B. We're keeping track of this for you. There's been a big outbreak in the Democratic Republic of Congo and countries nearby. There has been an MPox 1 case in Sweden and Thailand. There has not been one yet in New York or in the United States. Just to give you a reference point, part of why I'm concerned about this, as we look at the MPox cases in New York, about one out of four occur in New York. We pay very close attention to MPox in New York. Just to give a little perspective, though, we're nowhere near the number of cases we saw in 2022. Right now, we have 338 reported cases of MPox. 40 are in the rest of state outside of the city and 288 in this city, which compares to 226 in 2023. Of those, 81% were related to the city. The remainder were the rest of the state. We're seeing more cases in 2024 than we saw in 2023. You know, thus far in 2024, we've administered 3,995 doses of MPox vaccine. Of that number, 85% were administered in the city. You know, in August, we worked with the State Education Department. When I say we, I mean Dr. Heslin to allow farmers to administer the vaccine, which I think was a nice change. You know, I want to thank my division of Vaccine Excellent Team. They wrote a standing order for me. I signed the standing order last Friday that anyone who's 18 or older who would like to get a MPox vaccine, who's eligible can go to a pharmacy and do that. One of the things we're trying to do is just make sure that for the high risk population that MPox vaccine is there. I know kind of recognizing not everybody has a health care provider. Someone I can stand in that place and offer you that that intervention. I choose to do that. We are planning a webinar coming up soon for health care providers just to remind people what case finding looks like. It's going to be a brief webinar. We're paying very close attention to MPox. Right now, the threat to the United States is very low, but we take it very seriously at the New York State Department health. I'm going to switch now to talk a little bit about the various arboviruses affecting New York. I feel like when I use the word arbovirus it's probably a new term to a lot of people. Really, when you think about arboviruses these are RNA viruses spread via arthropods like mosquitoes, sand flies, midges, ticks and more. We are seeing more arboviruses. The climate has changed. This is one of the things we see. Oropouche made the news because of a case in New York and twenty cases in Florida. I think most people

have actually heard of Oropouche. I think when you hear it now, you're still like, what is he saying and why do I care? Oropouche is a virus that spread by midges mostly in Central America and South America. It's really problematic in Brazil. The cases we've seen in the United States are travel associated. We're paying close attention to it. The emerging literature on this suggests that there might be some concerns for people who are pregnant like there were in Zika. It's emerging literature. I don't have a lot of great prevalence on this here, but the CDC is paying close attention to it. We are as well. We issued a health advisory to providers last month about this. Part of it is just really recognizing this is a threat to Central and South America. It's spread by midges. These insects aren't in New York, but it's something we're paying attention to. Something that's in the news far more often, though, is Eastern Equine Encephalitis or Triple E. It's been different this year. We've had more counties affected than usual. We haven't seen a human case of Eastern Equine Encephalitis New York. In fact, we haven't had a case here since 2011. I'm very thankful for that. You know, we don't really have a treatment for this. What we do is help people as best we can in a hospital. Mortality rates are quite high. The morbidity rates are quite high. We care very deeply about prevention of Eastern Equine Encephalitis or Triple E. I want to give you a perspective on this. We have seen sixteen horses test positive for the virus. Ten different counties have been affected by this so far in New York. Even just last week, we learned about two emus from Rensselaer County that tested positive for the virus. There have been human case reported in the surrounding Northeast states Massachusetts, Vermont, New Jersey, and New Hampshire. Anyone really is susceptible to this. If you get bitten by a mosquito, I don't think most of us think much of it. Mosquitoes are just part of the nuisance of summer. I'm still very much in favor of Summer, but mosquitoes are part of it. I think we are learning more and more. We really need to look at mosquitoes a little bit differently. What are those common sense strategies we can do? Not just insect repellent, not just wearing long clothing, but just making sure there's not standing water where you're moving about. You know, just share a little anecdote with you. My neighbor, who I love dearly, is wonderful, has this tiny little portable birdbath. I just empty it every other day because I just don't need all the water near my house.

All (Laughing)

Dr. McDonald You know, my neighbor is fine with me doing that. Part of what I'm just saying is I really think we need to look at just prevention differently, right? Because once someone has Eastern Equine Encephalitis it's supportive care. Sometimes prevention is the best medicine. A lot of times I don't think we recognize that it's too late. I worry about Eastern Equine Encephalitis. I'd really like to keep no cases in New York. West Nile virus is also in the news. Again, I'm talking about arboviruses more than usual, but it's really a threat. Was just from from Suffolk County just reporting three more cases and West Nile virus in Suffolk County. We're seeing double digit West Nile virus in the city and double digit West Nile virus in rest of state. That has a much lower morbidity and mortality rate. We still do want to see less cases. Again, if you protect yourself against mosquitoes, and I think this is just something we need to be thoughtful about. The climate changed. I think we need to look at ourselves as like how do we protect ourselves and just looking at not tolerating mosquito bites. I want to talk about COVID, Flu and RSV. In August, I issued a standing order for respiratory syncytial virus vaccine. We did that last year because people asked us to. We did it again this year. Again, I'm very grateful to my Division of Vaccine Excellence Team for updating it. The recommendation changed. Now, if you're 75 and older, you need to get a dose. It's just one and done right now. If you're 60 and older, it's only if you have certain qualifying medical conditions. The change was really to move away from the shared decision making model of last year to just make it more concrete. When I do standing orders really what I'm trying to do is just reduce barriers to care.

Because a lot of times what I find people say is I have to go to my doctor. The doctor would say, Well, go to the pharmacy. A order has to be transmitted. You know, when you have you have to do one thing and then another it doesn't happen sometimes for some people. I'm just trying to make this something that's easier for people. We're happy the standing order went out. In September, I issued a standing order for COVID vaccines as well. We actually did that with the Governor last Wednesday in Manhattan. She got her vaccine. Went into a CVS and got it, which I think is great. Again, I think it's important we look at why we're doing COVID vaccines. It's really to minimize people being in the hospital, minimizing the consequences of being sick and missing work and just missing life. If you do get the COVID vaccine, you do lessen your chance of getting long COVID. I think that's important information. One of the things I worry a little about is where people get their information from. If you talk to your doctor, your doctor is generally not confused about COVID vaccine. They're very familiar with what's going on there. I would encourage people to talk to the doctor about COVID vaccine if they're confused. I'm getting mine in a couple of weeks. Just very important for me to do that. I look forward to that. Right now, we're seeing the Summer surge has come down. We did have a Summer surge. It wasn't as significant as previous years. Really, now is the time to take advantage of getting your COVID, Flu and RSV vaccine. Moving to something that's not an infectious disease is hospital staffing. I think we're all very aware of the workforce shortage that's going on, not just in New York, but the entire country. I do think it's important to talk about the hospital staffing law. We've made significant progress at the New York State Department Health implementing Public Health Law 20 805-T that requires hospital to enact staffing plans. The law requires hospitals to collaborate with nurses and other team members, providing or supporting direct patient care to create and submit clinical staffing plans to the department. The responsibility is on the hospital to ensure that they have a functional clinical staffing committee and process to consider complaints and resolve them. Complaints filed with the department regarding hospitals in violation of this law have been and continue to be investigated and statements of deficiency of initiatives result. As of mid-August, the Department's Division of Hospitals and Diagnostic and Treatment Nurses received 2,653 complaints. We've resolved almost 800 of them and issued 70 statements of deficiency where they do violations of the hospital's safe staffing law. The department issued a Dear Administrative letter August 7th, reinforcing the complaint process for hospitals, the importance of collaborating with their staff as well as staffing committees. The department continues to review comments from all sides regarding the importation of the safe staffing law, and we will continue investigating complaints and working with stakeholders to ensure this law is carried out appropriately. I just want to just set some context or two. We have seen a significant rise in the need. You know, just for quite frankly, something called immediate action to protect patients in hospitals. We have seen an increase in complaints. The number of these immediate jeopardy investigations rose from 35 in the previous federal fiscal year. You know, the federal year ends October 1st. We had 35 in the previous fiscal year to 93 in the current federal fiscal year. Ends October 1st. We're a couple of weeks away. 93 and 35 are different numbers. We are definitely seeing an increase in immediate jeopardy. These are things where the department health is there. They don't leave until the problem is corrected. It's a concern. We are seeing an increase in this area. I'm very grateful to my team, the surveyors who do this work. You know, often when you're enforcing a law and carrying out what is important to protect. It's not glamorous. It's not always pleasant. It's very important work. I'm very thankful we do. Many of our team members very quietly just enforce laws without fear or favor. I'm very thankful for the work they do. I want to just touch very quickly on maternal health. There's a lot going on in maternal health that the New York State Department of Health. I sometimes think there's so much going on that really people don't have a context about what we're doing. There's three large groups right now that are doing stuff on working on

eliminating maternal mortality. In particular, the Perinatal Quality Collaborative Committee started in 2010. It's a statewide network of birthing hospitals. They seek to provide the best, safest and most equitable care for birthing people and infants in New York State. It is focused on the New York State Birth Equity Improvement Project, New York State Opiate Use Disorder in Pregnancy and Neonatal Abstinence Syndrome Project and the New York State Obstetric Hemorrhage Project. That group continues. Just you know, 97% of births occur in a hospital that is part of the Perinatal Quality Collaborative. It's voluntary, but very thankful for the hospitals that participate. Now, there's another group called the Maternal Mortality Review Board. They were launched in 2019 to examine information related to pregnancy associated deaths and issue findings and recommendations to advance the prevention of maternal mortality. There's another group called the Maternal Morbidity Mortality Advisory Committee. A lot of these have similar names. They were all started 2019. This is a different group. They review the findings of recommendations of the Maternal Mortality Review Board and identify social determinants and other known risk factors, the impact of maternal health. These three separate groups have provided a total of twenty-seven recommendations between 2019 and 2023 to improve maternal outcomes. Thus far, through the hard work of my team, which I'm very, very thankful for my team. We've implemented eighteen of these recommendations. These are significant accomplishments given how much of the work occurred during the pandemic. You know, these are sometimes changing a law, sometimes writing a regulation, sometimes just a systemic change, something that's very significant that occurs. You know, when I say occurred during the pandemic, I'm thoughtful about what Dr. Siegenthaler explained to me one day how she was stationed down the city during the pandemic, working out of a context container with an air conditioner in it. That when it rained, they had to get out of because there was a threat of getting electrocuted from lightning. Yet she's working on this while managing her role in the pandemic. There's so many stories inside the New York State Department of Health of literally heroes who did unbelievable things during their work in the pandemic and somehow did their other job at the same time. I really just can't thank them enough. Some of the recommendations there's many. One is developing a systematic approach to reduce structural racism, which includes a comprehensive curriculum for hospitals on health equity and implicit bias. This goes well beyond standalone training. Another recommendation was extending Medicaid coverage from six days to twelve months postpartum. We did that. Department has extended Medicaid coverage to twelve months postpartum, ensuring continued care of people who have given birth. Another example was expanding enhancing the state's community health worker access, which included incorporating stress free zones into a community health worker program. The department prioritized funding to expand community health worker programs so more people are pregnant and giving birth in the postpartum period of access. We've developed a cardiac bundles for hospitals to use. Just a lot going on. Just really proud of the work the department and team has done. Just one or two more things. I do want to introduce Dr. David Holtgrave to you. Dr. Holtgrave is a Senior Policy Adviser at the New York State Department of Health. I don't know if he's actually here in the room, but he comes to us from the Office of National Drug Control and Policy. He's previously worked for the Centers for Disease Control. He's previously Dean of the School of Public Health of University of Albany, has previously worked at Hopkins as a Professor. Dr. Holtgrave is a Senior Policy Adviser regarding all of our overdose work. One of the things I really saw at the department was there was so much going on in the department about overdose work I was having a hard time keeping track of it all. This old slogan about this sometimes if you old saying about Hewlett Packard. It said, if Hewlett Packard knew what Hewlett Packard knows they would be bigger than Microsoft. I kind of looked at this and said, if the New York State Department of Health knew what we know. I just needed someone to not just organize it all, but lead it. It was thrilling to find someone from the Office of National Drug

Control Policy who really recognized that work in the New York State Department Health is more fun and better than working anywhere else because it is a really good place to work. On that note, I often get asked the question about how we're doing with staffing. I don't want to discourage the question, but at some point I think it's the sixth time I've come to review. I took a hint, right? We continue to rebuild the department. I mean, it's no secret we lost a lot of people during the pandemic, but we are improving with our staffing. We're still hiring. We're now up to 5,111 full time employees. We continue to rebuild. We do have vacancies, though. We have needs for the future. I'm going to make those really clear to the Governor when the time comes. Right now, we're actively recruiting. We're definitely at pre-pandemic levels, but the work is more significant and than it's ever been. Public health is a challenge in the past. A challenge in the present. It will be a challenge in the future. I'm really thankful for the team of professionals I have at the New York State Department of Health. Nobody goes to public health for fame or fortune. They really don't. They come because they bought into the mission. I really appreciate all my team members support to the mission. Let me stop there. There was just a lot to talk about today. Let me stop for questions.

Mr. Kraut Thank you so much for that wide ranging and comprehensive discussion.

Mr. Kraut Questions for the Commissioner.

Mr. Kraut Dr. Watkins and then Dr. Kalkut.

Dr. Watkins Good afternoon, Commissioner. Thank you for your presentation. You talked about respiratory illnesses. It's upcoming for this Winter season; RSV, COVID and influenza. Just want to bring this to your attention the increase in costs for these vaccines for those who are uninsured or those who have insurance that do not pay for vaccines. We're seeing that the cost for, say, a COVID vaccine can cost anywhere up to \$200.00 a shot. For local health departments that are administering the vaccine and we're giving it away free, we'll have to turn individuals away if they don't have the coverage for those vaccines. Just want to bring your attention to the cost of vaccines.

Dr. McDonald Very, very, very good point. Thank you, Dr. Watkins, bringing that. I do want to make sure that we do have a vaccine for adults program in New York. It doesn't cover everything, but we do have money for uninsured individuals for COVID vaccine in particular. If your health department isn't taking advantage of that, let me connect you after this meeting with our division of vaccinations. Heidi Rogoff is one person. We do have some bridge access money ended, but we did find some money to offer COVID vaccine at no charge for some people. Local health departments should be able to do this. Some federally qualified health centers as well. I think to Dr. Watkins point, I think there's a really, really important point here is why is the COVID vaccine so expensive? I think that's just a philosophical question for the United States to answer. Humble opinion, it doesn't need to be that expensive.

Dr. McDonald Who has another question?

Mr. Kraut Dr. Kalkut and then Dr. Boufford.

Dr. Kalkut Dr. McDonald, Gary Kalkut from the council. Thank you for the report. I think you emphasize we really do need to remain vigilant with viral diseases. H5N1, COVID, Monkeypox, the variants and genetic variability in those are really what we fear, that they'll be more easily spread in human to human H5N1, COVID, more pathogenic or more easily

spread. Monkeypox where the the DRC clade, Clade 1 the mortality rate is 5%. We don't have that, as you point out, outside of the continent right now. The possibility of spread and remaining current and clearly surveilling what is happening, I think is a true public health imperative.

Dr. McDonald Yeah, I agree. I think it's really a priority too. Obviously, I'm very concerned about it. You know, and I think that to MPox in particular, one of things about the mode of transmission is it spread very efficiently sexually. One of things you saw the Democratic Republic of Congo was the number of children that got it, but that was really more from household exposure. You really see that path as well. I think this is one of those things where there's a lot going on in New York all the time. I remain vigilant about everything for a reason. I have a lot of good people who help me stay vigilant. Looking at Dr. Emily Lutterloh over there, our state epidemiologist. Emily sleeps well at night because she has a good team that works with her as well. This is exactly the type of thing where one of the things I took out of the pandemic. There's many lessons I've learned is just it's so important for us to be vigilant about everything that could spread a risk. I really believe it's important to plan for the probable, but prepare for the unexpected. You know, in the back of my mind was I thinking that when we did the standing water for MPox, that if it became a bigger problem, we were already there? Yeah, I was. You know, it's interesting. Other companies are looking at developing vaccines for MPox. I think that's interesting. You know, Moderna just did animal studies on their vaccine, which is interesting. It's far away that they're doing animal studies. I think you're seeing larger pharmaceutical companies recognize there's more and more threats out there. Let's mitigate them.

Dr. Boufford Thanks.

Dr. Boufford Jo Boufford.

Dr. Boufford Thank you, Commissioner, for your report.

Dr. Boufford I appreciate very much your update on maternal mortality issues and all the activities that are going on. That's been a priority for the council for a number of years. We're looking forward to an update at our October meeting of the Public Health Committee in more detail. My question really is, last year you had indicated and it relates to the workforce issues you had indicated a priority for you was looking at the challenge of scope of practice, the possibility of having more people able to do more things within the sort of frame of the legal framework. I know it was the legislative activity was not successful last year, but I was wondering what this next cycle might bring. What you're thinking is there because it was really, really an important issue you had identified.

Dr. McDonald I'm glad you asked that. Let me talk about what we're doing with workforce. I do think it's important to understand every state is struggling with workforce. We're struggling as well. One thing is for the 1115 waivers, we do have \$694 million we're doing towards encouraging people to come into the health care workforce through the Career Pathways training. There's \$48 million of that for loan repayment. Most of the money is net loan repayment. Most of the money is geared towards working with our three workforce innovation organizations to really not just give people instant health care, help them succeed through their health care education of all different health care professions. You asked about the legislative agenda. We're not getting a lot of progress with the legislature. It's certainly not for want of trying or asking nicely. We tried to get licensure compacts done. We didn't have any luck there. We tried to get medical assistance, able to get vaccine. We're the only state in the country where medical system can't give a vaccine. I

didn't hear any opposition to it. It just didn't garner attention, which concerns me deeply because it's something I still hear from federally qualified health centers. I still hear about that from pediatricians. Although, you know, we might be able to do something with medical assistance with State Ed over the Summer. I'll see. I'm worried about what we're doing with Certified Medication Aids in nursing homes. You know, thirty-seven states let a Certified Medication Aid give a medicine nursing home. In New York, we let them do in the homes for office of people with Developmental Disabilities and some other places. The nursing home operators have really told me that this would really help because there is a nursing shortage. The overarching theme I think, is this, though. Health care to me is really, really critical to just overall health and well-being. I think there's a sort of myth out there that somehow if we let someone have a bigger scope of practice it'll eat into someone else's piece of the pie. I hope it's okay to be this blunt with you. Quite frankly, the health care pie is so big no one could ever eat it. What New York needs to be doing more and more is looking at how do we let more people do what they're trained to do? You know, I'll give you an example. A dental hygienist. We're a state of twenty million people. Last time I checked, 600 million teeth. We have seven dental schools, which is more than most states. We are never going to train enough dentists. I am totally interested in what a dental hygienist could do in a federally qualified health center or other Article 28 facility. I don't know they need a dentist breathing over their neck looking at what they're doing. I think dental hygienist could do marvelous things. I would love to see New Yorkers at least get their teeth cleaned by a hygienist once a year. It's supposed to be twice. That would just do an awful lot. There's so many things we need to be doing in New York regarding health care workforce. Our reluctance to move forward in this space does have adverse health consequences. The people who typically suffer are the people who are usually the people who suffer from health disparities. It troubles me deeply.

Mr. Kraut You know, following that point. During our educational session, we had this issue came up obviously. One of the things we had discussed in passing, but probably need to revisit it instead of us sitting in this room and complaining what others are not doing. Maybe some of us have to go to the legislative hearings as as representatives of the Public Health Council to... You know, we see the stories that are in this room because of the failure of the legislature for leadership to address some of these frankly simple fixes, as you say it. Maybe we need to have a conversation how we can become a little more active and not passive and just complaining about the problem. We'll come back to that at another time. We got to hit the budget cycle correctly.

Mr. Kraut Dr. Eisenstein.

Dr. Eisenstein Good morning. Thank you for your presentations. Good to see you, Dr. McDonald. You talked about COVID and Flu vaccines. As a former Infectious Disease Specialist, my flu, I consider my life's work. It's clear to all of us, and I'm sure to your department as well that there's vaccine fatigue with COVID. I know a lot of people over the Summer had COVID and acted as if it was nothing. My question to you and for the department is, is there now that we're getting into the vaccine season and they're available. You mentioned the Governor will be getting hers. Is there going to be a promotional campaign or something to help hospitals and health departments and especially those of us with health care employees who serve the most vulnerable, who would have potentially poorer outcomes with COVID or Flu if they contracted them?

Dr. McDonald Thank you.

Dr. McDonald We have a seven digit media campaign planned for the Fall that will encourage people to get COVID vaccine, more so a Flu vaccine as well. There's also work we're doing in the division. Just to think differently about how vaccines are given. You know, it's interesting. I think sometimes we use the word vaccine hesitant as a polite phrase, but it's really not an accurate phrase, is it? Because most people aren't vaccine hesitant? They're going to get a vaccine or they're not. They've already made up their mind. I think you have to just own it, right? Yet the art of persuasion is one where it's really important to do mass media. We're going to spend money. I think sometimes we have to think differently about what we do. That's going to involve community health workers. It's going to involve working with neighborhood leaders. It's going to involve working with different communities. It's going to be about dispelling disinformation and stopping misinformation on this matter. This is just changing the way people think a little bit. One of the things we just have to own, though, is like, I've been a doctor for thirty-four plus years. I'm old. When I started giving vaccines, it was whole cell pertussis vaccine. I've been around a long time. I have the safest, most effective vaccines available. A lot of times I can give them to you for free. I still find people don't want what I have to offer. That's humbling, but yet important for us to process. The exam room is not a place for conflict, nor is it a place for arguing. Strategies that we're going to employ in the health care exam room are things we've learned about how do you do motivational interview? How do you persuade people in a kind and gentle way? Because no one likes their doctor to argue with them, yell at them. That's not what I'm asking people to do, but to think differently about how do we actually engage people in a conversation. One of the things that we know there's a fair amount of literature about though for the COVID vaccine is people do benefit if they hear a doctor strong recommendation. That's the low hanging fruit for people, quite frankly is for the doctor. I recommend you get the COVID vaccine this year. I know your health. I want you to do that. If I could simply get doctors to say that more often, it will help us. By the way, I know our numbers last year were 12.3%. Keep in mind, for vaccines for people 18 and older in New York. I only hear what people tell me. For kids, I get all the vaccine information, but we don't have legislation in New York that tells me how many adults really got a vaccine. The numbers are an undercount. People have to opt into reporting their data. That was a long answer to your question, but I appreciate where we're going with that. We're all concerned.

Dr. Soffel Good morning. Commissioner, thank you for answering one of my questions before I had a chance to ask it. I really do appreciate it because I think that staffing at the Department of Health is an ongoing concern for many of us. Thank you. My question is, I read when I was reading the department reports that came in this week, the report from the Division of Health Equity and Human Rights. I was really interested in the details around the first iteration of the health equity plan. I'm sort of curious. When you look at that health equity plan and the department... What are you going to be looking at in terms of monitoring progress? How will you personally feel like we are making progress? We have had some successes in this as that health equity plan starts to unfold?

Dr. McDonald Let me first make sure we have a common understanding of the word health equity, because I feel like a lot of times we use the word health equity. If I ask you what it means, I don't know that I'm going to hear the same thing. People value health equity, but I just want to have a common understanding. I think of the word health equity. Work of health equity is intentional, but it's a recognition not everyone has the same starting point in life nor the same advantages. Yet everyone should have a fair and just opportunity for the best health outcomes. It's a simple definition because I'm a simple person. I just like to remember things simply. What I'm looking for is a balance. We need to let people do things. I need to move away from people looking at health equity as optional.

You know, one of the things that people at the department will tell you is you often hear people use the metaphor, the lens of health equity. I really reject the metaphoric lens of health equity. I'm someone who wears glasses. You can see that. I could take them on. I can take them off. They're optional. I could live without my glasses. The metaphor we use to describe health equity is it's foundational to everything we do. We choose the metaphor a foundation, because you simply cannot have a building without a foundation. You know what happens if you build a home with a lousy foundation. It's important that we look at health equity as work not being optional, but being required. What I'm looking for is ways that we, as the New York State Department of Health can actually let health care business succeed and actually do it in a way that actually promotes health equity. Here's something that I think we don't talk often about enough. Achieving health equity actually benefits everyone, right? If everybody who was eligible for work are covered by WIC, we would all agree it would be wonderful if we didn't have child hunger. I think we would all agree to we'd love everybody to have health insurance. Everybody would benefit. Health care payers would get paid. I think we'd all agree that we want to do things that benefit everyone. I think you can do those things in a capitalistic society and everybody can get what they need, but we all benefit from that. Thank you.

Mr. Kraut Commissioner, thank you so much for the report and the Q&A afterwards.

Dr. McDonald Thank you.

Dr. McDonald I'm actually running across the hall to talk to people about early intervention right now.

Mr. Kraut Have a good time.

Dr. McDonald Thank you.

Mr. Kraut Take care of the folks that are taking care of our kids.

Mr. Kraut I'm now going to ask Dr. Whalen from the Office of Public Health to give her report.

Dr. Whalen Good morning. I'm happy to be here today to address you with updates from the Office of Public Health. We will start with an update on the Wadsworth Center. As has been reported to this group, the planned construction is a large scale effort to enhance operations and efficiencies by creation of a single site on the Harriman Campus in Albany, which will house operations that are currently scattered across five sites in the city. This will also offer the opportunity to ensure state of the art lab facilities, which are expected to serve the needs for the state for the over the next fifty years plus. Currently, the project is in the schematic design phase, which involves partial design and opportunity for revisions this year. Site planning includes surveys, utilities, hydrology and other important infrastructure reviews that are underway, and the team is in close collaboration with OGS, local and state officials regarding infrastructure. This ongoing work continues with architecture and a building design, mechanical and electrical and plumbing design and regulatory aspects, including creation of a draft Environmental Impact Statement for the purposes of a State Environmental Quality Review Act or a SEQR determination. Notice of completion and public hearing announcement will be made at the end of September 24th with a public hearing on October 2024. Finalization of the center design is expected by 2026 and construction is anticipated to be completed in 2030. The Wadsworth Center is one of six CDC selected organizations across the United States that was selected to

receive a highly competitive new cooperative agreement funding to support a state based public health laboratory bio monitoring program. This award is designed to increase capability and capacity of state public health laboratories to conduct state of the art bio monitoring science and assess exposure of concern within communities of New York State. The funding will allow better assessment of exposure to environmental concerns such as per and polyfluoroalkyl substances or PFAS, pesticides and metals in communities across New York State. The funding is for approximately \$1 million per year, which will be for the next three years, beginning in September of 2024. The Wadsworth Center is also expanding community outreach with two programs the Summer Public Health Academy, in which students learned about public health laboratory science and toured other facilities around the Capital District to discover many aspects of public health. There's also been involvement with many local high schools around the Capital Region to enable students to visit the Wadsworth Lab and learn more about public health. Hopefully, this will influence recruitment of workforce and of public health leaders for the future. The Center for Environmental Health is advancing several initiatives involving legislative or regulatory changes that will better safeguard New York residents from contaminants in their homes and in water and in the environment. Some of these include consideration of new Public Health Law 1377 to implement a proactive Lead Rental Registry in identified communities of concern to combat childhood lead poisoning, for which the center is currently working to draft regulations that are expected to require lead safety inspections of all pre 1980 multi dwelling units in communities of highest risk across the state starting in Fall 2025. Regulations are expected to be posted for public comment soon and we will continue to provide updates. The center is also working to redesign and modernize Title 10 Part 16, which is focused on ionizing radiation, which is required to incorporate and references changes to the Federal Code of Regulations. This is also expected to reflect changes in medical practice as we move from film to digital imaging, including quality insurance requirements for dental training and also raise fees to cover operating costs. These draft regulations are required to go before the Public Health and Health Planning Council and reflect important work ongoing in the center. The Center for Environmental Health has also developed templates across the system to implement inventories of lead service lines. The inventories are required to be submitted by the New York State Department of Health by October 2024 by both Environmental Protection Agency's Lead and Copper Rule and by the New York State Public Health Law Right to Know Act. These templates and accompanying guidance have been shared with local health departments and public water systems to document lead service lines an important step towards replacement of lead service lines to limit New Yorkers exposure to lead from their drinking water. Furthermore, implementation adaptations to reduce the public health risk of climate change is another important effort of the Center for Environmental Health. As part of the 2022 State of the State, Governor Hochul directed state agencies to develop a state multi-agency extreme heat action plan to coordinate interagency investments and to help mitigate community climatic impacts and prioritize assistance to disadvantaged communities that may have greater vulnerability to the effects of extreme heat. During the development of the plan, staff participated in work groups to draft recommended actions. The state will help to build resilience and adapt to extreme heat, build local capacities and support local communities in taking action. New York State will be the lead agency on eight recommended actions and another twelve actions that align with current activities that respond to the impact climate change will have on communities. The state level plan complements ongoing work by DOH staff in partnership with the New York State Association of County Health Officials to encourage local level climate and health adaptations. From the Center for Community Health, the Division of Chronic Disease Preventions Cancer Programs has developed a comprehensive and useful cancer related data and reports public website, which houses a web page which houses pertinent links in

one location. The center link is in your notes and links to cancer data visualization tools, a Cancer Statistics Dashboard and the Environmental Public Health Tracking Dashboard and Cancer Reports and plans that describe the burden of cancer in New York State, behavioral risk factors associated with cancer, cancer screening behaviors and insights into cancer survivorship. Another update from the Center for Community Health on WIC. Each month, the New York State Special Supplemental Nutrition Program for Women, Infants and Children, known as WIC, provides supplemental food, health care referral breastfeeding support and nutrition education to more than 440,000 low income pregnant breastfeeding and postpartum women, infants and children up to the age of 5 who are at nutritional risk. Since 2020, the WIC program has seen a 25% increase in caseload, which is three times the national average. Federal administrative funding in New York State has not kept pace with national inflation or the states increased participation. Without increased funding to support the workforce need at local agency levels the New York State WIC Program will likely have to implement caseload management strategies such as modifying the approved food list, shortening certification periods, decreasing retention efforts and limiting target outreach measures. The department is actively looking at strategies to mitigate impact to affected children and families. We will have a more detailed approach from the Office of Public Health Practice on the prevention agenda later in this meeting, but I will say we are finalizing the planning phase for the four cycle of the prevention agenda, which is focused on improved living, working and recreational conditions to advance health equity. The 2025 Prevention Agenda will address five key social determinants of health domains; economic stability, social and community contexts, neighborhood and built environment, health care access and quality and education access and quality. These domains cover twenty-four priorities to address health conditions, behaviors and systemic issues such as poverty, education and housing, and access to quality health care, which are crucial for reducing health disparities. The Community Health Assessment, Community Health Improvement Plan and Community Service Plan Guide have been developed. This guide provides a comprehensive overview of the New York State specific requirements for the Community Health Assessment and Improvement. It also clarifies the role of hospitals and local health departments in implementation of the 2025 to 2030 Prevention Agenda. The guide includes a detailed timeline for the submission of CHHA, CHIP's and CSP's as part of the prevention agenda. Last month, a survey was conducted to identify participants for developing action plans for the key domains. Over 200 individuals and subject matter experts have expressed interest in joining the work groups. The team is also working to create an inter-agency task force for the prevention agenda, which will enable cross-sector collaboration in the social determinants of health. The task force is expected to be established early in 2025 with meetings in the first quarter of next year. Finally, the Office of Science continues work related to opioid data in New York State, as evidenced by a recent collaboration with the Bureau of Narcotics to create a data and action brief for clinicians and others on opioid prescribing. Highlights illustrate successes in New York State, including the number of filled opioid prescriptions declined 42.1% over ten years. The number of prescribing opioid to opioid naive patients has decreased 39%. Following enactment of legislation limiting the opioid prescribing to seven day supply for acute pain, the number of episodes when opioid naive patients received more than seven day surplus has reduced 74%. This is all encouraging. Of course, all of us realize there is lots of work to continue in the opioid epidemic. Thank you.

Mr. Kraut Thanks so much, Dr. Whalen.

Mr. Kraut Are there questions?

Dr. Soffel I asked part of this in writing, but the WIC issue is very troubling because WIC is obviously an essential services for many, many people. I appreciate that it is not an entitlement program. Therefore, the funds are what the funds are. I'm interested in whether the department is sort of looking at how other states are managing the fact that demand is higher than supply, if you will, and what strategies we can help think about that would minimise the impact on people who actually require their services. I think that the potential access barriers are very, very troubling.

Dr. Whalen I agree with you. What we don't want to do is create more access barriers for people as we know that the amount of people that actually are entitled to WIC. It's only a fraction of those people that are even applying in the first place. We really want to make sure that we can do everything possible to safeguard this benefit for at risk communities. There have not been budget cuts with this, but we do recognise that additional funding is necessary. In the absence of additional funding, we're looking at opportunities to request additional funding. We're also considering requesting additional funding from New York State.

Mr. Kraut Thank you.

Mr. Kraut You know, I note that, you said the lab will be built by 2030. It's not under your control. I would strongly suggest put this on the to do list that in 2030 when that labs open, we should be holding a PHHPC meeting in the lab because people should get to see what you're building. It's going to be like nothing else this country has for a state of public health laboratory. I saw some of the early plans for it. It's real exciting. I think a third of us will have a term that will last through 2030. If I'm not here, you just have to remember. That's it. Thank you so much.

Dr. Whalen Thank you.

Mr. Kraut I'm now going to turn to Ms. Rodat to give us a report on the activities of the Office of Aging and Long Term Care.

Ms. Rodat Good morning. Thank you for the invitation to be here. My name is Carol Rodat. I'm a Special Advisor to the two year old Office of Aging and Long Term Care, which has stood up eight different centers over the last two years, which we're very proud of. Those centers housed licensure, surveillance, workforce data collection, planning, financing, the Master Plan for Aging, Home and Community Based Services Policy, and our newest center, which is the Center for Hospice and Palliative Care. I'm going to touch this morning on a few of our activities. As you know, we rotate amongst our offices. It's my turn this morning to present. I will provide several items and then if there's questions, I'll be happy to take them. We are involved at this time in ACF Modernization. I know that the Public Health and Health Planning Council does not have responsibility for the ACF licensing, but we are attempting to simplify the process so that people do not have to jump through so many hoops. That is something that we'll be finishing very shortly. We will turn to the need methodology for our ACF and our assisted living program, which is a Medicaid funding program. On a positive note, we received American Rescue Plan Act dollars that were distributed to our assisted living program, \$40 million, and another \$6 million that went to our adult health care centers, which suffered greatly through the pandemic. This was an additional 5% and the federal match that was afforded to us through the American Rescue Plan Act. With respect to hospice and palliative care, the hospice need methodology has not been redone since 1986. I don't know how many people in this room were working in health in 1986, because that was a long time ago. We have thirty-nine

active licensed hospices certified in this state. We have one available for every county. However, the need methodology is very outdated, as you may know. We intended to update it in 2020 and the pandemic hit. The old need methodology is built off of cancer rates predominantly as well as some other calculations. What we have been doing is we've been developing an approach that we will be bringing to you is to look closely at the use rates in our state, the use rates nationally as well as the demographics. We will be back to you with a discussion about a need methodology in the coming months. We have also been focusing on provider education as well as our own staff education. This is deemed to be important because there has been such a turnover in facilities that we oversee the nursing homes, the ACF's, the home care agencies, the hospices. There's a lot of very new administrators, new CFO's, new CO's we see all the time. Our Center for Surveillance, Residential Surveillance has been doing monthly seminars and we post them online. We are working with providers as well as the Federal QIO Quality Information Organization to develop these educations. We recently did infection control. Yesterday, we did psychotropic medication training for nursing homes. This is a collaborative between the industry and our other state agencies. The other thing that we're very proud of is we have a responsibility to implement a new requirement in Public Health Law to afford new rights to the residents of nursing homes and ACS, with respect to the resident's actual or perceived sexual orientation, gender, gender identity and the expression of their identity. We have developed trainings for direct care workers in those facilities so that these workers have the cultural competency and preparation to deal with the changing environments, changing populations, and to provide those residents with the respect that they deserve. This education will also be posted widely on our New York Learns Public Health Learning Management System. Last, I would like to just turn to the Most Integrated Setting Coordinating Council, which is a multi state agency council on which our Center for Home and Community based Service Director sits. That council met this week. They are responsible for updating our plan, which will provide for a long range plan for those with intellectual, physical, developmental and mental health disabilities to be cared for in the most integrated settings. Thank you all for your support. I'm happy to take any questions.

Mr. Kraut Thank you so much.

Mr. Kraut Are there questions?

Mr. Kraut I have one. Just with respect to the hospice need methodology, when do you think that will be available? Because we are getting a lot of requests from providers to expand into service areas. I suspect that's a major part of thinking as an aging population we want to be responsive to.

Ms. Rodat I don't want to put an actual timeline on it, I will tell you that there is a draft.

Mr. Kraut There is a draft.

Ms. Rodat We are working with people throughout the department on that draft to review and give comments and input before we bring it back to the Code's Committee.

Mr. Kraut I would just encourage.

Ms. Rodat We are working as fast as we can.

Mr. Kraut We will put that on our watch list as well.

Mr. Kraut Dr. Soffel.

Dr. Soffel I know that New York's utilization of hospice services is very, very low, and that's a concern. Will the needs methodology in any way sort of grapple with that issue and try to address why utilization is so low and how to increase interest and engagement with hospice?

Ms. Rodat Thank you for that question because a need methodology alone will not address low utilization. When we bring it forward, this is one of the reasons we have not come forward to you is it will be accompanied by a public education campaign as well. That we will be rolling out with the support of the administration. Denise, there are many, many reasons for the low utilization. There are workforce challenges in the hospice area. There is also a lot of research on this which I can make available to people. We are a very diverse population in New York. We have to recognize that diversity when we think about end of life care. In the Center for Hospice and Palliative Care, we tend to view hospice and palliative care within the larger framework of end of life and planning for end of life, including medical orders for life sustaining treatment, advanced directives, and as well as public education. We will be doing outreach to providers in all areas of our health care system as well as the public. Thank you for that.

Mr. Kraut Yeah, the cultural differences and accepting end of life care varies widely within New York.

Ms. Monroe We're seeing more and more interest on the part of private equity to look at places to invest money that I never thought they would be interested in; nursing homes, assisted living, hospice. Is anything in what you're developing looking at expectations of ownership? What is expected in order to qualify as an owner of these facilities? Is that part of your review in terms of the regulation development?

Ms. Rodat It is always part of our review because new hospices would have to come before this committee, its establishment. We would do character and competence and financial feasibility as well as need. That will be part of the overall hospice process. As to the larger question of public equity, I'm sure that the council is aware the public equity is very active in the health care area. I'm sure that that's something you've discussed as you move through your agenda and the items.

Mr. Kraut Thank you.

Ms. Mazzacco No one's more excited about the new office of Hospice and Palliative Care. It's long overdue. Congratulations for establishing that. I'm glad that your approach is multifaceted because CON won't do it alone. Need methodology won't do it alone. I'm wondering if there's thought to support for existing hospices in the plan related to hospice utilization.

Ms. Rodat In terms of the plan for public education, we will be joining with the existing hospices to tailor those education efforts locally. One of the reasons we're doing that is that as we talk to the hospices around the state, we've learned that the Medicare reimbursement, which is roughly 95%, at least of their reimbursement and does not adequately always recognize the labor costs. You would be one who would know that as well as anyone. One of the things we need to do as they've cut out their marketing and their outreach activities is work with them locally to tailor those education sessions and that outreach.

Ms. Mazzacco Thank you.

Ms. Mazzacco If I could ask a follow up question.

Ms. Mazzacco I'm curious about any items that you're looking into related to certified home health agencies and the closures that we're continually seeing, especially upstate, that are impacting access and then in turn impact hospitals and ER's.

Ms. Rodat Thank you.

Ms. Rodat I'm seated next to the director of Home and Community based Services Licensure. We both track this on a regular basis. Yes, we are seeing closures. Again, one of the issues is the reimbursement rate of Medicare and Medicare Advantage. Both the traditional Medicare and the recognition of the labor costs do not fully recognize the cost that you have to pay for a nurse because you absolutely have to have an RN working in both of those agency types. The other thing that we are seeing with respect to certified home health agencies is that they are having a very, very difficult time recruiting and retaining their staff. We will see consolidation, continued consolidation and likely more closures as we move forward. Again, the Medicare reimbursement plays a very important role in the capacity of these agencies in the state of New York. That has to do with the labor component.

Mr. Kraut Thank you so much.

Ms. Rodat Thank you.

Mr. Kraut We look forward to continuing the conversation, obviously, on hospice care and the need methodology.

Mr. Kraut I'm now extraordinarily pleased to introduce Dr. Boufford, the Public Health Committee, the Codes Committee and the EPRC. We are all going to have to take votes on specific resolutions. Just to have your attention, focus.

Mr. Kraut Dr. Boufford is going to present a report on the activities of the Public Health Committee. We're going to review a plan on the prevention agenda.

Dr. Boufford Thanks, Jeff.

Dr. Boufford Good morning, everybody. I want to provide some background to tell you why you have a resolution on the table the council will be voting on shortly. First, let me acknowledge and welcome Dr. Whalen. She's been a terrific partner. Even though she's just been here since the end of June, she's really kind of bring this to the finish line. I appreciate her efforts and Zahra ALaali, her colleague in this work. I was looking back in the minutes of the council. Over the last, I think eighteen months, from time to time, we've been telling you what was going on. I just want to thank the Public Health Committee members for their resilience and strength and going through many, many meetings over the last eighteen months, really to look at the proposed change of the prevention agenda, fairly considerable change from focusing on sort of five major causes of premature morbidity and mortality in the state over the last... Really, the last ten or twelve years. This is the fourth iteration to moving towards a broader consideration of social determinants of health, which is where public health is going. I think really speaks to the context in which

people live and the need to bring the clinical enterprise and the broader population health focused enterprise together. The Public Health Committee, at the last June meeting of this council. Again, this council has statutory responsibility for approving the prevention agenda because it is the State Health Improvement Plan which is required both in state law. You're going to see a little bit about that and also in federal law for hospitals. In the June meeting, because of the multiple meetings we've had, which were, I think, really, really important with collaborating state agencies, with the hospital associations, with the New York State Association of Health Commissioners and many other stakeholders over the last eighteen months to get to ask them to look back on the previous design and structure of the prevention agenda and to consider proposals from the department to change that and to make recommendations and then eventually provide their statements of support. This has been done not only through the Public Health Council, but all through through the Ad Hoc Committee for the Prevention Agenda, which is sort of from the accreditation of the state process, the sort of public community engagement body. That consists of people who are leading state level organizations, state level nonprofits, advocacy groups, professional associations and others. I think we've had thirty to forty of those folks around the table in these meetings, again, several of these meetings over the last eighteen months to take a look at the proposed changes. In the June meeting, the Chair and the council agreed to delegate authority to approve the revision of the prevention agenda going forward to the Public Health Committee, basically so as we would not lose time in issuing guidance, we were behind, a little bit behind schedule of issuing guidance and to be able to move that, but with the condition that we would bring it to you. We wanted to pull it all together today and to give you a summary. There's a slide set that has been prepared. I think it's at the table in the hard copy and will be presented by Zahra. I'm sure Dr. Whalen will have some introductory comments. Just to frame the resolution that you have in front of you. It reflects the essence of the Public Health Committee's sort of concerns that have been raised largely around the question of asking for more specificity on implementation and also asking for more clarity on leverage and impact, especially the leverage and impact that the Health Department would exercise and should exercise can exercise going forward to look at leveraging the work of other agencies to address the social determinants of health. I'll come back in more specificity when we actually move the resolution. It's in three parts. The first sentence really talks about the framework for the prevention agenda. It really establishes twenty-four priority actions for state health departments, hopefully in collaboration with hospitals. The plan is for those actions. You'll hear the implementation part of it, but those actions would then be presented, referred to the state. They would be proposed to the state and the state would oversee the the implementation over the next cycle of the prevention agenda. The second areas of the resolution refers specifically to the determinants of health and speaks to the creation of an interagency.

Dr. Boufford Well, we need the resolution because I think people need to know what they're voting on.

Mr. Kraut We're the only two people who have it.

Dr. Boufford That's not useful. I didn't know that. Sorry about that, folks.

Dr. Boufford Can we do a slide share in the moment, perhaps a screen share of the document when we get back to it?

Mr. Kraut Shared on the screen, please.

Dr. Boufford I think the presentation will inform you, but let me just say on the resolution that you will see either on this screen or when it's distributed is essentially in three parts. One is to cover the actions of local health departments in hospitals, and they're reporting to the state health department for twenty-four priority objectives that have been developed. The second part of it is the commitment of the state health department as it will need to do really working with other agencies to mobilize their engagement to move on the social determinants of health. The third part is to increase the alignment of hospitals, community benefit investments with the priority areas of the prevention agenda. We'll come back to those. You're going to hear background on all three of those in the slide presentation. We'll come back to the resolution when we either have the copies or we're able to share it with you before there's a vote.

Dr. Boufford I'll turn the mic over to Dr. Whalen and she'll I'm sure have some introductory comments and then we'll hear the presentation of the slides set, which I think you do have at your place and will be put on the screen. Sorry for that problem and we'll make it up before we get to it. Thank you.

Dr. Whalen Thank you very much, Dr. Boufford, for your gracious comments and for your ongoing assistance and collaboration on this very important work.

Dr. Whalen Is that better?

Dr. Whalen I apologize. I usually have a pretty good theater voice, but I guess it's quiet now.

Dr. Whalen Yes, we are very pleased to present to you the vision for the prevention agenda, the 2025-2030 state improvement plan, health improvement plan. This has been the result of a lot of work and a lot of collaboration, which we will lay out for you. I think, you know, as Dr. Boufford said, the most important thing is to really look at how we are addressing a framework that supports the social determinants of health, really addressing the root cause of chronic disease and addressing considerations within communities that we know impact health and population, health and public health.

Mr. Kraut Could I have the slides projected, please, on the screen? They were up there a second ago and now they're gone.

Mr. Kraut Thank you.

Dr. Whalen With that, I'm going to turn it to Zahra ALaali, who is the Prevention Agenda Coordinator to provide information on the slides.

Ms. Alaali Thank you, Dr. Whalen.

Ms. Alaali If you look at the first slide here on the screen, you can see or in the copy you have you can see the planning and implementation timeline for the new new cycle of the agenda for 2025-2030. The process started in March 2023 with partner engagement and the formation of the Ad Hoc Committee. The planning team then collected data for the State Health Assessment and gathered partner feedback on health challenges over the eighteen months or over the last eighteen months. This collaborative effort led to the identification of forty-four health issues and challenges, including health conditions, behaviors and social determinants of health. Then a prioritization tool was used to rank these issues and it was sent to different stakeholders and partners, resulting in a new

prevention agenda framework with twenty-four priorities for the 2025-2030 cycle. Currently, we are working on forming working groups to develop the action plans. Dr. Whalen already mentioned that the survey has been distributed. We have over 200 participants who are interested to be part of this working group. Once these plans are finalized, the implementation of the prevention agenda is set to begin in January 2025. Our team collected data in several ways. Several data sources were used for the State Health Assessment, including in New York State data profiles. There is different examples here in this slide. We also reviewed and analyzed the local health departments and hospital assessment and plans, the changes and CSPs. We collected input from different partners and our stakeholders . You can see here a list of the partners and stakeholder we worked with. The Ad Hoc Committee is consisting of over 120 representative from New York State Department of Health Staff and forty-eight agencies across various sector. For example, we have local health departments at the table in New York State Association County of Health Official. We also worked with hospitals and hospital association. We worked closely with other state agencies such as Department of State, Office of Mental Health, New York State Office of Addiction Services and Support, among others, and also local agencies and community based organization. Over the last eighteen months of extensive assessment, data analysis and input from key partners. We identified a range of issues from socioeconomic factors to specific health conditions. In this slide you can see that we grouped them into six themes. Number one is economic well-being. Number two is mental wellbeing and substance use. Number three, safe and healthy communities. Three, maternal and child health. Four, health care insurance coverage and access to care. Last is education, access and quality. The social determinants of health factors were also recognised as a key area requiring attention in New York. To address this, we recommended the integration of social determinants of health into the new prevention agenda for the next cycle. This integration will address direct and indirect factors, influence in health and to reflect also the needs for the community by integrating the social determinants of health. The new prevention agenda will be more consistent with the national initiative such as Healthy People 2030. As you may know, the Healthy People 2030 is data driven initiative that provides evidence based interventions and resources to help addressing public health priorities. There is existing interventions for those social determinants of health.

Dr. Boufford I think we have the slides. Maybe you can hit the high notes of each of the slides so that we can get through the important presentation so people can consider the resolution.

Ms. Alaali You can see the different structure or different priorities for the new prevention agenda. On the left, we have the 2019- 2024, which has five major priorities, including prevent chronic diseases among others. On the right, you can see the new prevention agenda and the five social determinants of health from Healthy People 2030. By addressing social determinants of health, we can basically address systematic root of causes or causes of disparities, which has been increasingly recognized. When our team did the assessment, for example, we identify that the rank of New York State has dropped from 11th in 2019 to 23rd in 2022. Much of this decline stems from the latest ranking algorithms, which include social and economic factors that public health has largely not focused on. This new framework targets the root causes of health inequities leading to more effective and equitable health outcomes, which will accelerate progress toward health equity. It is also more aligned with the new vision of the New York State Department of Health, which focus on health equity. Moving to the new Prevention Agenda framework. If you look at the top here, we have the new vision of the prevention agenda would shift the focus from being the healthiest states in the nation to focus more on being the to focus

more on achieving health equity. You can see the foundations. For the next cycle, we will continue with these four foundations; health equity, which focus on addressing social determinants of health and reducing health disparities. The second foundation is prevention across the lifespan, which focus or advocate for increased investment in primary and secondary prevention at every stage of life. The third principle is health across all policies, which promotes interdisciplinary multisector collaboration. For example, currently we are working with the Office of New York State Office of Aging to align the prevention agenda with the Master Plan of Aging. The last foundation here is local collaboration building, which promotes community engagement and cross-sector collaboration in local planning. As I mentioned, we will continue maximising the impact with evidence based intervention for state and local action. For the Prevention Agenda framework structure, the new framework is streamlined. There are twenty-four priorities involved. You can see the social determinants of health domains from Healthy People 2030. On the right side, the priorities are the one in blue. The purple one is just the themes. There are some priorities that carried out from previous cycles, such as mental well-being and substance use disorder, tobacco and e-cigarette use. However, there is a new priorities such as economic well-being and education, access and quality. The New York State Department of Health for the action plan they will provide an overarching goal for each domain. We will also provide the following for each priority area. We will have one, two, three objectives for each of the priorities. We will have a main indicator to track the progress. We will also provide evidence based interventions. If evidence based interventions are not available, then we will provide promising practices and best practices. As mentioned by Dr. Whalen, currently we are establishing the working groups and the working groups will be working starting, I believe, end of September until mid October. We will have five working groups representing each domain. Currently, we are creating some tool kits and training materials to guide the working group when they start creating those action plans. For the next cycle, we are shifting from smart objectives to smart objective. SMART is an acronym for specific, measurable, attainable, relevant, time based. We are including two new items. One is inclusive and equitable to make sure that the objectives are inclusive and equitable. For the implementation of the prevention agenda, the prevention agenda is designed to be implemented by a wide range of public and private partners. Hospitals and local health departments or leaders in local community health improvement planning. However, the list of priorities, objectives and evidence based interventions and strategies and the prevention agenda can provide flexible options for other partners, whether state or private or other type of organisation to implement and adopt. Given the complexity of the identified health priorities or priorities in general and the prevention agenda, cross-sector collaboration is always a key. There are several ways to support the prevention agenda efforts in addressing social determinants of health. One of them is the local health department and hospital local community health improvement planning. We are talking about the Community Health Assessment, Community Health Improvement Plan and the Community Service plan submitted by local health departments and hospital. The second channel is the Certificate of Need. In New York State health care facilities are required to submit a Health Equity Impact Assessment and also they are required to report activities that advance prevention agenda goals with the Certificate of Need Application. These certificate of need requirements ensure the facility as a proposed project aligns with the prevention agenda and enhance health equity. For the next cycle, we are looking for opportunities to strengthen collaboration between local health departments and hospitals. We are looking also for opportunities to ensure a stronger alignment of hospital community investment with local health departments priorities. Lastly, we are looking to establish cross-sector partnership. You can see the main differences between the current cycle of 2019-2024 and 2025-2030, which is the new cycle. Both of them are six years cycle. In 2019, the focus was major public health areas with a focus on

addressing disparities and promoting health equity. The new cycle focused more on health equity and incorporating social determinants of health. I already mentioned that we're switching from smart objectives to smarty objectives to have inclusive and equitable objectives. Submission of the community health improvement plans, assessments and CSB's. In the current cycle, how hospitals and local health departments, they have a submission they submit every three years. However, for the next cycle we will shift or local health departments will shift to six years submission cycle and hospital will continue with three years submission to meet the federal requirements of being exempted from taxes. For variety selection, the current cycle, local health departments basically, and hospitals are instructed to select two priorities with one focus area or two priorities. They must address disparities and promote health equity. However, for the next cycle, they can select three priorities under one or more of the domains. Basically, the community health assessment is the main guide for their community health improvement plan and the selection of the priorities. We basically created the guide. We explained the role of hospitals and local health departments,. We encouraged the collaboration through all the phases of assessment and implementation. We encouraged the submission of a joint plan. A joint plan mean that the hospital and counties were basically submit one plan for their assessment and their implementation. We continued doing this in the next cycle as well. Last year for collaboration, interagency collaboration, the current cycle we have the Ad Hoc Committee, which is an interagency working group. They have been involved during the planning of the prevention agenda. This continued also for the new cycle of 2025-2030. However, for the new cycle, we are aiming to develop an interagency working group to add to social determinants of health. The Interagency Working Group basically will provide a forum or a government culture that prioritize health and equity across New York. It will provide also a forum for opportunities and collective resources. Currently, we're exploring opportunities for existing interagency counsel to create a working group to perform this function. You can see the timeline. By October 2024, we will define the mission roles and responsibilities for the working group. By January 2025, we will start recruiting members. March 2025, we will hold the initial meeting to introduce member outline objectives and review the Prevention Agenda framework. After the initial meeting, the working group will start quarterly meeting to review progress against the prevention agenda. I hope this was short and sweet here.

Dr. Boufford A lot of important information. I think we heard pieces of it certainly. Remember, many members of the council have been attending the Public Health Committee meetings, which we appreciate having the background. I was just consulting with Jeff. I think what I'd like to do is make the motion, put the motion on the table to have it hopefully seconded and then have discussion/questions relative to that before the vote.

Dr. Boufford Does that make sense to everyone?

Dr. Boufford Everybody, I think, has a copy of the motion now. Again, I think this was an effort to really reflect the really important contributions. I think in conversations of the Public Health Committee and the Ad Hoc Committee over the last month to move towards something that was the implementation strategy was made much clearer, which we really appreciate, and the issues of accountability and leverage, I think we feel the options are there, the potential is there and that would be essentially what the council would be tracking over the next while. Two other comments. We do have a Public Health Committee meeting in October. We'll have another one in December to sort of track the way towards the end of this calendar year. We'll have another Ad Hoc Committee in December. That gives us a period of time not only to hear more about what the working groups under each domain will be doing, but to assure the linkage is certainly with at least the prevention

areas of the Master Plan on Aging and also Dr. Whalen's mentioned the issues of of linking up this process to the waiver activities. I think those are two things that will go on during this this next period of time. Again, now that you have it in front of you, I think easier to think about in terms of three sets of activities. The first one, I'll read it on the PHHPC approves the proposed framework for the Prevention Agenda 2025-2030 that establishes the priorities for state and local action in New York State to help achieve the vision that every individual in New York State has the opportunity, regardless of background or circumstances, to attain their highest level of health across the lifespan. That reflects the vision and goal of the Department of Health. That extra language, the idea, the important action step here is we approve the framework which you saw. Twenty-four priority areas are identified through the data gathering. The second area is the council agrees to the new focus of the plan on Social Determinants of Health and the department's commitment to engage additional state agencies to support advances in improving economic stability, social and community context, neighborhood and built environment, health care access and quality and education, access and quality. Those are the social determinants of health that are listed. Slide 10 is the money slide for those of you that want to pull it all together, but those will be necessary. Obviously, issues of housing, transportation, air quality and other are not under the direct remit of the Health Department but are under the responsibility of other departments. It will be very exciting to see them directly engaged in this process. The third set of activities. The council also supports efforts to promote alignment of the hospital community benefit investments with the priorities of the prevention agenda. I want to pause here for a moment. We did discuss the community benefit requirements on hospitals in New York. It is really essentially to meet the requirements of every three years doing a community needs assessment State Health Improvement Plan. It has been a voluntary process. There has been discussion going back and forth about whether we wanted to tighten the statutory language that would really direct I wish I would say local health departments and hospitals to work together and share not only the needs assessment, but also the plan. The decision at this stage was to maintain the voluntary effort. I only flag it because I think New York does very well when we highlight the importance of voluntary efforts that might end up in having something that becomes less than voluntary. We've had a lot of discussion, I know within the departments met with HANYS Greater New York. Progress has been made. About 45% of counties have historically been doing this work together. We hope to get that number up over the next, especially the next couple of years. The Public Health Committee of the council and the council commit to a regular review of their progress during the next six years to support its successful implementation. As I mentioned, the Public Health Committee will meet twice between now and the end of the calendar year. Ad Hoc Committee in December. We should have good reports on the progress. We'll begin to track the timetable for the interagency work and for addressing and discussing the community benefit work. I will move the resolution.

Dr. Boufford Dr. Berliner has his name up fast.

Dr. Boufford Open the floor for questions to Dr. Whalen, Ms. ALaali, myself or others about the presentation and or the resolution.

Mr. Kraut Dr. Eisenstein.

Dr. Eisenstein Thank you.

Dr. Eisenstein Larry Eisenstein, council Member. Thank you both for the great presentation. Dr. Boufford, since our last committee meeting, we've actually gotten great

clarification regarding the Medicaid waiver, which I know you mentioned. In that New York State prescribed the specific screening tool of social determinants of health that providers, community based organizations, hospitals would all have to use in order to participate in bill and the waiver. The question that I have it's more of a plea. We are supportive of work in line with social determinants of health, but it really needs to be aligned with the other initiatives that are happening. It's a lot of work to change an electronic health record to meet the new requirements. I think that we're doing that now. We don't want to have to do it again because it costs a fortune, which hurts our ability to provide services and takes a very long time, which back this up. Has there been thought to how you're going to align the various emerging requirements of social determinants of health, which are both at the state and federal levels, as well as making sure that the data collection is streamlined? We could have parallel, but we certainly don't want conflicting data collection is my point.

Dr. Boufford Well, I think one of the these social determinants here are the ones that are reflected in the federal Healthy People process. They've been vetted for an evidence base. I think they're the same ones that CMS is including. They may not be exactly the same because the bar for evidence is the same within the department. Those questions on social determinants are pretty aligned, but when they're not---

Mr. Kraut Can I just amplify on your question?

Mr. Kraut There's no mention of the SCN's in here.

Mr. Kraut You talk about hospitals and holding them accountable. We're spending \$7 billion. I think that's the point you're making is how are they going to be held accountable for their performance in attaining these goals? Look, it's something I think you said in passing. You're going to have to come back. They're still evolving. They're not all formed yet.

Dr. Whalen I think that this is going to be a key driver of the work of the interagency task force. We really want to ensure that there is cross-sector collaboration on the multi, the myriad of agencies that are working towards addressing social determinants of health, including the infrastructure, the development of the social care network that is being established. I honestly think that the timeline is right. They're kind of in their planning process. We're in our planning process. It would be great if we can work together to ensure that there is this cross-sector collaboration that makes things move forward with more efficiency.

Dr. Boufford Let me also comment because I think I've said this before. I think the SCN's are social care networks services, health and social services. The prevention agenda has historically been population health focus, not care focused. I think the idea here of linking with social determinants is that the context of communities would hopefully be affected by interagency work, especially by the prevention agenda. There's a health care access and quality element here. That would be this place in which the care efforts need to be aligned. The state efforts on the care side need to be allied. The only other thing is that the prevention agenda is the State Health Improvement Plan. The only language in the State Health Improvement Plan affects hospitals.

Dr. Eisenstein Regarding the timeline, but just so the states where as the social care networks have been named. They've already told their providers, hospitals, doctors, community based organizations what tools and electronics they need to set up. We're already working on that. The collaboration would have to happen really soon before we,

the whole health care community invest the time and effort to change how we're collecting social determinant data. We just hope it doesn't happen again in the near future because that will just set everybody back again is my point.

Mr. Lawrence Harvey Lawrence, a member of the council. I'd like to again congratulate you, Dr. Boufford, and the committee, and which I have not been fully participant participating in. It is great to see that this work is continuing. I'm wondering if you're accepting wordsmithing on the motion.

Mr. Kraut We prefer not to.

Dr. Boufford I think if it's substantive, probably that it requires a bigger debate.

Mr. Kraut This took a lot of effort to get it on this piece of paper, to get it in front of us.

Dr. Boufford It's fairly high level.

Mr. Kraut Unless you think there's something substantive.

Mr. Lawrence I'll throw it out there, and, you know, if you think it merits a change. If not, it'll be fine. Just down where you say their highest level of health. I would say the highest level of health. Because in my view of the world, when you say there it sort of comes with limitations, especially when you're talking about social determinants of health. If I'm living in an underserved community and there are some constraints about reaching that highest level of health, then it's sort of accepting circumstances in which the person may find himself. The other comment that I would add would be to the department's commitment of health equity, because that has been something that has been discussed here, I think, over the last year or two. There should be some reference to this notion of health equity, which would go right after the department's commitment to health equity to engage additional continuing. Those were the two changes that I think would make a difference.

Dr. Boufford I think adding the equity around the broader determinants of health makes a lot of sense. I would think that would be a good suggestion, assuming Dr. Berliner agrees. I mean, most of my times this point is spent in dealing with issues of global health and the way this language is used. It's I appreciate your picking up on it. The reason the word their highest level of health is in that context is that people have different levels of disability range and they have different levels of sort of biological endowment. The reason that there is there is the obligation of the state of government is to provide the environment in which they can reach the highest levels of their ability of health as opposed to an abstract concept.

Mr. Lawrence I guess the way I'm looking at it is that sometimes when those disabilities are disclosed that the provider begins at that becomes the baseline, as opposed to looking at the possibility that the person can in fact have a greater level of outcomes than what is stated by the circumstances that they find themselves in.

Dr. Boufford This is the line we're walking here getting involved in the health care delivery system in the clinical enterprise, rather than purely trying to deal with improving conditions in communities which... You know, the sort of discussion, the link point is you have a patient coming into your office and has to deal with many of the issues you describe. You send them back to the same environment that made them sick in the first place. Part of the prevention agenda focus historically is improving that broader environment. I think the

details of the presentation and sort of the slide, I think we should add the equity thing for sure. With your agreement, perhaps we can understand that it's embedded in the guidance. You'll be at the meeting. You can help us track that question as to whether we do it or not.

Ms. Monroe Thank you.

Ms. Monroe I have one quick question and then a comment. You say that a local health department only has to resubmit after six years. During those six years, there's reporting on progress, right? They only have to submit their new plan or whatever you call it. There's accountability across those six years. Who sets those standards for achievement the local health department or the state?

Ms. Alaali For the reporting, there was an annual report and there is also a mid-cycle reassessment to refresh their data and make sure their prioritization are still priorities for the county. This will make sure that there is an alignment between the priorities of the health department and hospitals since hospitals are submitting every three years.

Ms. Monroe The second point that to me there's a big difference with the health department between the health department calling in all the other departments to help the health department achieve social determinants of health. There's a difference between that and every department being accountable for its piece of social determinants of life, whether that's education, economic stability. I worry about a task force that is convened by the Health Department in which other departments are told to help us as opposed to some higher group; the Governor, the directors, council, whatever you call it, saying to each of these departments, here is what you are responsible for achieving. I've always thought of these as social determinants of life and not totally health centered. I do worry about the commitment of other departments with everything else they have to do to achieving our goals. Is there any comment on that?

Dr. Whalen I want to thank you for that feedback. I think it's very important feedback and certainly something that we're considering. We want to be good stewards of time, of leadership of other agencies. We are not thinking of calling this group together to help the health department, but really to look at where opportunities exist for collective impact. We are looking at where do we have shared mission, shared values and shared plans to implement policy procedure programs that are going to achieve goals that are related to the social determinants of health. I agree with you entirely that these are aligned with the work that many other agencies are doing. It's not necessarily asking them to do anything above and beyond what they're doing. It's how can we work together to amplify the work that we're doing separately? How can we work together to create synergies?

Ms. Monroe I appreciate that. I would just add, there needs to be some accountability for those departments to do what they commit to do, especially if that's not high on their priority list.

Dr. Boufford It's a good point. I think that's part of what we can engage on relative to the launch, the preparation for the interagency council and launch the really important questions for that stage of the work.

Dr. Soffel Yeah, I did participate in a lot of these committee meetings. There was a lot of conversation amongst the committee members about the importance of engaging communities and having community based partners and community based organizations

and community involvement in this process. I don't really see that reflected much in this document. There's one brief mention of private public collaborations. It's not in the resolution at all that community involvement is essential to make this a successful endeavor. I'm not going to fail as we write the resolution, Dr. Boufford. I am going to say let's make sure that as we as a committee watch this over the next six years, that we continue to push the department to push the local departments of health to be sure that they are in fact, not just with their hospital partners, but with other community partners as well.

Dr. Whalen Thank you for that.

Dr. Whalen I can say in my own experience as a local Public Health Commissioner that this work does not get done without community based organizations. The work of local health departments is intimately related to the work of the community based organizations that they share territory with your community with. This happens not only within the prevention agenda, but across all programs and services.

Dr. Boufford I think one of the follow up in this sort of in the reporting process historically, we actually asked who's at the table. We've asked local health authorities to include that. Who's involved in these conversations? It's an easy question. They've not had too much difficulty answering it. I think, again, that's another way in which we can look at this over the next while.

Dr. Boufford Anybody else with questions?

Dr. Boufford The council agrees to the new focus of the plan on the social determinants of health and health equity and the department's commitment. Does that work for you?

Dr. Boufford We'll change the language.

Dr. Boufford The second sentence starts, "The council agree to the new focus of plan on social determinants of health and health equity and the department's commitment to engage. Does that work for everybody? That's the only change to the resolution.

Dr. Boufford Back over to the Chair.

Dr. Boufford You've now heard the resolution.

Mr. Kraut Dr. Berliner amended his motion.

Mr. Kraut I have a second, just to be sure.

Mr. Kraut I'll call for a vote to adopt the resolution as just presented.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Dr. Boufford Thank you very, very much.

Mr. Kraut I really have to take a moment and thank Dr. Boufford, the committee, the Office of Public Health, the other members of the Department of Health who have worked on this. This is not an easy task. This is a real challenge. It's a critical part of you've heard the regulatory requirements, the accreditation of the department is dependent on this. It took a lot of meetings. There was a lot of effort that went into what we just had as a relatively brief presentation. I just want to thank everybody on behalf of the residents of New York State. I mean, we're very clear about the objectives. Hopefully, when the next report on the status of health in New York State comes out those efforts will not have gone unnoticed or unmeasured. Thank you so much.

Mr. Kraut I'm going to call an audible here because we're going to have some quorum issues. What I'm going to ask is we have two other committees that we do have to do some votes on. I'm going to ask Mr. Holt to present the committee with the agreement of Dr. Rugge, who will delay his report to the end. I'm going to ask Mr. Holt to present on public the Codes Committee, followed by Mr. Robinson on Establishment and Project Review, and then Dr. Rugge will present on the report on health---

Mr. Kraut Mr. Holt.

Mr. Holt Thank you, Mr. Kraut.

Mr. Holt Good afternoon. At the September 12th, 2024, meeting of the Committee on Codes, Regulations and Legislation Committee reviewed and voted to recommend for adoption the following three regulations to the full council for their approval. First being reproductive health standards. Dr. Kirsten Siegenthaler of the Department presented the Reproductive Health Care Standards proposed regulations to the Committee on Code for adoption. They're available to the council should there be any questions of the members. I note an abstention from Mr. La Rue. I move to accept the adoption of this regulation.

Mr. Kraut I have a motion.

Mr. Kraut I have a second, Dr. Berliner.

Mr. Kraut I'd also like to point out to the abstention from Mr. La Rue. Dr. Eisenstein is not in the room and will not be voting either on this resolution.

Mr. Kraut Any discussion?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Abstentions noted for Mr. La Rue and Dr. Eisenstein is not voting.

Mr. Kraut The motion carries.

Mr. Holt Thank you.

Mr. Holt The second was disease outbreak investigation and response clarifications. Dr. Emily Lutterloh of the department presented the disease outbreak investigation and response clarification proposed regulation to the Committee on Codes for Adoption and she's available to the council should there be any additional questions. I move the acceptance of this regulation for adoption.

Mr. Kraut I have a motion.

Mr. Kraut I have a second.

Mr. Kraut Are there any questions?

Mr. Kraut Hearing none, I'll call for a vote.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Abstentions?

Mr. Kraut The motion carries.

Mr. Holt Finally, the third, the hospital cybersecurity requirements. Mr. Drew Hanson of the department presented the hospital cybersecurity requirements, proposed regulation to the Committee on Codes for adoption. He's available to the council should there be any additional questions at this time. I move the acceptance of this regulation for adoption.

Mr. Kraut I have a motion.

Mr. Kraut I have a second.

Mr. Kraut Any questions about the motion?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Motion carries.

Mr. Holt That concludes my report.

Mr. Kraut Thank you very much, Mr. Holt, and thank members of the committee and the department staff who came here today to help us pass those regulations.

Mr. Kraut I'll now turn it over to Mr. Robinson to give a report of the Establishment and Project Review Committee.

Mr. Robinson Thank you, Mr. Kraut.

Mr. Robinson As you know, we batch applications at full council. Any of you that do have a particular application that you would like to have us handle separately, please indicate. Otherwise, we'll just proceed as we've got the agenda structured. This first batch mainly applications for construction Application 241134C, New York Presbyterian Westchester Behavioral Health Center in Westchester County certify two psychiatric beds and perform renovations to create a ten-bed pediatric inpatient psychiatric unit. Application. 241220C, Columbia Memorial Hospital in Greene County to convert the Greene Medical Arts Extension Clinic to a multi-specialty ambulatory surgery center in the Southwest 3 Unit. That is the first batch. Both the department and the committee recommend approval with conditions and contingencies. I move that batch.

Mr. Kraut I have a motion.

Mr. Kraut May I have a second?

Mr. Kraut Mr. La Rue.

Mr. Kraut Are there any questions on these applications?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson Thank you.

Mr. Robinson This next application separately because of Ms. Mazzacco with conflict and recusal. She's just left the room. This is Application 241214C, Home Health Aide Service of Eastern New York doing business as Eddy Visiting Nurse and Rehab Association in Rensselaer County. This calls to acquire Fort Hudson Certified Home Health Agency Inc and add Warren and Washington counties to Eddy Visiting Nurse and Rehab Association service area. The department and the committee recommend approval with a condition and a contingency. I so move.

Mr. Kraut Thank you.

Mr. Kraut I have a motion.

Mr. Kraut I have a second.

Mr. Kraut Any comments on this application?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson Thank you.

Mr. Robinson Please have Mrs. Mazzacco.

Mr. Robinson Could you please pronounce your name, so I get it right next time.

Mrs. Mazzacco Mazzacco.

Mr. Robinson Mazzacco.

Mr. Robinson Thank you.

Mr. Robinson The following is the next batch beginning with Application 232010B, Bridge Street ASC in Kings County to establish and construct a multi-specialty ambulatory surgery center at 79 Bridge Street in Brooklyn. The department and the committee recommend approval with conditions and contingencies. This is an exploration of the operating certificate five years from the date of issuance. Application 241060E, West ASC LLC doing business as Camillus Surgery Center. This is to transfer 70% ownership interest from six withdrawing members and the remaining member to one new member LLC. Here, the department recommends approval with a condition and contingency, as did the committee. The expiration of the operating certificate will be three years from the date of issuance was the recommendation. Application 222153B, Careful. M.D. Beacon Inc in Dutchess County. This is to establish and construct a new diagnostic and treatment center located at 252 Main Street in Beacon. Approval recommended by the Department and the Committee with conditions and contingencies Application 241178B, Harmony FH LLC in Queens County. Establish and construct a new diagnostic and treatment center at 64 35 108th Street in Forest Hills. Department and committee recommend approval with conditions and contingencies. Application 241202B, New York Metabolic and Wellness Center in Kings County establishing construct a new diagnostic treatment center at 2776 Ocean Avenue in Brooklyn. Department and committee recommend approval with conditions and contingencies. Application 241211E, Interborough Developmental and Consultation Center Inc doing business as IDCC Health Services in Kings County. Establishes Interborough Developmental Consultation Center Inc as the new operator of IDCC Health Services, a diagnostic and treatment center and its extension clinics currently operated by SLA Associates LLC at 201 Kings Highway in Brooklyn. Department and committee recommend approval with conditions and contingencies continuing on with changes of ownership. Application 231059E, Caring Enterprises Inc doing business as Health Force. A whole list of geographic service areas applies. Transferring 100% ownership interest to a new member LLC. Both the department and the committee recommend approval with a condition and contingencies. Application 231088E Allegiant Homecare LLC. Again, a variety of long list of geographic service areas. This is to transfer a 100% membership interest to a new member LLC. The department recommends approval with a condition and a contingency. I move that batch.

Mr. Kraut I have a motion.

Mr. Kraut I have a second by Dr. Berliner.

Mr. Kraut Are there any questions on any of those motion or any of those applicants?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson These are certificates. A certificate of dissolution for the Blocker Home Inc. Department and Committee recommend approval. Flushing Manor Care Center Inc FMCC department and committee recommend approval. FMNH LLC department and Committee recommend approval. Hudson Headwaters Health Foundation Inc noting an interest by Dr. Rugge. Department and committee recommend approval. Moses Ludington Hospital department and committee recommend approval. A certificate of amendment of the Certificate of Incorporation for the Rochester Community Individual Practice Association. Department recommends approval, as does the committee. I move that batch.

Mr. Kraut I have a motion.

Mr. Kraut I have a second, Dr. Berliner.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson Thank you.

Mr. Robinson Dr. Kalkut has a conflict for the next application and is leaving the room. He's recusing himself.

Mr. Robinson Application 241192E, NYU Langone Hospital doing business as Long Island Community Hospital in Suffolk County. This is to merge Long Island Community Hospital and NYU Langone into NYU Langone hospitals and establish NYU Langone Hospitals as the new operator of the hospital and hospice operated by Long Island Community Hospital at NYU Langone Hospital. I hope everybody understood all of that. The department is recommending approval with a condition, as did the committee. I so move.

Mr. Kraut I have a motion.

Mr. Kraut I have a second, Dr. Berliner.

Mr. Kraut Any comments on this application hearing?

Mr. Kraut All those in favor?

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson This next application, noting a conflict and recusal by Mr. Kraut is leaving the room and Dr. Friedrich, who is not here.

Mr. Robinson Thank you.

Mr. Robinson Just since it wasn't clear conflict and recusal by Mr. Kraut and also by Dr. Friedrich, who's not here but nonetheless has recused himself. The application is 241249E, Vassar Brothers Medical Center and Dutchess County establish Northwell HS Inc as the sole member and active parent of Nuvance Health the active grandparent and cooperator of the Article 28 and Article 36 licensed entities co-opted by Health Quest Systems Inc. I will note here that the department has since the committee meeting received a few letters in response. We've also gotten a response from the applicant on this application and believe that that response satisfies the questions raised by those by those letters. With that, the department and the committee recommend approval of the condition and contingencies. I so move.

Dr. Boufford Second by Dr. Berliner.

Dr. Boufford Open for questions from the council members.

Dr. Soffel I'm just sort of curious. I read all of the letters that came in and I would love, since I was not able to attend the committee meeting, to sort of get a summary of what was sort of the controversy around this particular application, because clearly it generated controversy.

Mr. Robinson I'm sorry that I didn't quite hear your question.

Dr. Soffel I'm sorry. Sorry that I missed the committee meeting. In light of the letters that we have received, which I've read, can you sort of describe what was the discussion at the committee meeting about the... Apparently, there's some controversy about this application and it would be helpful to understand a little bit more.

Mr. Robinson I mean, I think that the major discussion was around the issue of the insurers being concerned that this application and consolidation would result in higher premiums because of the fact that they would be able to force higher rates. I think that issue was really reviewed by the state AG's Office, and I believe that the committee at least was satisfied that that concern was not warranted. That was the that was the essence. There was certainly a broader discussion, but I think that was the key issue.

Dr. Boufford Dr. Berliner.

Dr. Berliner Since the since the committee meeting. I've been thinking about this application a lot and also about what our responsibility is as the Public Health and Health Planning Council about acquisitions of hospital systems by other hospital systems. We've recently had an experience in New York City where a large voluntary hospital system purchased/acquired another hospital system and then quite quickly moved to close down two of the facilities, one of which one closing just approved by the Department of Health. What I would like to suggest is that in the same way that we put a limited life on ambulatory surgery centers and on other kinds of applications that we add a condition to this application. Net me just state this is not about Northwell. This is not about Nuvance. I

mean, this is just in general. I think it's something we should do going forward. I think we should put in a condition that in this case Northwell cannot sell or materially downsize any of those hospitals for five years. It can sell them. It can rearrange within its system. I think we have an obligation to the public to say if we're going to allow this transaction to go through, we want it to at least have some staying power.

Mr. Robinson Well, I would say just in response to that, that the fact is that the difference between the issue that you understandably raised around what happened in Lower Manhattan, where there was, I think, significant community concern and opposition being raised to that proposal that in this case, the community support seems to be very different. The dynamic of this transaction. In other words, I think it's not good for us to sort of generalize to that to that application what we're seeing here.

Dr. Berliner I don't disagree that this is one that has community support, whereas the other didn't. I don't disagree that this is one where the acquiring institution has gone out of its way to meet with all the stakeholders and things like that. What I'm suggesting is that when a hospital system acquires another hospital system, that the public have some guarantee that this is not going to be... You know, we're going to do this. Let me just say, I mean, I don't have any reason to believe that Northwell has any interest in selling any of these facilities or closing. If that's the case, then there is no downside to them.

Mr. Robinson I understand that. I do also would say that the... I don't know what to call it. Is it a consent decree.

Ms. Ngwashi My name is Marthe Ngwashi. I'm an attorney at the Department of Health. I think that as it relates to an application that you would like to add a condition on that has not previously been discussed by the council in a manner in which that is the specific topic area. It would not be appropriate to do that under this circumstance. It also relates to the Northwell Nuvance application or Vassar Brothers application with the best assurances agreement that was entered into by Northwell and Nuvance, both of the Attorney General's Offices from Connecticut and also from New York have put in some protections to ensure that some of the things that you are concerned about what happened. Again, as it relates to the project application, I just don't think it's appropriate for us to do a condition like that without having a more fulsome conversation about it.

Dr. Berliner I think that makes perfect sense. I've thought about that. I think in this case, if we postpone this to the next cycle to have the committee, the council or the committee or both go at it again. That would be fine. I think it's something that we should put in on a general basis. Maybe we ignore this one, but going forward any system acquiring another system for five years they can't close any of the facilities down.

Ms. Ngwashi Dr. Berliner, as a regulated entity by the Department of Health, they have to come to the department for closures anyway. We don't want to now infringe upon that process already. I do understand what you're saying, but I have to tell you that it would be a lot better to have a conversation in an appropriate forum, which would be a Health Planning Committee meeting. I can't tell you that that's something that we would be able to do in one cycle, right? That's the reality of it. I don't want that to be something that we hold an application for. I also don't know that you would get the votes for that, but that you would hold an application in this instance to be able to talk about something that's an important subject matter.

Dr. Boufford Could I just say also, I think you're raising it sounds a little bit like changing the rules after the process has been played out. You know, tying it to this particular application versus dealing with it. I was interested in the fact that there may be other tools as well. I mean, the health equity index to me was interesting. It was cited, I think, in the Northwell letter that it's not required unless there is a downsizing and as Marthe says, or a closure as Marthe says that would have to come back to us anyway. I think the dealing with it as a policy issue is important. Tying it to this particular application seems to me also problematic.

Dr. Berliner Except that... You know, I think many of us were blindsided by what happened with Mount Sinai and New York Pioneer and Beth Israel. I don't think health equity quite gets at it. What I'm talking about specifically is a hospital system acquiring another hospital system. All I'm asking is that they commit to not closing any part of that new system for a five-year period. They can sell it. They can alter things within the system. That's completely up to them. I think just as a principle going forward, whether it applies to this application or not, I think is just something that we should require of acquiring.

Dr. Boufford I've got some folks that want to comment on this. First of all, Ms. Soto, then Dr. Rugge, then Mr. Thomas.

Ms. Soto Nilda Soto, council member. Mine is more of a question or clarification along these lines. Is there anywhere in the CON process where a hospital's the best solution, the closing that they would come before on one of the CON categories? That's my question.

Dr. Boufford I think Marthe mentioned that any significant closure has to come back to the council. I don't know if it's through the CON process.

Ms. Soto Closures are handled by the department. I'm not exactly sure I'm understanding what your question is.

Dr. Boufford Is there a CON process where this this issue might be so added, I guess.

Ms. Ngwashi Again, when the applications are presented to the council at the Establishment and Project Review Committee meeting, that is a time to have some of these discussions, particularly when you have the applicant there and they have been given an opportunity to address some of these concerns. In so doing, I think that why Mr. Robinson mentioned that there was some additional feedback that had come up is just for the ability to continue to maintain transparency about the project application, but to let you know that some of those things had already been addressed. All I'm talking about is if you want to add a condition such that Dr. Berliner is mentioning, or if you're talking about doing some other things that are outside of the realm of what have already been discussed also at the EPRC meeting, that's something that would have to be done at a later time. It cannot be done on the back of an application that's before us that has already been discussed in the mechanism and which, if presented to the council.

Dr. Boufford Dr. Rugge.

Dr. Rugge I certainly understand the stress going on in Lower Manhattan, but many times mergers happen among hospital systems because of severe financial distress and also care distress. What comes to mind is an application we just approved and that is for the dissolution of Moses Ludington Hospital. This was a hospital who struggled for many years, chose with other hospitals in New York to join the University of Vermont Health

Network and over initially was alarm in the community about losing their hospital. Over time, the university was able to bring all kinds of specialty services to the community and then submit to the proposal to close Moses Ludington. It was met with overwhelming approval because the care had been so much better. I think having one generalized stipulation for a five-year delay would be unfortunate in some cases.

Dr. Boufford Mr. Thomas and Mr. La Rue, then Ms. Monroe.

Mr. Thomas Hugh Thomas, a member of the council. Just a response to you, Dr. Berliner. There's a process, a very specific process for closures of hospitals in the state of New York. Whether we like it or not, it exists. The Department of Health does that in administrative level. It strikes me to try to place a blanket or a general five-year duration post-closing on these kinds of transactions would tie people's hands too much. I think that the department really is in the best position to evaluate whether to close, whether the facility is no longer viable, sustainable, the impact on the community from an equity's perspective. I would be really reluctant to put that kind of a standard clause or condition on a CON of that nature.

Dr. Boufford Mr. La Rue, then Ms. Monroe.

Mr. La Rue Good afternoon. Scott La Rue, member of the council. I can concur with Mr. Thomas's comments because, this is a larger conversation that I think should be had at another time, not based on this particular application. My concern with a five-year limit is circumstances change. Would we have anticipated that the state legislature was going to pass a staffing mandate that costs over \$180 million to nursing homes and then fund it? Circumstances change. How do you put a five-year requirement on an application when you can't anticipate what's going to happen in five years? I think it's a bigger conversation that has to be had at a later date, not tied to this application.

Dr. Boufford Ms. Monroe.

Ms. Monroe I appreciate Dr. Berliner's concern about what happened with about Mount Sinai. I think we were all a little blindsided by that, but to then take the next application and change it in response to what happened earlier to me it's a knee jerk reaction that's not appropriate. It does need to be discussed. Perhaps, the council could take this on in health planning or wherever to really have a good discussion about what our expectations when a system buys another. I would not support adding a condition to this application at this time. I just also was surprised that the two letters we received didn't come to the committee when they would have had a chance to speak about it and we would have had a chance to talk to them. I have a hard time putting a lot of weight on these letters since they really did not participate at a time that was appropriate to the process.

Dr. Boufford Dr. Kalkut.

Dr. Kalkut I concur with you, Ann, in two ways. One is it ties hands in a way that I think is too broad based and will dissuade investment, perhaps all of that. The bigger thing, I think is a precedent setting item that if we do that here now, how do we then make policy on a single issue CON the implications for that I think are too big for other things down the line. I just wouldn't do it, as Ann just said.

Dr. Boufford Dr. Rugge, Mr. Laurence, and then Dr. Berliner.

Dr. Rugge Is that better?

Dr. Rugge Just a specific question about this application. Did the committee have the opportunity to address each of the concerns raised by the letters of opposition that we have received?

Mr. Robinson I mean, I thought we had a pretty thorough conversation on the application. It was pretty open ended. I do think that we touched on the issues that came before us at the time. As I said, I do believe that during the committee meeting the concerns raised by the insurance industry were really the ones that dominated the conversation, but we did touch on other issues as well.

Dr. Boufford Mr. Lawrence.

Mr. Lawrence Harvey Lawrence, a member of the council. I remember the conversation that we had; I think it was around Mount Sinai. At the time, I think the applicant had made some commitments about closures. At some point, I believe the council decided that through its vote that it was not... Didn't believe the applicant. We voted that application down if I understood what happened. That meant that it went to the Commissioner to make a decision about it. My memory may be failing me here. I think this is an issue that we do need to address, but maybe not on this particular circumstances. It's an issue in terms of the acquisitions that are happening and the consolidation. What are the implications for the health delivery system? I understand that there are circumstances that lead to. If there are additional costs, additional burdens those are realistic concerns. There are also concerns in neighborhoods that are dependent on these institutions that we need to address. This is not the time. We should have a broader conversation about those underlying issues and come up with a policy on the front end and also consequences on the back end that would address these issues.

Dr. Boufford Dr. Berliner.

Dr. Berliner If I'm recalling correctly, there are three main comments about this. First is the five years, actually my wife suggested I should go for ten years and then we compromise to five. It's not the five years. It's just trying to make institutions understand that if they're going to make this kind of an acquisition they have a responsibility to continue it. Second thing was about was this discussed at the committee meeting. The answer is no, because it was never raised in the letter that HPA wrote. They were looking at other things. The third thing is that unlike New York City, where there are other hospitals, lots of other hospitals, although I would argue that closing Beth Israel is a horrible mistake because there really is nothing below 34th Street in one of the largest transient populations in the world. A lot of these hospitals are solo hospitals in their region. There aren't other hospitals there. If a decision was made to close one, it would have a profound impact on that facility. The other thing is, is the question about things change. Who would expect the legislature not to fund a major change in health policy? I think the answer to that is in part, you know, the acquiring institution isn't going into this blind. It's not as if they can come out in a year and say, we didn't expect this change. You know, who knows? Maybe Medicare goes away. Maybe Medicaid goes away. Who knows what's going to happen in health policy going forward independent of what happens in New York State. I just don't think that I... Yes, of course that's a consideration, but I think if that were the case then something like this can be considered. We or the Department of Health could say, things have changed. You're not bound by that condition anymore.

Mr. Robinson I think that the other thing that may be a little bit missing here is the fact that... It's my understanding that Northwell entered into an agreement with the AG. I think the AGs of both states, but we're only concerned about New York. Those kinds of issues were part of what the agreement was with the AG. They're already legally bound by that agreement. I don't think that it's necessary for us to double dip on that. Secondly, as I said, I think that the communities themselves want this because of the fact that those institutions are struggling fiscally right now and they're having difficulty coming out the other end. Third, I would say that Northwell has a track record of, in fact, working with hospitals that are in this kind of state and turning things around. With all of that there and the agreements between the AG, I think we should be satisfied that we've got a good recommendation here and that I think this is a good plan going forward for Vassar Brothers and the other institutions that were affected by this transaction.

Dr. Boufford Let everyone have their airtime, and then I'm going to really pull this to a close. I think we're beginning to go in circles a little bit now.

Mrs. Mazzacco Michelle Mazzacco, council member. I would reiterate what many have shared about their concerns that this is not the right time or forum. I would also share grave concerns that we could be creating a situation where organizations in need of saving would not be saved by potential organizations because of the fear that this requirement would be imposed on them, and it would be a requirement they couldn't sustain. I think we have to be careful of unintended consequences.

Dr. Boufford Thank you.

Dr. Boufford I think we would call the proposal from the committee was approval, which was seconded. I think Dr. Berliner has raised an important issue. There seems to be a consensus that this needs to be not lost to this question of health systems buying other health systems, the issues of loss of capacity. The Planning Committee was suggested that we put that in as part of the minutes of this meeting so it's reflected, and we can come back and see that something happens in regard to this.

Dr. Boufford Let me call for a vote.

Dr. Boufford All in favor of this resolution?

All Aye.

Dr. Boufford Any opposed?

Dr. Boufford It's unanimous.

Mr. Robinson Got to pull my glasses out again.

Mr. Robinson Have Mr. Kraut remain out of the room.

Mr. Robinson Application 2441251E, Health Quest, Home Care Inc, which is a licensed entity with a range of geographic areas. This is to transfer 100% ownership interest to a new member LLC. As I note, a conflict and recusal by Mr. Kraut. Department and committee recommend approval with a condition. I so move.

Dr. Boufford Do we still have a quorum? I saw a major flow out the door.

Dr. Boufford Open for any questions or concerns from the members of the council.

Dr. Boufford All in favor?

Dr. Boufford Aye.

Dr. Boufford Any opposed?

Dr. Boufford Any abstained?

Dr. Boufford Motion is passed.

Dr. Boufford We have our certificates. We have two other actions. Lakeside Memorial Hospital approval was recommended, and Lakeside Beikirch Care Center approval is recommended. Mr. Robinson is having left the room. He recused himself. I'll move approval.

Dr. Boufford Second, Dr. Berliner.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Motion carries.

Mr. Kraut We can ask Mr. Robinson to return.

Mr. Kraut I believe that is the end of the report of the Establishment and Project Review Committee.

Mr. Kraut I'll now turn it over to Dr. Rugge to provide an update on the activities of the Committee on Planning.

Dr. Rugge Thank you, Jeff.

Dr. Rugge SEMSCO, The State Emergency Services Council in late 2022 came to the Health Department with concerns about long waits in the in the ambulance to get to the Emergency Room. In turn, the Department of Health referred this in January of last year to the Planning Committee for consideration. We would just turn to do a larger discussion about E.R. overload. We chose two conditions for deep consideration because they seem not to be the most appropriate setting for the care. One was mental health; the other is dental care. With regard to mental health, we were very impressed by Commissioner Sullivan from the Office of Mental Health regarding a diversion process through 988 and also a whole continuum of dedicated expert mental health services apart from the Emergency Room setting where that kind of expertise could not be assured. Therefore, our concentration has been on dental and looking at again models elsewhere of how to divert calls. 911 calls automatically be E.R. to a more appropriate referral or setting. We had two models to draw upon. One was from California; the other is in Rochester and then elaborated on how to proceed with those concerns. I would like to think that the deliberations we were undertaken helped to make the Governor aware and sensitive to some of these issues, both by giving lots of attention in the State of the State message to

restructuring the EMS system and now with improved legislation for some \$650 million over three years to address dental concerns. Along the way, a draft report was composed and distributed to the members of the Planning Committee and also to PHHPC for further consideration with the stipulation that these recommendations or this draft should be considered confidential and with the replies only going to two network staff. As it turned out, the committee members had lots of considerations to consider, lots of analysis undertaken. In the meantime, I'm told and expert authority that the next step will be for Planning Committee meeting to rework or revise or edit the draft report for submission, then to the executive chamber for advice and consideration and hopefully for adoption. It was certainly come back to the council too, at the right time for further consideration and approval. In twelve days, there will be a meeting of Ann Monroe and myself with Dr. Heslin, Jackie Sheltry and others to develop an agenda and set a time for that committee meeting. More to follow. Thank you.

Mr. Kraut Thanks so much.

Mr. Kraut Is there any comments or questions?

Mr. Kraut Dr. Boufford.

Dr. Boufford I just have one other point before you close the meeting. It was mentioned in passing in the conversation on the prevention agenda that because of the shift in the prevention agenda, the CPN language tying CON. We've talked about this for a year or so, the language tying CON applications for acute care facilities would need to be modified. That also falls, I think, in the Planning Committee work and Dr. Fisher's office.

Mr. Kraut I think there's just a number of topics that we're going to have to get the committee chairs together to reset the agenda for the council over the next year or so. I think that's it for the day. I want to thank everybody for coming and attending. I just want to remind the next meeting of the Committee Day for the Public Health and Health Planning Council will be held on November 14th in New York City. The full council will then assemble again in New York City on December 5th, 2024.

Mr. Kraut May I have a motion to adjourn?

Mr. Kraut I have a motion, Dr. Berliner.

Mr. Kraut I have a second, Dr. Watkins.

Mr. Kraut We are adjourned.

Mr. Kraut Thank you very much for attending today.

**NYS Department of Health
Public Health and Health Planning Council
Deputy Commissioner Executive Report
December 5, 2024**

OFFICE OF PUBLIC HEALTH

Wadsworth Center

Wastewater Surveillance System Receives Award

The Centers for Disease Control and Prevention recently named six “Centers of Excellence” in the United States for the surveillance of wastewater for infectious diseases. The wastewater surveillance program at the Wadsworth Center was selected as one of these six centers. The Wadsworth Center’s program is responsible for supporting the states of the northeast United States, including the sharing expertise and methods and knowledge and training skills.

While wastewater surveillance has been used in limited settings for nearly two decades it was only during the Covid-19 pandemic that it saw widespread adoption globally and in the United States. A powerful tool to track many infectious diseases, wastewater surveillance can give up to a two-week advance warning of an uptick in hospitalizations for Covid-19, for example, which is very helpful for hospitals managing surges in patients. Since the pandemic, wastewater surveillance at the Wadsworth Center has expanded to test for other diseases such as polio and influenza. Additional pathogens are being considered for addition to the program in New York State as the technologies for wastewater surveillance continue to improve.

Recent White Powder Events and Readiness Stance

In September, many state public health laboratories across the United States, including the Wadsworth Center, were alerted about possible threat letters sent to election officials within their jurisdictions. In late October, federal law enforcement partners reported that additional letters may have been sent nationwide. The FBI is investigating several “white powder letters” that were sent from Oklahoma City, one of which was received by a Buffalo District US Postal Service (USPS) office. The letter was addressed to a former USPS District Manager, who no longer works at that location. Inside the letter was a substance resembling salt or sugar crystals. Testing confirmed that the substance was negative for fentanyl and heroin. A second letter, sent from the same sender, was addressed to the District Manager of the Albany District USPS. Substances in all letters tested negative for biothreat pathogens and toxins.

Environmental Impact Statement for the New Wadsworth Center

The Dormitory Authority of the State of New York hosted a public hearing on October 30, 2024 at The College of St. Rose campus, to both share information on the Draft Environmental Impact Statement for the new Wadsworth Center (project name: Life Science Public Health Laboratory) to be built on the Harriman Campus and also to solicit public comments on the impact statement. All people who spoke were supportive of the new Wadsworth Center. Parking and the security fence were the major concerns expressed, however, these issues were not within the scope of the town hall which was focused on the environmental impact statement.

Regulatory Updates

Wadsworth Center's regulatory division, the Division of Laboratory Quality Certification, is amending several regulations. 10 NYCRR Part 19 Clinical Laboratory Directors and 10 NYCRR Subpart 58-2 Blood Banks will be amended to address discordance with federal clinical laboratory director requirements. General updates to regulations that apply to clinical laboratories in 10 NYCRR Subpart Part 58-1 are also being prepared. In addition, 10 NYCRR Part 52 Tissue Banks and Nontransplant Anatomic Banks is being updated. The new version reorganizes the regulation to simplify and condense requirements, exempts low-risk facilities from licensure, adds application fees, and imposes several new requirements, primarily on reproductive tissue banks. Finally, much needed updates are being made to 10 NYCRR Part 59 Chemical Analyses of Blood, Urine, Breath or Saliva for Alcoholic Content.

Center for Environmental Health

Addressing Lead Service Lines in Public Water Systems

The Center for Environmental Health developed templates for public water systems across the state to document inventories of lead service lines, an important step toward replacement of lead service lines to limit New Yorkers' exposure to lead from their drinking water. Public water supplies were required to submit these inventories to New York State Department of Health by October 2024 by both Environmental Protection Agency's Lead and Copper Rule Revisions and by New York State Public Health Law 1114-b/ Lead Right to Know Act. Over 90% of public water systems have submitted their inventories to the Department and staff are working to obtain compliance by the remaining systems. Once accepted by the Department, the lead service line inventories are made publicly available online, as part of the "New York State Lead Service Line Inventory" dataset and map at Health.Data.NY.gov.

Center for Community Health

Advancing Tobacco Free Communities Program Grantees Announced

The New York State Department of Health announced the award recipients of the Advancing Tobacco-Free Communities Request for Applications on XXX. Twenty-one recipients were awarded a total of \$9,275,000 per year over five years. The [Advancing Tobacco Free Communities program](#) grantees will work to support communities across New York State in creating and reinforcing commercial tobacco-free and vape-free norms. The program utilizes a two-pronged approach of community and youth engagement (the latter branded as [Reality Check](#)) that both center on engaging communities to protect youth from exposure to harmful tobacco marketing in retail settings, limit exposure to secondhand smoke, and reduce the impact of tobacco product waste on the environment. In addition, grantees will issue subawards to local community organizations in support of local partnerships to advance health equity in this work, because all New Yorkers deserve protections from the harms of the tobacco industry.

Peer Education, Outreach, and Shared Decision Making for Persons at High Risk of Prostate Cancer Program

The Bureau of Cancer Prevention and Control funds four organizations to conduct the Peer Education, Outreach, and Shared Decision Making for Persons at High Risk of Prostate Cancer program. The program works to improve outcomes related to prostate cancer and prostate cancer screening to address the disproportionate burden of prostate cancer experienced by Black males, who are one and a half times more likely to get prostate cancer and almost twice as likely to die of the disease as compared to white males. The program provides prostate cancer education, personalized coaching, linkage to community services to address barriers to health care, and referral to health care providers for prostate cancer screening. In the first year of this five-year program, 1,159 males were educated about prostate cancer, 317 participated in coaching with peer educators, and 176 (56% of coaching participants) were screened.

A multi-media campaign (television, social media, and digital ads) promoting breast cancer screening with a focus on reaching Black women who are not up to date with screening ran from August through mid-November. The ads referred individuals to the [NYS DOH breast cancer screening campaign web page](#) for more information.

The [NYS DOH breast cancer web pages](#) were updated to align with recent guideline changes to begin breast cancer screening at age 45 and to incorporate inclusive language.

Division of Public Health Infrastructure

Public Health Infrastructure Grant

The Public Health Infrastructure Grant is preparing to enter its third year. Overarching themes for year three include: Office of Public Health Visibility, Partnership Development and Capacity Building. Ninety percent of the positions projected in the grant have been hired. The PHI team looks forward to sharing Year two accomplishments in the first quarter of the new year.

Public Health Continuing Education Unit

In collaboration with Region 2 Public Health Training Center and its partners, the Public Health Continuing Education Unit organized, *Mastering the Art of De-Escalation: Strategies for Field Visits* training. The training took place on Tuesday, November 12, 2024, and was well received by public health professionals. On November 20, 2024, the Public Health Continuing Education Unit in collaboration with the Center for Public Health Continuing Education at the University at Albany, Association of State and Territorial Health Officials (ASTHO) Office of the Director at District of Columbia Department of Health hosted a public health live webcast titled: *Trauma Responsive Leadership for the Public Health Workforce*. Participants learned the importance of trauma responsive programming supporting the healing and wellbeing of the public health workforce for bringing about systems-level change. And be able to summarize examples of best practices of trauma-responsive leadership in public health discuss best practices. If interested, registration is still open: <https://www.albany.edu/cphce/public-health-live>

Community Engagement and Outreach Unit

The Community Engagement and Outreach Unit continues to build its core team of staff through the Public Health Infrastructure Grant. On November 19, 2024, the Bureau of Health Equity and Community Engagement (Division of Family Health) and the Community Engagement and Outreach Unit (Division of Public Health Infrastructure) came together to share and identify best practices engaging with community-based partners post COVID-19 pandemic. Both teams are operating through two Centers for Disease Control and Prevention grants and have been encouraged to get together to identify sustainable practices. The day-long event featured overviews of several units that make up the Public Health Infrastructure grant workforce, the Bureau of Health Equity and Community Engagement, both program evaluation teams and grant administration. This meeting will set the blueprint to be shared with other teams within the Office of Public Health to engage with non-traditional community-based partners in public health initiatives.

New York State Public Health Fellowship Program

The New York State Public Health Corps Fellowship Program launched its second iteration in August 2024. Fifty-six host organizations in 49 New York State counties are participating in the program, and include local health departments, the State Health Department, and community-based organizations. There are currently 181 active Fellows, with an additional 10 fellowship positions under recruitment. The goal is to recruit and onboard individuals for these remaining positions by January 13, 2025. Fellows work full-time at their host organizations and actively participate in a variety of professional development activities, including certificate training programs and monthly webinars, to increase their public health knowledge and skills development. All fellowship positions are through July 31, 2026. Evaluation of the first iteration of the program is underway.

OFFICE OF PRIMARY CARE AND HEALTH SYSTEMS MANAGEMENT

Statewide IV Transformation Grants

Application reviews for RFA #20244, Statewide Health Care Facility Transformation Program IV, are ongoing, with awards expected to be announced in early 2025. The Department anticipates announcing awards to all three open Statewide grants (general healthcare transformation, nursing home alternatives, and health information technology) close to the same time.

Safety Net Transformation

The Department continues accepting Letters of Interest for the Safety Net Transformation Program, which is the first step of the application process. Details are on the Department's website, and Letters of Interest can be submitted to the Department via email to SafetyNetTransformation@health.ny.gov.

The Department will review Letters of Interest for eligibility and merits of the proposed collaboration model and transformation plan. Following this review, prospective applicants will be selectively invited to apply for a Safety Net Transformation grant, via email notification to those parties that submitted the Letter of Interest.

The Department has also posted Q&As on the program's webpage, answering common questions regarding Eligibility, Letter of Interest and Application Instructions, and Awards.

The main webpage for this program is [Safety Net Transformation Program](#).

Baxter Supply Interruption

The Department spent a significant portion of October and November working on issues related to an intravenous solution and dialysate shortage created by the disruption of production at a Baxter factory in North Carolina caused by Hurricane Helene. The situation seems to be stabilizing and on November 11, Baxter announced that they expect to reach 100% allocation across several intravenous solution product codes by the end of the year, with additional details on planned, phased increases in allocations in late November, mid-December, and end of year. They also restarted their two highest intravenous solution production lines. They currently expect that peritoneal dialysis solutions and irrigation will be the next two manufacturing lines to restart in early December.

Hospital Capacity Direct Access

The Department continues to work in earnest on modernizing how it gets information from hospitals. One of those efforts, Hospital Capacity Direct Access, has entered its final phase. Over the past month, the final class of approximately 50 hospitals had their kickoff meeting. Once this group has been integrated, the Department will have a method for gaining situational awareness at hospitals 24 hours a day, 7 days a week without the need for someone at the hospital to provide that awareness. We believe this capability will allow earlier identification of issues, easier access to vital information and help alleviate the burden from hospitals that enter information and send it to the Department on a daily basis. This system will be fully operational in 2025.

OFFICE OF AGING & LONG-TERM CARE

Master Plan for Aging

In FY 2026, the Master Plan for Aging will pivot from its preliminary drafting process to a dual agenda of implementation and ongoing monitoring and evaluation. The Master Plan for Aging team in the Office of Aging and Long-Term Care will work with the Executive Chamber and with agencies across New York State government to begin implementing the programs and reforms suggested in the Master Plan for Aging report due in early 2025. That implementation effort will likely include engagement with the legislature, coordination of regulatory changes across agencies, and documentation of overlapping programs and benefits. In parallel with implementing the initial Master Plan for Aging proposals, staff will develop a new structure for ongoing monitoring of the successes of its implementation efforts and will engage in regular consultation with stakeholders and the public. Those monitoring and consultation efforts will result in annual updates to the proposals in the Master Plan for Aging.

The American Rescue Plan Act (ARPA) Funding for Home and Community Based Services

The American Rescue Plan Act provided a ten (10) percent increase in Federal Medical Assistance Percentage to state Medicaid programs based on Home and Community Based Services (HCBS) spending between April 1, 2021, and March 31, 2022, supplementing existing state expenditures for home and community-based services and allowing for expansion and enhanced investments in Medicaid-covered HCBS, response to COVID-related needs, and HCBS capacity building. The Department's American Rescue Plan Act spending plan included funding for Adult Day Health Care, AIDS Adult Day Health Care and Assisted Living Programs to support Medicaid HCBS and particularly the workforce challenges. The funding amounts are \$6.0 million for Adult Day Health Care and AIDS Adult Day Health Care (\$3.0M State Share/\$3.0M Federal Share), and \$40.0 million for the Assisted Living Program (\$20.0 million State Share/\$20.0 million Federal Share). Funds were released to 186 providers in a one-time lump sum payment in early July of 2024. Funding went to 37 Adult Day Health Care Programs, 7 AIDS Adult Day Health Care, and 142 Assisted Living Program providers, all of whom have until July 31, 2025, to expend all ARPA funds received. Funding uses include workforce retention, staff training, community integration for program participants and building adequate personal protective equipment supply stockpiles.

Center for Residential Surveillance

In preparation for State Fiscal Year 2026, we reflect on the accomplishments of this year within the Office of Aging and Long-Term Care. Throughout the year, surveillance teams prioritized surveillance activities. All programs used data to inform surveillance priorities and worked diligently to reduce the number of older complaints and improve efficiencies that would not compromise the integrity of the survey process. Provider training has been a top priority and training opportunities have been made available for real time training and for those unable to participate, recordings have been made and posted, enabling all provider staff to access trainings at their convenience. As the year progressed, training was broadened through collaboration with provider associations and industry professionals, to bring additional focus to improving the resident experience, quality of care and quality of life for our most vulnerable residing in New York's 600 nursing homes and 538 adult care facilities.

These opportunities further the goals of the State's Office of Customer Experience, and in that same spirit, over the next year, we will continue to focus training opportunities on high volume citation areas to improve efficiency and quality both by the Department and providers. Trainings are developed and include presentations by the long-term care associations, resident advocates, and other stakeholders, to illustrate a multi-dimensional perspective.

Additionally, the Center for Residential Surveillance is leveraging available technology resources to update platforms to allow for easier data collection and submission, expedited analysis, reduced environmental burden and improved consistency. We are actively working with the Department's Information Technology Systems staff to identify new ways of eliminating the paper format, including payment portals for nursing home administrators and licensure applications.

Simultaneously, the Center teams continue to leverage data to identify areas of risk, and expand the availability of dynamic quality improvement through targeted interventions, training, and collaborative initiatives to improve outcomes, balance resources, and overall, to ensure safety in these settings.

Statewide Health Care Facility Transformation Program IV – Residential and Community-based Alternatives to the Traditional Model of Nursing Home Care

Subdivision 7 of PHL 2825-g authorizes up to \$50 million for awards to residential and community-based alternatives to the traditional model of nursing home care. Funding can support a variety of projects intended to transform, redesign, and strengthen the quality and innovation of residential healthcare services and programs. Eligible Applicants include hospitals, residential health care facilities, adult care facilities, assisted living programs, children’s residential treatment facilities, community-based providers, and behavioral health community-based providers. Applications for the \$50 million Statewide Residential and Community-based Alternatives to the Traditional Model of Nursing Home Care closed on May 2, 2024. The Department received many qualifying submissions, with requests totaling far more than was allocated, and anticipates awards will be announced in the next few months.

Center for Hospice and Palliative Care, Office of Aging and Long-Term Care

With the appointment of Kara Travis as Director of the Center for Hospice and Palliative Care, the Office of Aging and Long-Term Care now has the leadership and staff in place to focus on improving end-of-life care in New York. Prior to joining the Department, Ms. Travis served as the Executive Director of Mountain Valley Hospice and Palliative Care, a Capital District facility that includes the Nancy Dowd Hospice Home, an eight-bed hospice residence. She brings with her not only operational experience in hospice and palliative care, but also in health systems management.

The Center for Hospice and Palliative Care will mount a statewide education plan to disseminate information on topics such as Advance Care Planning, Patient Rights, and Medical Orders for Life Sustaining Treatment, and to promote the array of services that the hospice benefit offers to patients and their families. Working with providers, advocates, practitioners, and professional associations, the Center for Hospice and Palliative Care will assist the Department to enhance end-of-life services and provide access to the information patients and their families need when facing end of life choices.

OFFICE OF HEALTH EQUITY AND HUMAN RIGHTS

AIDS Institute

Congenital Syphilis Elimination Strategic Planning Group update

The Group held their last in-person meeting in April of 2024 and have since been finalizing their 24 recommendations to serve as a path for a coordinated, comprehensive, and systematic approach to reducing and eliminating congenital syphilis. The recommendations, which are housed within a Congenital Syphilis Elimination Framework will be shared with this Planning Committee and other identified collaborators once the Framework is released.

Sexually Transmitted Infection Dashboard

Launching in early 2025, there will be a new sexually transmitted infection dashboard for New York State. The Dashboard will feature interactive data visualizations of key trends of syphilis, gonorrhea, and chlamydia in the State. Please [subscribe to the mailing list](#) to receive future announcements and notifications about the upcoming Dashboard launch!

Mpox

Compared to 2023, New York State is seeing more mpox diagnoses reported this year. To date, these diagnoses continue to be reported predominately among males, in counties in and around New York City, and all have been Clade II. We remain vigilant in our efforts to ensure individuals have access to education, immunization, treatment, and partner management. The Centers for Disease Control and Prevention recently announced they will be discontinuing the mpox vaccine finder on November 22nd. The updated recommendation for finding information about vaccine availability is to speak with a physician, local pharmacy, health department, or community health center.

Funding and Awards

The Division of HIV and Hepatitis Health Care's Bureau of Community Support Services announced new awards have been issued for the "Ryan White Part B HIV/AIDS Support Services to Address Social Determinants of Health" program. The program will respond to and prioritize the needs of populations adversely impacted by HIV inequities by addressing social determinant of health needs. 25 organizations statewide will receive more than \$15 million annually over the next 5 years to provide Ryan White Part B support services to persons living with HIV. Funded services include non-medical case management, health education/risk reduction, food bank/home-delivered meals, medical transportation, housing, psychosocial support services, emergency financial assistance, and benefits counseling. Providers will implement a new model of Ryan White B support service delivery that consolidates previously separate initiatives to reduce administrative burden on providers and make it easier for clients to access needed services. Contractual start date for services is October 1, 2024.

The Division of HIV/Sexually Transmitted Disease/Hepatitis C Prevention awarded funding to thirty-eight (38) organizations in response to the High Impact Prevention and Services that Address Social Determinants of Health and Reduce Health Disparities within Communities of Color Request for Applications. In total, \$7,294,000 in state funding was awarded. A total of ninety-seven (97) applications were received in response. The contract term for the contracts will be December 1, 2024 – November 30, 2029.

Newly Published Documents:

Development, Evaluation, and Initial Findings of New York State Department of Health Community Drug Checking Pilot Programs -

Article: <https://pubmed.ncbi.nlm.nih.gov/39387612/>

How post overdose response efforts can address social determinants of health among people who use drugs: perspectives from the New York State Department of Health (NYSDOH) Post Overdose Response Team (PORT)

Article: <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-024-01081-z>

Office of Gun Violence Prevention

The Office of Gun Violence Prevention supported Governor Hochul legislation signing to strengthen gun laws on October 9th: Governor Hochul signed a [package of six bills](#) that will strengthen New York's nation-leading gun laws by requiring gun sellers to post safety warnings about the risk of having a gun in the home and provide information about statewide resources related to safe storage of firearms, child access prevention and firearm violence prevention. The bills also expand the definition of pistol converters, modernize the state's process for filing extreme risk protection orders (ERPOs), and strengthens law enforcement and financial institution's ability to quickly identify suspicious purchasing patterns, particularly when it involves firearms or ammunition.

The Office of Gun Violence Prevention was awarded the Community-Based Violence Intervention and Prevention Initiative grant by the [Office of Justice Programs](#). This federal investment is aimed at reducing violence and enhancing safety in our communities. This funding enables organization to expand efforts through collaborative, evidence-based programs that engage residents, organizations, and key stakeholders in creating lasting solutions to prevent and reduce violence. The Office of Gun Violence Prevention plans to utilize this funding to enhance the integration of health systems into the already-robust CVI ecosystem across New York.

Office of Minority Health and Health Disparities Prevention:

Health Initiative for Men (HIM) program

Mt. Vernon Neighborhood Health Center dba/ Westchester Community Health Center implements a Health Initiative for Men (HIM) which addresses the alarming health disparities faced by Black/African American and Hispanic men. Men of color experience significant disparities in healthcare access and outcomes when compared to their counterparts. By dedicating an evening each week at its clinic for men of color to receive comprehensive physical exams along with health and wellness workshops held in the waiting room, Westchester Community Health Center aims to hear directly from this targeted population. Exams will be conducted by experienced medical professionals who are from the community.

Nations

The American Indian Health Program/First Nations Health and Wellness Program Director accompanied Commissioner McDonald to the first ever Nation Summit hosted by Governor Hochul at the Executive Mansion in July of 2024. Nation leadership met with state agency leads to ask questions and discuss needs and opportunities. Questions about the American Indian Health Program and discussions about various health needs were compiled. The American Indian Health Program/First Nations Health and Wellness Program Director connected with each Nation to provide requested information and to ensure any additional items were identified and addressed.

Additional Activities/Events

- The Office of Minority Health and Health Disparities Prevention, in partnership with the SUNY Albany Center for the Elimination of Minority Health Disparities, held a *Symposium on Best Practices in Demographic Data Collection and Utilization*. The conference included 15 speakers, starting with the Commissioner of Health, Dr. James V. McDonald. The keynote speaker was Dr. Susan Jenkins from the US Department of Health and Human Services. The conference was attended by 160 people, including staff and community members from the Department, local health departments, health systems, community organizations, and SUNY.
- Staff of the Office, as part of the Rural Health Collaborative facilitated by this office, and in collaboration with the Charles D. Cook Office of Rural Health, helped organize a presentation for the NYS Rural Health Networks to share information on maternal and child health programs serving rural areas in New York.
- Staff of the Office of Minority Health and Health Disparities Prevention, in collaboration with the Office of LGBTQ+ Services in the AIDS Institute, completed a 4-part learning series focused on LGBTQ+ health disparities, services, and policies. The series was for Department of Health staff and reached over 200 staff members between May and October, 2024. The webinar, *Legislation and Policies Protecting the Rights of LGBTQ+ Individuals* and included an overview of the NYS legislative process and an overview of legislation and policies protecting the rights of LGBTQIA+ individuals and communities, as well as highlight the work being done by the Department, and grassroots organizations.

Partnerships for Perinatal Health: Novel Approaches towards Breastfeeding Equity Resilience

The Office of Minority Health and Health Disparities Prevention Associate Commissioner Alvarado-Little spoke at the 20th Annual Hudson Valley Regional Perinatal Public Health Forum Partnership for Perinatal Health: Novel Approaches toward Breastfeeding, Equity and Professional Resilience. The presentation: *Addressing Health Disparities and Achieving Health Equity: The Importance of Communication from a Cultural and Linguistic Perspective* focused on creating an awareness of clear communication to best support this linguistically diverse audience.

Language Access and Health Literacy

NYS Department of Health Language Access Plan

New York State Language Access Law requires the Department's Language Access Plan to be updated every two years. This includes but is not limited to providing a list of translated documents and the languages in which those documents are available, identifying agency staff who have language access skills and abilities, preparing a training plan and annual monitoring plan, and describing outreach strategies. The Office of Minority Health and Health Disparities Prevention designated language access coordinator oversees language access activities supporting the NYS Language Access Law. In total, nine Department of Health programs submitted 119 documents utilizing over 16 languages. The Department's language access plan was submitted to the OGS Office of Language Access by the deadline of August 30th, 2024.

Pursuant to the authority vested in the Public Health and Health Planning Council and the Commissioner of Health by section 2803 of the Public Health Law, section 405.19 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) is hereby amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Paragraph (5) of subdivision (c) of section 405.19 is amended to read as follows:

(5) (i) The emergency service shall provide for the identification, assessment and referral of individuals with documented substance use disorders or who appear to have or be at risk for substance use disorders, as that term is defined in section 1.03 of the Mental Hygiene Law, as described in subdivision (f) of section 405.9 of this Part.

(ii) The emergency service shall develop and implement policies and procedures for the identification, assessment and referral of patients with behavioral health presentations, including:

(a) The review of records, if any, in any available information network databases, including the Psychiatric Services and Clinical Knowledge Enhancement System (PSYCKES), and the Statewide Health Information Network for New York (SHIN-NY).

(b) With the patient's consent where required by law, identifying and contacting the individual's family members or close friends who interact with the patient to obtain collateral information, including any psychiatric advance directive.

(c) Screening for suicide risk, which shall require positive screens be followed by a suicide risk assessment by a licensed professional trained in assessing suicide risk.

(d) Screening for violence risk, which shall include a process for subsequent assessment and intervention in the case of a positive screen. As part of the screening, all patients

must be asked about access to firearms or other weapons.

(e) Screening to determine whether an individual has complex needs. Social determinants must be considered in such discharge planning. For purposes of this paragraph, “individual with complex needs” shall have the meaning as determined by the Commissioner of Mental Health in Title 14 of the NYCRR.

(iii) In general hospitals with inpatient psychiatric units under 14 NYCRR Part 580, to accomplish adequate discharge planning for individuals with complex needs in need of post emergency treatment or services, the emergency service shall develop and implement policies and procedures for the discharge of an individual with complex needs, including:

(a) For patients in care management programs, coordinating discharge planning with care managers in such programs.

(b) Scheduling and confirming an appointment for psychiatric aftercare with an identified provider within seven calendar days following discharge and sending a discharge summary detailing the presenting mental health history, hospital course, and other relevant information to the outpatient, residential, or long-term care treatment program for a patient who wishes to receive psychiatric aftercare services. If, after making diligent efforts, a hospital cannot identify an aftercare provider with an available appointment within seven calendar days, the hospital shall document its efforts, including efforts to schedule the appointment for as soon as possible thereafter. In the extraordinary event an appointment for psychiatric aftercare cannot be secured at all, the hospital shall document its efforts before discharging the patient and provide such documentation to the department upon request. Individuals who are leaving the hospital against medical

advice, or who state they do not wish to receive aftercare services, must be offered information about available treatment options.

REGULATORY IMPACT STATEMENT

Statutory Authority:

Public Health Law (PHL) § 2803 authorizes the Public Health and Health Planning Council (PHHPC) to adopt and amend rules and regulations, subject to the approval of the Commissioner, to implement the purposes and provisions of PHL Article 28, and to establish minimum standards governing the operation of health care facilities.

Legislative Objectives:

The legislative objectives of PHL Article 28 include the protection of the health of the residents of the State by promoting the efficient provision and proper utilization of high-quality health services at a reasonable cost.

Current Requirements:

General hospital emergency services are required by 10 NYCRR § 405.19(c)(7), in conjunction with the discharge planning program of the hospital, to develop policies and procedures that specify the actions to be taken, and the appropriate contact agencies and individuals to accomplish adequate discharge planning for persons in need of post emergency treatment or services, but not in need of inpatient hospital care. A general hospital emergency department must refer emergency department patients for appropriate follow-up care after discharge from the hospital, including individuals with documented substance use disorders or who appear to have or be at risk for substance use disorders. However, the current regulations do not specifically reference discharges of patients with other behavioral health presentations and complex needs from the emergency department.

Needs and Benefits:

The proposed rule will require general hospital emergency services to develop policies and procedures for intake and discharge of patients with behavioral health presentations. The proposed rule will also add new screening requirements for risk of suicide and violence.

In addition, emergency departments in hospitals with inpatient psychiatric units must follow a more person-centered discharge plan for patients with complex needs. To accomplish adequate discharge planning for these individuals, general hospitals with inpatient psychiatric units must create and implement a discharge plan that addresses the patient's complex needs. These changes ensure that discharge plans will address the post-emergency needs of the patient, including confirmation of appointments for psychiatric follow-up after a hospital visit, moving clinicians away from treating only the medical emergency.

These new requirements for emergency departments will help improve patient outcomes, reduce the risk of post-discharge self-harm and violence, and reduce the risk of readmission and disconnection from care.

COSTS:**Costs to Private Regulated Parties:**

The new screening requirements will increase staffing needs to accomplish this screening. Hospitals may need to hire more social workers, discharge planners, and administrative support staff to implement discharge plans that address the patient's complex needs. Cost to the regulated parties will be dependent upon the number of staff hired and the prevalent wages in the community where the regulated party is located. It is estimated that these costs will range from \$500k per year for a small hospital, to up to \$2.5M a year for a large

hospital. The Department will provide guidance to hospitals and will work with hospitals and hospital associations on the development of policies and procedures to implement the requirements of this regulation.

Costs to Local Government:

There are 13 hospitals owned by counties and municipalities which will be affected by this regulation and the costs associated with it. If the regulated party is owned by a local government, the costs will be comparable to the costs to private regulated parties.

Costs to the Department of Health:

It is estimated that at least 100 new complaints per year will be received after the implementation of this regulation. These complaints will result in approximately 75 onsite investigations at a cost of approximately \$2.1M per year to the Department. This cost considers the number of hours that will be incurred by the surveillance team to investigate the complaint, collaborate with the Office of Mental Health (OMH) if needed, write up the statement of deficiency and review the plans of correction.

Costs to Other State Agencies:

OMH will also incur costs if they perform investigations into complaints and issues alleged or identified.

Local Government Mandate:

Hospitals owned by counties and municipalities are required to comply with the

requirements of this regulation.

Paperwork:

General hospitals are already required to establish written policies and procedures related to various operational requirements, train staff in such policies and procedures, and refer patients to appropriate follow-up care. Therefore, the proposed regulations increase their paperwork to the extent that existing policies and procedures need to be updated to conform to these regulations.

Duplication:

While existing regulations require hospitals to make appropriate referrals, those regulations do not specifically reference patients with behavioral health presentations and complex needs. There otherwise are no relevant State regulations which duplicate, overlap, or conflict with the proposed regulations.

Alternatives:

The Office of Mental Health and the Department on Health, on October 20, 2023, issued joint guidance regarding evaluation and discharge practices for individuals who present with behavioral health conditions within psychiatric inpatient programs, emergency departments, and Comprehensive Psychiatric Emergency Programs (CPEPs). The Department opted to codify the guidance through these regulations, in part, for general hospitals with psychiatric inpatient programs to further strengthen evaluation and discharge requirements and to help improve patient outcomes, reduce the risk of post-discharge self-harm and violence, and reduce the risk of

readmission and disconnection from care. This regulation is necessary to turn provisions in the guidance into rules that general hospitals must follow.

Federal Standards:

The proposed regulations do not duplicate or conflict with any federal regulations.

Compliance Schedule:

The regulations will be effective upon publication of a Notice of Adoption in the New York State Register.

Contact Person: Katherine Ceroalo
New York State Department of Health
Bureau of Program Counsel, Regulatory Affairs Unit
Corning Tower Building, Room 2438
Empire State Plaza
Albany, New York 12237
(518) 473-7488
(518) 473-2019 (FAX)
REGSQNA@health.ny.gov

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES AND LOCAL GOVERNMENTS

Effect of Rule:

The proposed regulatory provisions related to discharges from hospital emergency departments will apply to all general hospitals in New York State. This proposal will not impact local governments unless they operate one of the 13 general hospitals owned by counties and municipalities. Such local governments will be affected by this regulation and the costs associated with it. The general hospitals with emergency departments required to comply with these regulations are not small businesses.

Compliance Requirements:

These regulations will require general hospitals to develop new policies and procedures for intake and discharge of patients with behavioral health presentations and complex needs from emergency departments. Hospitals will be required to train their licensed and certified clinical staff members in such policies and procedures.

Professional Services:

While the current regulations do not specifically refer to intake and discharge of patients with behavioral health presentations or complex needs from hospital emergency departments, hospitals are already required to establish written policies and procedures related to various operational requirements, train staff in such policies and procedures, and refer patients to appropriate follow-up care. Hospitals are not likely to need outside professional services to comply with the requirements of this regulation.

Compliance Costs:

While the current regulations do not specifically refer to intake or discharge of patients with behavioral health presentations or complex needs from emergency departments, hospitals are already required to establish written policies and procedures related to various operational requirements, train staff in such policies and procedures, and refer patients to appropriate follow-up care. The proposed regulations do require additional effort to ensure that the policies and training encompass the policies and procedures for patients who have behavioral health presentations or complex needs. However, these efforts are expected to assist individuals in obtaining treatment that will help them avoid future emergency room visits and hospital admissions. Costs to regulated parties will be dependent upon the number of staff hired and the prevalent wages in the community where the regulated party is located. It is estimated that these costs will range from \$500k per year for a small hospital, to up to \$2.5M a year for a large hospital. The Department will provide guidance to hospitals and will work with hospitals and hospital associations on the development of policies and procedures to implement the requirements of this regulation.

Economic and Technological Feasibility:

This proposal is economically and technically feasible. While existing regulations do not specifically refer to intake or discharge of patients with behavioral health presentations or complex needs from emergency departments, hospitals are already required to establish written policies and procedures related to various operational requirements, train staff in such policies and procedures, and refer patients to appropriate follow-up care.

Minimizing Adverse Impact:

The regulations afford general hospitals flexibility to develop and implement their own policies and procedures that meet the minimum requirements of the regulations, which is expected to minimize the costs of compliance. In addition, if after making diligent efforts, a hospital cannot identify an aftercare provider with an available appointment within seven calendar days, the regulations provide flexibility to allow a hospital to document its efforts and schedule the appointment for as soon as possible thereafter.

Small Business and Local Government Participation:

Development of these regulations included input from organizations including those whose members include general hospitals that are operated by local governments or that constitute small businesses. The essential requirements of this regulation were announced in the Governor's State of the State address on January 9, 2024. This regulation was on the agenda of the meeting of the Public Health and Health Planning Council (PHHPC) that took place on February 8, 2024, in accordance with the Open Meetings Law. At that meeting, the regulation was reviewed and discussed by PHHPC members. In addition, the public, including the affected parties to this regulation, were afforded an opportunity to ask questions and provide comments.

In addition, there were conference calls made to associations representing the hospital industry to inform them of the regulation and to provide an opportunity to ask questions.

The regulation must be presented a second time at an open meeting of PHHPC, with another opportunity for public comment, and the regulation cannot be established unless and until PHHPC approves adoption of the regulation.

RURAL AREA FLEXIBILITY ANALYSIS

Types and Estimated Numbers of Rural Areas:

This rule applies uniformly throughout the state, including rural areas. Rural areas are defined as counties with a population less than 200,000 and counties with a population of 200,000 or greater that have towns with population densities of 150 persons or fewer per square mile. The following 44 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2020 (<https://www.census.gov/quickfacts/>).

There are 55 general hospitals in rural areas.

Allegany County	Greene County	Schoharie County
Broome County	Hamilton County	Schuyler County
Cattaraugus County	Herkimer County	Seneca County
Cayuga County	Jefferson County	St. Lawrence County
Chautauqua County	Lewis County	Steuben County
Chemung County	Livingston County	Sullivan County
Chenango County	Madison County	Tioga County
Clinton County	Montgomery County	Tompkins County
Columbia County	Ontario County	Ulster County
Cortland County	Orleans County	Warren County
Delaware County	Oswego County	Washington County
Essex County	Otsego County	Wayne County
Franklin County	Putnam County	Wyoming County
Fulton County	Rensselaer County	Yates County
Genesee County	Schenectady County	

The following counties have a population of 200,000 or greater and towns with population densities of 150 persons or fewer per square mile. Data is based upon the United States Census estimated county populations for 2020.

Albany County	Niagara County	Orange County
Dutchess County	Oneida County	Saratoga County
Erie County	Onondaga County	Suffolk County
Monroe County		

Reporting, Recordkeeping, Other Compliance Requirements and Professional Services:

The proposed regulation is applicable to those general hospitals located in rural areas and is expected to impose only minimal costs upon hospitals, which are already required to establish written policies and procedures related to various operational requirements, train staff in such policies and procedures, and refer patients to appropriate follow-up care. However, the proposed regulatory requirements can be incorporated into existing processes, which should help to minimize the administrative burden on these entities.

Costs:

While the current regulations do not specifically refer to discharges of patients with behavioral health presentations or complex needs from hospitals emergency departments, hospitals are already required to establish written policies and procedures related to various operational requirements, train staff in such policies and procedures, and refer patients to appropriate follow-up care. The proposed regulations do require additional effort to ensure that the policies and training encompasses the policies and procedures for patients with behavioral health presentations or complex needs discharged from emergency departments. However, these efforts are expected to assist individuals in obtaining treatment that will help them avoid future emergency room visits and hospital admissions. Costs to regulated parties will be dependent upon the number of staff hired and the prevalent wages in the community where the regulated party is located. It is estimated that these costs will range from \$500k per year for a small hospital, to up to \$2.5M a year for a large hospital. The Department will provide guidance to hospitals and will work with hospitals and hospital associations on the development of policies and procedures to implement the requirements of this regulation.

Minimizing Adverse Impact:

The regulations afford general hospitals flexibility to develop and implement their own policies and procedures that meet the minimum requirements of the regulations, which is expected to minimize the costs of compliance. In addition, if after making diligent efforts, a hospital cannot identify an aftercare provider with an available appointment within seven calendar days, the regulations provide flexibility to allow a hospital to document its efforts and schedule the appointment for as soon as possible thereafter.

Rural Area Participation:

Development of these regulations included input from organizations including those that include as members general hospitals located in rural areas.

The essential requirements of this regulation were announced in the Governor's State of the State address on January 9, 2024. This regulation was on the agenda of the meeting of the Public Health and Health Planning Council (PHHPC) that took place on February 8, 2024, in accordance with the Open Meetings Law. At that meeting, the regulation was reviewed and discussed by PHHPC members. In addition, the public, including the affected parties to this regulation, were afforded an opportunity to ask questions and provide comments.

In addition, there were conference calls made to associations representing the hospital industry to inform them of the regulation and to provide an opportunity to ask questions.

The regulation must be presented a second time at an open meeting of PHHPC, with another opportunity for public comment, and the regulation cannot be established unless and until PHHPC approves adoption of the regulation.

STATEMENT IN LIEU OF JOB IMPACT STATEMENT

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. No adverse impact on jobs and employment opportunities is expected as a result of these proposed regulations.



Department of Health Public Health and Health Planning Council

Project # 242088-C BronxCare Hospital Center

Program: Hospital
Purpose: Construction

County: Bronx
Acknowledged: August 26, 2024

Executive Summary

Description

BronxCare Hospital Center (BCHC), a 170-bed, voluntary not-for-profit, Article 28 teaching hospital at 1276 Fulton Avenue (Bronx County), requests approval to certify an additional 20 adult psychiatric beds and perform renovations to create a new psychiatric unit. BCHC also seeks approval to decertify 66 chemical dependence beds (30 rehabilitation and 36 detoxification) and update BCHC Fulton Division's operating certificate to include 124 Psychiatry beds. The 66 chemical dependence beds have not been utilized since 2014, when, at the request of the Office of Addiction Services and Supports (OASAS), 45 chemical dependence beds were relocated to BCHC's Article 32 Life Recovery Center. OASAS approved the decrease from 66 beds to 45 beds based on community need, and lower inpatient utilization projections.

BCHC's operating certificate was not updated in 2014 to reflect the approved transfer of inpatient chemical dependence services to the Article 32 Life Recovery Center. This CON submission will update the BCHC's operating certificate to reflect the removal of the 45 chemical dependence beds now in operation at the Life Recovery Center, the decrease of one additional chemical dependence bed, and the conversion of the remaining 20 licensed chemical dependence beds at BCHC to inpatient psychiatric beds.

The proposed 20-bed adult inpatient specialty short stay (between 7 and 9 days) unit will serve as BCHC's psychiatric bed complement and will be for patients requiring 72 hours or more for stabilization.

The proposed 20-bed psychiatric unit will be in vacant space at BronxCare's Fulton Campus and is consistent with the New York Governor's and Office of Mental Health Commissioner's (OMH) priority regarding the need to expand psychiatric bed capacity at community-based hospitals across New York State.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 36,657 patient days in Year One and Year Three with a Medicaid at 67.29% and Charity Care at 0.61%.

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

The total project cost of \$8,042,752 will be funded with \$42,754 in cash from existing operations of BCHS, and \$7,999,998 in Behavioral Health Centers of Excellence Program awards. The award consists of \$2,666,666 from Fidelis Care, \$2,666,666 from Healthfirst, and \$2,666,666 from MetroPlusHealth.

<u>Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$61,147,957	\$64,871,868
Expenses	<u>61,591,404</u>	<u>65,518,346</u>
Net Loss	(\$443,447)	(\$646,478)

Health Equity Impact Assessment

The information and analysis presented in the Health Equity Impact Assessment and the applicant's mitigation plan demonstrate the proposed project will not result in any significant adverse health equity impacts.

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 documentation of approval by the Office of Mental Health, acceptable to the Department. [PMU]
3. Submission of the executed agreement documenting approval for funding, and terms thereof, under the Behavioral Health Centers of Excellence Program (BHCOEP) by Fidelis Care, acceptable to the Department of Health. [BFA]
4. Submission of the executed agreement documenting approval for funding, and terms thereof, under the Behavioral Health Centers of Excellence Program (BHCOEP) by Healthfirst, acceptable to the Department of Health. [BFA]
5. Submission of the executed agreement documenting approval for funding, and terms thereof, under the Behavioral Health Centers of Excellence Program (BHCOEP) by MetroPlusHealth, acceptable to the Department of Health. [BFA]
6. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]
7. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]

Approval conditional upon:

1. This project must be completed by **July 15, 2026**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **April 15, 2026**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

December 5, 2024

Need Analysis

Project Description

BronxCare Hospital Center, a 170-bed, voluntary, not for profit hospital, at 1276 Fulton Avenue, Bronx, New York is seeking approval to add 20 Adult Psychiatric beds and to decertify 66 Chemical Dependency Beds. BronxCare is a Safety Net Hospital System and Mental Health Provider in Bronx county serving the South and Central Bronx areas. This proposal will also include renovations of the 7th floor to encompass this new psychiatric unit.

Background and Analysis

The primary service area encompasses the South and Central Bronx. Bronx County's overall population is estimated to increase to 1,597,728 or 10.7% by 2029 per projection data from the Cornell Program on Applied Demographics. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Bronx County	New York State
Total Population – 2022 Estimate	1,443,229	19,994,379
Hispanic or Latino (of any race)	56.4%	19.5%
White (non-Hispanic)	8.6%	53.8%
Black or African American (non-Hispanic)	28.3%	13.8%
Asian (non-Hispanic)	3.8%	8.8%
Other (non-Hispanic)	2.9%	4.1%

Source: 2022 American Community Survey (5-Year Estimates Data Profiles)

In 2022, 92.4% of the population in Bronx County had health coverage as follows.

Employer Plans	30.1%
Medicaid	43.3%
Medicare	6.87%
Non-Group Plans	11.8%
Military or VA	0.379 %

Source: Data USA

Applicant Projected Payor Mix			
Payor	Current	Year One	Year Three
	Inpatient		
Commercial	5.52%	5.57%	5.57%
Medicare	26.64%	26.30%	26.30%
Medicaid	66.95%	67.29%	67.29%
Charity Care	0.64%	0.61%	0.61%
Other	0.24%	0.23%	0.23%
Total Patient Days	30,086	36,657	36,657

The increase in visits is expected to come from the continued growth of the department and the ability to accept additional referrals from area shelters and outpatient clinics. The table below shows the change in licensed bed types upon completion of this project.

Service	Beds	Bed Change	Beds After Completion
Chemical Dependence - Rehabilitation	30	-30	0
Chemical Dependence - Detoxification	36	-36	0
Psychiatric	104	20	124
Total	170	-46	124

The 66 Chemical Dependence beds have not been used since 2014 when, at the request of the Office of Addiction Services and Supports (OASAS), 45 Chemical Dependence beds were moved to BronxCare's nearby Article 32 licensed Life Recovery Center where SPARCS data shows utilization of approximately 50%.

The table below represents the psychiatric occupancy at BronxCare which has been increasing over the past 3 years. According to the applicant, during the current year the psychiatric unit has exceeded a 100% threshold at times.

Bronxcare Hospital Psychiatric Occupancy			
	2021	2022	2023
Psychiatric	88.2%	92.0%	92.3%

Source: SPARCS

The applicant expects adult psychiatric patients to come from the following sources:

- BronxCare Comprehensive Psychiatric Emergency Program (CPEP)
- BronxCare Emergency Department (ER)
- BronxCare Inpatient Medical Units
- FDNY Transports
- BronxCare Ambulatory Outpatient Practices
- Other Bronx-based Hospitals and Community-Based Outpatient Providers
- Shelters
- Self-referrals from the community and patient recommendations

According to the applicant, patients are first seen in its Comprehensive Psychiatric Emergency Room for evaluation and treatment. When it is determined that an inpatient admission is required and there is no bed availability, patients remain in CPEP until a bed becomes available. Currently, the median wait time from CPEP arrival to admission to the inpatient services is three days.

The table below shows the 2023 adult psychiatric bed occupancy and distance of other Bronx County hospitals from BronxCare:

Adult Psychiatric Inpatient Occupancy for Hospitals Within Bronx County				
PFI	Name	Adult Psychiatric Beds	2023 Bed Occupancy	Distance from BronxCare Hospital
1164	BronxCare Hospital Center	104	92.3%	-
1172	Lincoln Medical & Mental Health Center	60	41.5%	1.7 miles/12 min
1176	SBH Health System	49	86.9%	2.0 miles/12 min
1169	Montefiore Medical Center-Henry & Lucy Moses Division	22	100.0%	4.6 miles/27 min
1165	Jacobi Medical Center	107	61.7%	4.9 miles/ 27 min
1186	North Central Bronx Hospital	70	53.7%	4.6 miles/28 min
1168	Montefiore Medical Center-Wakefield Hospital	33	99.6%	6.4 miles/28 min

Source: SPARCS and Google Maps

According to the applicant, this project is being proposed for the following reasons:

- Help resolve current capacity situations.
- Reduce ER and Comprehensive Psychiatric Emergency Program (CPEP) wait times for patients requiring psychiatric admission.
- Effectively manage the admission and discharge planning process.
- To help meet the Governor's and Office of Mental Health Commissioner's priority to expand psychiatric bed capacity at community-based hospitals across New York State.
- Promote Well-Being and Prevent Mental and Substance Use Disorders identified in BronxCare's Community Service Plan.

- Respond to the many disparities associated with the high incidence of mental health disorders in the Bronx Community.

Conclusion

The addition of these beds will help address current occupancy issues and reduce wait time.

Program Analysis

Project Proposal

Operator	BronxCare Health System
Site	BronxCare Hospital Center
Site Address	1276 Fulton Ave., Bronx, NY 10456 (Bronx County)
Shift / Hours / Schedule	24 hours / 7 days a week
Current Services	Ambulatory Surgery – Multi Specialty Cardiac Catheterization – Adult Diagnostic Cardiac Catheterization – Percutaneous Coronary Intervention (PCI) Certified Mental Health Services O/P Chemical Dependence – Rehabilitation O/P Chemical Dependence – Withdrawal O/P Clinical Part Time Comprehensive Psychiatric Emergency Program Emergency Department Lithotripsy Medical Services – Other Medical Specialties Medical Services-Primary Care Methadone Maintenance O/P Therapy-Physical O/P
Staffing (1st Year / 3rd Year)	41.0 FTEs for 1 st and 41.0 for 3 rd year

This project proposes to update the Fulton Division's operating certificate to remove all the Chemical Dependence beds while adding 20 new Inpatient Psychiatric Beds. The BronxCare Fulton Division operating certificate will then include 124 Psych beds, after removal of the 66 chemical dependence beds.

The 66 Chemical Dependence beds have not been utilized since 2014 when, at the request of the Office of Addiction Services and Supports (OASAS), 45 Chemical Dependence beds were relocated to the licensed Article 32 Life Recovery Center which is in close proximity to BronxCare.

BronxCare Hospital Center will complete a full gut renovation of 10,030 square feet of the 7th floor, which currently houses underutilized offices and storage areas. This new psychiatric unit will be designed for 20 patients and include the required FGI 2018 program spaces and will create new offices for staff. The scope of work includes installing a new electrical system, a rooftop HVAC unit, upgrading the fire alarm system, adding a new nurse call and sprinklers system throughout the floor except in the electrical closet.

A compliance review of the following facilities indicates:

The Department issued a signed Stipulation and Order (S&O) dated September 3, 2024, and BronxCare Health System / BronxCare Hospital Center was fined \$10,000.00 based on findings from a survey that was completed on May 26, 2023. Deficient practice was cited in Emergency Services - failure to ensure Comprehensive Psychiatric Emergency Program (CPEP), Fulton site, was integrated with other departments of the hospital. Specifically, CPEP patient was found unresponsive and coded, was not intubated to maintain a patent airway. There was no respiratory or anesthesia staff available at CPEP Fulton site.

Compliance with Applicable Codes, Rules, and Regulations

The medical staff will continue to ensure that the 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 expertise. The Facility's admissions policy includes anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, or source of

payment. All procedures are performed in accordance with all applicable federal and state codes, rules, and regulations.

Prevention Agenda

BronxCare Hospital Center, in Bronx County, requests approval for 20 additional and critically needed adult psychiatric beds into available space on BronxCare's Fulton Campus. This project aims to improve capacity and reduce ER and psychiatric Emergency Program (CPEP) wait times.

BronxCare Hospital is implementing multiple interventions to support priorities of the 2019-2024 New York State Prevention Agenda, including:

- Prevent Chronic Diseases
- Promote Wellbeing and Prevent Mental and Substance Use Disorders

The proposed project will advance the selected local Prevention Agenda priorities that were identified in the most recently completed Community Service Plan (CSP) and improve access to care for patients. As per the latest available report, in 2021, BronxCare Hospital spent \$0 on community health improvement services.

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

Total Project Cost and Financing

Total project cost for the modernization and movable equipment is \$8,042,752, detailed as follows:

Renovation & Demolition	\$5,825,850
Design Contingency	582,585
Construction Contingency	582,585
Architect/Engineering Fees	466,750
Other Fees	50,000
Movable Equipment	279,000
Telecommunications	210,000
Application Fee	2,000
Processing Fee	<u>43,982</u>
Total Project Cost	\$8,042,752

The project will be funded with cash from existing operations of BCHC and funding awards from Manage Care Organizations (MCO); BFA Attachments A and B, BCHC's 2023 Audited Report and Special Purpose Combined Financial Statements and 2024 Internal Financial Statements, indicating sufficient resources to cover the project cost.

Operating Budget

The applicant has provided the current year (2023) results and the first- and third-year operating budget for adult inpatient behavioral health services in 2024 dollars. The budget is summarized below:

	<u>Current Year</u>		<u>First Year</u>		<u>Third Year</u>	
Inpatient (IP)						
Revenue:	<u>Per Disch.</u>	<u>Total</u>	<u>Per Disch.</u>	<u>Total</u>	<u>Per Disch.</u>	<u>Total</u>
Commercial FFS	\$2,151.78	\$2,416,451	\$2,007.07	\$2,771,760	\$2,129.30	\$2,940,560
Commercial MC	\$1,148.64	619,119	\$1,281.92	846,070	\$1,359.99	897,596
Medicare FFS	\$1,072.82	2,907,330	\$1,038.23	3,433,418	\$1,101.46	3,642,513
Medicare MC	\$1,114.25	5,911,114	\$1,120.67	7,098,325	\$1,188.92	7,530,613
Medicaid FFS	\$2,607.29	8,452,832	\$2,524.76	9,447,644	\$2,678.52	10,023,006
Medicaid MC	\$1,939.59	32,783,006	\$1,812.97	37,932,788	\$1,923.38	40,242,895
All Other*	\$20,755.07	1,515,120	\$18,792.00	1,616,112	\$19,936.43	1,714,533
IP Revenue		\$54,604,972		\$63,146,117		\$66,991,716
Less: Bad Debt		<u>1,515,120</u>		<u>1,998,160</u>		<u>2,119,848</u>
Total Revenue		\$52,665,011		\$61,147,957		\$64,871,868
Expenses						
Operating	\$1,959.96	\$58,967,231	\$1,656.88	\$60,736,248	\$1,757.78	\$64,435,090
Capital	<u>16.92</u>	<u>509,095</u>	<u>23.33</u>	<u>855,156</u>	<u>29.55</u>	<u>1,083,256</u>
Total Expenses	\$1,976.88	\$59,476,326	\$1,680.21	\$61,591,404	\$1,787.33	\$65,518,346
Net Income/(Loss)		(\$6,811,315)		(\$443,447)		(\$646,478)
Total Patient Days		30,086		36,657		36,657

*All Other revenue is comprised of self-pay only.

The following is noted concerning the submitted budget:

- The Current Year revenues, expenses and utilization are based on the BCHC's 2023 Institutional Cost Report (ICR) and reflect the hospital's current experience in operating adult inpatient behavioral health services. Current Year expenditures include \$38,634,951 in indirect costs.
- In addition to direct costs, the proposed budget includes \$38,817,676 and \$39,202,360 in projected indirect and ancillary costs in Years One and Year Three, respectively.

- The increase in revenue and expenses in Year One and Year Three is due to the anticipated increase in patient days related to the 20 additional beds and additional depreciation expenses related to the construction and movable equipment costs.

Utilization by payor source is as follows:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
Inpatient	<u>Patient Days</u>	<u>%</u>	<u>Patient Days</u>	<u>%</u>	<u>Patient Days</u>	<u>%</u>
Commercial FFS	1,123	3.73%	1,381	3.77%	1,381	3.77%
Commercial MC	539	1.79%	660	1.80%	660	1.80%
Medicare FFS	2,710	9.01%	3,307	9.02%	3,307	9.02%
Medicare MC	5,305	17.63%	6,334	17.28%	6,334	17.28%
Medicaid FFS	3,242	10.78%	3,742	10.21%	3,742	10.21%
Medicaid MC	16,902	56.18%	20,923	57.08%	20,923	57.08%
Charity Care	192	0.64%	224	0.61%	224	0.61%
All Other	73	0.24%	86	0.23%	86	0.23%
Total by Payor	30,086	100.00%	36,657	100.00%	36,657	100.00%

Capability and Feasibility

The total project cost of \$8,042,752 will be funded with \$42,754 in cash from existing operations of BCHC, and \$7,999,998 in Behavioral Health Centers of Excellence Program awards as follows: \$2,666,666 from Fidelis Care, \$2,666,666 from Healthfirst, and \$2,666,666 from MetroPlusHealth.

The working capital requirement is estimated at \$10,265,234, based on two months of first year expenses, and will be funded with equity from ongoing operations. BCHC projects a net loss of (\$443,447) and (\$646,478) in Year One and Year Three, respectively. BCHC has provided a letter indicating willingness to cover projected operating losses in Years One and Year Three with non-operating revenue sources. The budget appears reasonable.

BFA Attachment A, BronxCare Health System 2023 Special Purpose Combined Statements of Operations, indicate the facility reported \$93,245,039 in working capital and \$421,742,607 in net assets. During this reporting period, BronxCare Health System generated an operating loss of (\$6,879,452). The operating loss was favorably offset by \$30,701,360 in other income, a \$3,892,423 change in unrealized gains on U.S. Treasury securities and \$24,078,414 due to a change in defined benefit pension plan gains, resulting in a \$51,792,745 increase in net assets without donor restrictions. The operating loss is attributable to a decrease in utilization and staffing issues which required utilizing agency help. These issues have since been addressed, with increases in utilization, and reduction in agency staffing.

BFA Attachment B, BronxCare Health System Internal Consolidated Comparative Statement of Operations for period-ended May 31, 2024, shows the facility reported \$167,302,000 in working capital and \$419,559,000 in net assets and a net income of \$15,618,000.

Conclusion

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

Health Equity Impact Assessment

Health Equity Impact Assessment Summary

The Applicant proposes to add 20 inpatient psychiatric beds to its Fulton location and decertify 66 chemical dependency beds. In 2014, under the direction of the New York State Office of Addiction Services and Supports, the Applicant reduced their chemical dependency beds to 45 and relocated the beds to the BronxCare Life Recovery Center. The beds were not removed from the operating certificate at the time and will be addressed as part of this CON application.

The project aims to increase inpatient bed capacity, facilitating specialty short stays for patients requiring more than 72 hours of stabilization. The intent is to address the psychiatric priority area, focusing on promoting well-being and preventing mental and substance use disorders as identified in the Applicant's Community Service Plan. The project will integrate the 20 inpatient beds into existing infrastructure, which is anticipated to improve the hospital's ability to resolve capacity issues, reduce wait times for the Emergency Room and Comprehensive Psychiatric Emergency Program, and manage patient flow. Bronx County had the highest rate of psychiatric hospitalizations across the state in 2023, highlighting a critical need for additional beds. The Independent Entity found the project has positive impacts for the community, including increased access to inpatient psychiatric services and improved opportunities for accessing long-term supports.

Conclusion

The information and analysis presented in the Health Equity Impact Assessment and the applicant's mitigation plan, demonstrates the proposed project will not result in any significant adverse health equity impacts.

Attachments

BFA Attachment A	BronxCare Health System 2023 Special Purpose Combined Statements of Operations
BFA Attachment B	BronxCare Health System Consolidated Internal Financial Statements for period ended May 31,2024
OHEHR Attachment	Health Equity Impact Assessment



Project # 231170-C

St Johns Episcopal Hospital South Shore

Program: Hospital
Purpose: Construction

County: Queens
Acknowledged: May 4, 2023

Executive Summary

Description

St. John's Episcopal Hospital South Shore (SJEH), a voluntary not-for-profit, Article 28, 257-bed acute care hospital at 327 Beach 19th Street, Far Rockway (Queens County), requests approval to construct a 55,145-square-foot, four-story (plus cellar) extension clinic, directly across the street from the main hospital at 19-20 Brookhaven Avenue. SJEH has submitted two (2) Administrative Action projects to the New York State Office of Mental Health (NYSOMH) for the relocation of the Wellness and Recovery Center (AA #9139) and one for the relocation of the Community Mental Health Program (AA #9136) to the new building. Both projects are under review by the NYSOMH.

The extension clinic will be certified for the following services: Medical Services – Primary Care, Medical Services – Other Medical Specialties, Certified Mental Health O/P, Radiology – Therapeutic O/P, and Ambulatory Surgery – Gastroenterology.

Episcopal Health Services, Inc. (EHS) is the operator of SJEH and the owner of the land on which the building will be constructed. EHS has a long-term lease with St. John's Episcopal Holdings Corp., which will construct the new extension clinic. St. John's Episcopal Holdings Corp. is a Qualified Active Low-Income Community Business (QALICB) whose purpose will be limited to acquiring, financing, owning, and holding the Project (i.e., a single-purpose business entity).

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 51,938 visits in Year One and 56,144 by Year Three with Medicaid at 58% and Charity Care at .9%.

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

The total project cost of \$55,431,196 will be met with cash of \$44,523,615, an equipment lease of \$907,581, and two (2) executed loans totaling \$10,000,000. The \$44,523,615 in cash consists of \$22,543,770 in accumulated funds from SJEH, \$5,973,750 in New Markets Tax Credits, \$2,086,095 Capital Restructuring Financing Program grant (CRFP), and \$13,920,000 in Statewide Health Care Facility Transformation Programs (SHCFTP) grants, Phase 2, and Phase 3.

	<u>Year One</u>	<u>Year Three</u>
Budget:	<u>2024</u>	<u>2026</u>
Revenues:	\$410,266,595	\$413,833,088
Expenses:	<u>405,037,420</u>	<u>407,340,119</u>
Gain/Loss:	\$5,229,175	\$6,492,969

Health Equity Impact Assessment

There was no Health Equity Impact Assessment required for this project under Section 2802-B of the PHL, as it was received by the Department on April 10, 2023.

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 equipment lease financing commitment acceptable to the Department of Health. [BFA]
3. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in NYSDOH BAER Drawing Submission Guidelines DSG‐1.0 Required Schematic Design (SD) and Design Development (DD) Drawings, and 3.38 LSC Chapter 38 Business Occupancies Public Use, for review and approval. [DAS]

Approval conditional upon:

1. This project must be completed by **April 15, 2028**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before June **15, 2025**, and construction must be completed by **January 15, 2027**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a) if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. Supplemental funding from New York State, including but not limited to Vital Access Provider Awards (VAP), Vital Assistance Provider Assurance Program (VAPAP), and 1115 Waiver funding (Direct Payment Template - DPT), may not be used to fund the debt service or any other costs related to this construction project. [BFA]

Council Action Date

December 5, 2024

Need Analysis

Project Description

St. John's Episcopal Hospital South Shore seeks approval to build a new extension clinic across the street from their main hospital and move various outpatient services currently performed in the hospital and other SJEH facilities into it. The extension clinic will house the following Article 28 or dually certified Article 28 and Article 31 services and programs:

- Relocated services:
 - Primary Care and Behavioral Health Services
 - Wellness and Recovery Center and Community Mental Health Center
 - Oncology
 - Gastroenterology
- New - Radiation oncology including adding one Linear Accelerator/LINAC and one PET/CT scanner.

Background and Analysis

The primary service area is Far Rockaway in Queens County, including zip codes 11691, 11692, 11693, 11694, and 11697. This facility is in a Health Professional Shortage Area for Primary Care. The population of Queens County is estimated to increase to 2,554,994 by 2029 per projection data from the Cornell Program on Applied Demographics, an increase of 8.2%. Based on the 2022 US Census Population Estimates from the American Community Survey, the demographics for the primary service area are noted below, including a comparison with the county and New York State.

Demographics	Totals for Primary Service Area	Queens County	New York State
Total Population – 2022 Estimate	132,755	2,360,826	19,994,379
Hispanic or Latino (of any race)	23.17%	28.0%	19.50%
White (non-Hispanic)	33.51%	23.8%	53.8%
Black or African American (non-Hispanic)	35.15%	16.7%	13.8%
Asian(non-Hispanic)	3.71%	25.9%	8.8%
Other (non-Hispanic)	4.46%	5.6%	4.1%

Source: ACS 5-Year Estimates Data Profiles

In 2022, 91.3% of the population in Queens County had health coverage as follows.

Employer Plans	41.7%
Medicaid	26.5%
Medicare	10.7%
Non-Group Plans	12.1%
Military or VA	0.278%

Source: Data USA

The table below shows the project payor source utilization for Year One and Three.

Applicant Projected Inpatient Payor Mix			
Payor	Current	Year One	Year Three
	Inpatient		
Commercial	6.76%	6.76%	6.76%
Medicare	46.58%	46.58%	46.58%
Medicaid	46.01%	46.01%	46.01%
Private Pay	0.41%	0.41%	0.41%
Charity Care	0.02%	0.02%	0.02%
Other	0.17%	0.17%	0.17%
Bad Debt	0.04%	0.04%	0.04%

Applicant Projected Outpatient Payor Mix			
Payor	Current	Year One	Year Three
	Inpatient		
Commercial	13.40%	13.69%	13.80%
Medicare	23.67%	24.37%	24.55%
Medicaid	59.36%	58.54%	58.28%
Private Pay	2.01%	1.87%	1.84%
Charity Care	0.80%	0.85%	0.87%
Other	0.76%	0.68%	0.66%
Bad Debt	0.00%	0.00%	0.00%

Source: Applicant

The applicant estimates 115-150 radiology patients are referred to other facilities each year. Through this project, cancer patients of SJEH will be able to be seen in a more local environment and by SJEH providers for care. The closest Article 28 LINAC machine to SJEH is at Mount Sinai South Nassau, located 8.8 miles and 30 minutes driving time from the proposed location.

With the applicant's relocated services from the hospital and its new proposed service, they project 51,938 visits at the new extension clinic in Year One and 56,114 by Year Three. The table below shows Article 28 services with projected visits being moved into the new pavilion.

St. John's Episcopal Hospital Pavillion Services and Visits, Current and Projected					
Program	Certified NYSDOH Service Category	New/Existing Article 28 Service for SJEH	Current Year (2023)	Year 1	Year 3
Linear Accelerator	Radiation - Therapeutic	New	0	2,250	2,750
PET/CT Scanner (treatment planning for LINAC)	Medical Services - Other Medical Specialties	New	0	1,225	1,593
Primary Care	Medical Services - Primary Care	Existing	7,044	15,285	16,940
Wellness and Recovery	Certified Mental Health Service O/P	Existing	9,023	9,023	9,023
Community Mental Health Center	Certified Mental Health Service O/P	Existing	19,325	19,325	19,325
Medical Oncology (Infusion/Exam)	Medical Services - Other Medical Specialties	New (Private Practice Conversion)	0	2,300	3,450
Gastroenterology	Ambulatory Surgery - Gastroenterology	Existing	855	2,530	3,033
TOTAL	---	---	36,247	51,938	56,114

Source: Applicant

PQIs are rates of admission to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization, or for which early intervention can prevent complications or more severe disease. The table below provides information on the PQI rates for the overall PQI condition of the primary service area, county, and New York State.

Hospital Admissions per 100,000 Adults for Overall PQIs			
PQI Rates: 2021	Average PQI of Primary Service Area	Queens County	New York State
All PQI's	1,234	918	1,050

Below is data from the NYS Cancer Registry that is used to calculate the need for additional LINAC machines based on the New York City Region in accordance with section 709.16.

	LINAC Need in NYC Region	Total
1	Number of Cancer Cases per Year	41,441.60
2	60% will be Candidates for Radiation Therapy	24,864.96
3	50% of (2) will be Curative Patients	12,432.48
4	50% of (2) will be Palliative Patients	12,432.48
5	Course of Treatment for Curative Patients is 35 Treatments	435,136.80
6	Course of Treatment for Palliative patients is 15 Treatments	186,487.20
7	The Total Number of Treatments [(5)+(6)]	621,624
8	Need for LINAC Machines ¹ [(7)/6,500]	96
9	Existing/Approved Resources	79
10	Remaining Need for LINAC Machines	17

¹Each LINAC Machine has capacity for 6,500 Treatments.

Conclusion

The applicant plans to provide Primary Care, Other Medical Specialties, Certified Mental Health, Radiology, and Ambulatory Surgery – Gastroenterology while helping to reduce preventable hospital admissions and serving existing patients from the hospital.

Program Analysis

Program Description

St. John's Episcopal Hospital South Shore (SJEH), a 257-bed acute care hospital located at 327 Beach 19th Street in Far Rockaway (Queens County), seeks approval to certify a new Ambulatory Surgery extension clinic at 19-20 Brookhaven Avenue in Far Rockaway (Queens County), New York 11691. This site is located directly across the street from the main hospital campus. The proposed facility will be certified for Ambulatory Surgery Single Specialty-Gastroenterology, Medical Services-Primary Care, Medical Services-Other Medical Specialties, Certified Mental Health Services O/P, and Radiology Therapeutic O/P.

There will be five floors including the cellar of Article 28 space. There will be Oncology in the cellar with Radiation Oncology, PET/CT, and Building Support. Primary Care, Wellness and Recovery, and Building Support will be on the Ground Floor. The Second Floor will house a Community Mental Health Center, Behavioral Health Center, another Wellness and Recovery Center, and Building Support. The third floor will house oncology exam rooms, infusions, and Building Support. The fourth floor will support endoscopy and Building Support.

The Applicant reports there is a need for 18 additional linear accelerators in Queens County. The Applicant is seeking approval for one (1) linear accelerator within the new proposed extension clinic. This will help to expand the Hospital's cancer service line capability, complement the medical oncology service of the hospital, and provide the Hospital the capability to handle the growing demand for linear accelerator services in accordance with public need. The proposed PET/CT scanner will serve as a general cancer imaging unit as well as a CT simulator for radiation therapy treatment planning. In 2022, the hospital provided 17,627 CT scans on its three (3) conventional CT scanners. SJEH cancer patients requiring infusions are currently seen within the hospital in its four (4) existing infusion stations, which also provide infusions to inpatient cancer patients. In 2022, 82 infusions went through four (4) stations. Through this proposed project, SJEH will add 17 infusion stations to the extension clinic for serving outpatients only.

The Wellness and Recovery Center is a clinic for adults who struggle with more severe behavioral health disorders or may be dually diagnosed. This Center provides a higher frequency and intensity of individual, group, and family treatment. Primary Care that is offered at this site coordinates care of patients with medical health needs and behavioral health services.

The Applicant reports that the proposed extension clinic will provide a needed resource to the area. The Applicant reports that 17% of the PSA is living at or below the Federal Poverty Level, and 42.8% were utilizing public health insurance or had no health insurance. The implementation of this project will result in the creation of a new extension clinic just across the street from the hospital that will enable SJEH to provide services to patients in a more efficient manner.

Staffing is expected to increase as a result of this construction/expansion project by 35.5 FTEs in Year One and 45.5 by Year Three of the completed project.

Compliance with Applicable Codes, Rules, and Regulations

The medical staff will continue to ensure that the 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 expertise. The Facility's admissions policy includes anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, or source of payment. All procedures are performed in accordance with all applicable federal and state codes, rules, and regulations.

Prevention Agenda

St. John's Episcopal Hospital South Shore (SJEH) seeks approval to certify and construct a new extension clinic in Queens County, directly across the street from the Hospital's campus. Through this project, SJEH will construct a new, four (4)-story (plus cellar), 55,145-square-foot extension clinic that will house the following Article 28 or dually certified Article 28 and Article 31 services and programs:

- Radiation Oncology (Linear Accelerator, PET/CT)
- Primary Care
- Wellness and Recovery Center
- Community Mental Health Center
- Behavioral Health Center
- Medical Oncology (Infusion, Exam)
- Gastroenterology

St. John's Episcopal Hospital South Shore is implementing multiple interventions to support priorities of the 2019-2024 New York State Prevention Agenda, including:

- Promote Well-Being and Prevent Mental and Substance Use Disorders
- Prevent Chronic Disease

The implementation of this project will advance the Prevention Agenda priorities selected by SJEH in their most recent Community Service Plan (CSP). In particular, the proposed project will help increase screening and early detection and improve self-management for chronic diseases such as cancer, cardiovascular disease, diabetes, prediabetes, and obesity.

In 2021, St. John's Episcopal Hospital South Shore had \$46,834,449 in Community Benefits Spending (16.08% of total operating expenses) and \$ 985,742 in Community Health Improvement Services spending (0.34 % of total operating expenses).

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

Total Project Cost and Financing

Total project costs for new construction and moveable equipment are estimated at \$55,431,196, broken down as follows:

	St. John's Holdings Corp <u>Sub-Project 1</u> QALICB	St. John's Episcopal Hospital South Shore <u>Sub-Project 2</u>	<u>Total</u>
New Construction	\$21,051,976	\$17,341,991	\$38,393,967
Design Contingency	2,105,198	1,734,199	3,839,397
Construction Contingency	1,052,599	867,100	1,919,699
Architect/Engineering Fees	1,125,251	269,808	1,395,059
Other Fees	25,000	25,000	50,000
Movable Equipment	1,000,000	6,477,881	7,477,881
Financing Costs	400,000	0	400,000
Interim Interest Expense	<u>1,650,000</u>	<u>0</u>	<u>1,650,000</u>
Sub-Total before Fees	\$28,410,024	\$26,715,979	\$55,126,003
CON Application Fee			2,000
CON Processing Fee			<u>303,193</u>
Total Project Cost			\$55,431,196

- Sub-Project #1 –This includes the costs of the core and shell of the entire building (including the roof), plus the fit-out and equipment for the 2nd floor.
- Sub-Project #2 – This includes the costs of fitting out and equipping the new building's cellar, 1st, 3rd, and 4th floors.
- Both sub-projects are Article 28 spaces (some are dually certified under Article 28 and Article 31).

The applicant's financing plan appears as follows:

Equity (contributed entire amount as of June 30, 2024)	\$22,543,770
EHS – executed loan - Capital Impact Partners. Part of the New Market Tax Credit (NMTC) Program. 7-year terms (1/15/21-1/15/28), 5.84% interest rate, 25-year amortization	5,000,000
EHS – executed loan – Non-profit Finance Fund, a non-profit CDFI. 7-year terms (1/15/21-1/15/28), 5.75% interest rate, 25-year amortization	5,000,000
EHS – New Market Tax Credit – has been received as a 7-year-term loan, at which point the debt is forgiven and is effectively treated as a grant. Available to SJEH through the NMTC Program *	5,973,750
SJEH – Lease financing for Pet/CT scanner -Letter of Interest from Pantheon Capital Terms 60 months, the interest rate is based on a five-year U.S. Treasury Rate, which currently stands at 3.86%.	907,581
SJEH - Approved Capital Restructuring Financing Program (CRFP) (funding remaining) on contract # DOH01-C31151GG-3450000	2,086,095
SJEH – Approved Statewide Health Care Facility Transformation Program (SHCFTP) Phase 2 grant. Contract #DOH01-SHCFT2-2018-00545	3,955,000
SJEH- Approved SHCFTP Phase 3 grant. To be used toward gastroenterology #DOH01-SHCFT3-2021-00489	3,340,000
SJEH – Approved SHCFTP Phase 3 grant. #DOH01-SHCFT3-2021-00529	<u>6,625,000</u>
Total	\$55,431,196

* A New Market Tax Credit description is shown as BFA Attachment D.

Operating Budget

The applicant has submitted their current year (2023) and projected operating budgets for the first and third years in 2025 dollars, summarized below:

	<u>Current Yr.</u>		<u>First Year</u>		<u>Third Year</u>	
Revenues-Inpatient:	<u>Per Disch.</u>	<u>Total</u>	<u>Per Disch.</u>	<u>Total</u>	<u>Per Disch.</u>	<u>Total</u>
Medicaid FFS	\$15,231	\$18,597,435	\$15,231	\$18,597,435	\$15,231	\$18,597,435
Medicaid MC	\$23,675	71,047,593	\$23,675	71,047,593	\$23,675	71,047,593
Medicare FFS	\$32,264	75,174,940	\$32,264	75,174,940	\$32,264	75,174,940
Medicare MC	\$13,966	27,163,304	\$13,966	27,163,304	\$13,966	27,163,304
Commercial MC	\$11,450	7,099,076	\$11,450	7,099,076	\$11,450	7,099,076
Private	\$418	15,878	\$418	15,878	\$418	15,878
All Other	\$8,489	<u>169,775</u>	\$8,489	<u>169,775</u>	\$8,489	<u>169,775</u>
Subtotal Inpatient		\$199,268,001		\$199,268,001		\$199,268,001
Revenues-Outpatient:	<u>Per Visits</u>	<u>Current Yr.</u>	<u>Per Visit</u>	<u>First Year</u>	<u>Per Visit</u>	<u>Third Year</u>
Medicaid FFS	\$334	\$2,844,750	\$364	\$3,539,524	\$374	\$3,762,433
Medicaid MC	\$332	24,150,566	\$367	29,198,715	\$374	30,400,174
Medicare FFS	\$589	6,256,436	\$621	7,920,236	\$632	8,434,687
Medicare MC	\$319	6,943,996	\$362	8,826,264	\$375	9,404,686
Commercial MC	\$512	9,378,693	\$578	12,058,337	\$597	12,907,578
Private Pay	\$12	31,641	\$188	535,601	\$255	735,612
All Other	\$312	<u>322,917</u>	\$312	<u>322,917</u>	\$312	<u>322,917</u>
Subtotal-outpatient		\$49,928,999		\$62,401,594		\$65,968,087
Other Operating*		<u>\$148,597,000</u>		<u>\$148,597,000</u>		<u>\$148,597,000</u>
Total Revenue		\$397,794,000		\$410,266,595		\$413,833,088
Expenses						
Operating		\$374,928,063		\$385,387,520		\$387,696,646
Capital		<u>17,196,966</u>		<u>19,649,900</u>		<u>19,643,473</u>
Total Expenses		\$392,125,029		\$405,037,420		\$407,340,119
Net Income (Loss)		\$5,668,971		\$5,229,175		\$6,492,969
Inpatient discharges		9,177		9,177		9,177
Outpatient Visits		136,741		152,432		156,608

* Other Income: Medical Students \$2,423,000, Pharmacy \$1,377,000, Support (NYS & Fed Gov't) \$118,306,000, and Other \$26,491,000.

The following is noted concerning the submitted budget:

- The current year reflects the facility's 2023 revenue and expenses.
- Revenues for new services are based on the experience of other New York State hospitals. For services being relocated, revenues are based on historical experience adjusted for volume.
- For the existing services that will be relocated to the extension clinic, the number and mix of staff were based on SJEH's experience in providing primary care services, including services through its Wellness and Recovery Center, Community Mental Health Center, and other behavioral health programs. The number and mix of staff for new services were based on the experience of other Article 28 programs operating similar services.
- Projected utilization is based on experience. For new services related to radiation oncology, utilization is based on local community patients being referred to providers outside the community.

Utilization by payor source is as follows:

<u>Inpatient</u> <u>Payor:</u>	<u>Current Year</u> <u>2022</u>		<u>Year One</u> <u>2024</u>		<u>Year Three</u> <u>2026</u>	
	<u>Disch.</u>	<u>%</u>	<u>Disch.</u>	<u>%</u>	<u>Disch.</u>	<u>%</u>
Medicaid FFS	1,221	13.32%	1,221	13.32%	1,221	13.32%
Medicaid MC	2,525	32.31%	2,525	32.31%	2,525	32.31%
Medicare FFS	2,051	26.24%	2,051	26.24%	2,051	26.24%
Medicare MC	1,689	21.61%	1,689	21.61%	1,689	21.61%
Commercial MC	506	6.47%	506	6.47%	506	6.47%
Private Pay	14	0.18%	14	0.18%	14	0.18%
Charity	4	0.05%	4	0.05%	4	0.05%
<u>All Other</u>	<u>11</u>	<u>0.14%</u>	<u>11</u>	<u>0.14%</u>	<u>11</u>	<u>0.14%</u>
Total by Payor	7,816	100%	7,816	100%	7,816	100%

<u>Outpatient</u> <u>Payor:</u>	<u>Current Year</u> <u>2022</u>		<u>Year One</u> <u>2024</u>		<u>Year Three</u> <u>2026</u>	
	<u>Visits</u>	<u>%</u>	<u>Visits</u>	<u>%</u>	<u>Visits</u>	<u>%</u>
Medicaid FFS	8,526	6.24%	9,719	6.38%	10,064	6.43%
Medicaid MC	72,643	53.12%	79,518	52.17%	81,207	51.85%
Medicare FFS	10,617	7.76%	12,755	8.37%	13,355	8.53%
Medicare MC	21,749	15.91%	24,387	16.00%	25,094	16.02%
Commercial MC	18,329	13.40%	20,864	13.69%	21,605	13.80%
Private Pay	2,749	2.01%	2,851	1.87%	2,881	1.84%
Charity			1,303			
	1,093	0.80%		0.85%	1,367	0.87%
<u>All Other</u>	<u>1,035</u>	<u>0.76%</u>	<u>1,035</u>	<u>0.67%</u>	<u>1,035</u>	<u>0.66%</u>
Total by Payor	126,716	100%	142,407	100%	146,583	100%

Ground Lease Agreement

The applicant submitted an executed ground lease agreement; the terms are summarized below:

Date:	January 15, 2021
Premises:	Land for the D&TC extension clinic at 19-20 Brookhaven Avenue, Far Rockway (Queens County)
Landlord:	Episcopal Health Services, Inc
Lessee:	St. John's Episcopal Holdings Corp. (QALICB)
Term:	Ninety-nine (99) years
Rent:	\$1 per year
Provisions:	Triple Net
Note:	Landlord and QALICB (Lessee) agree that Landlord is making an unconditional charitable contribution to the QALICA of a portion of the value of the Ground Lease Property in the amount of \$1,900,000.

Operating Lease Agreement

The applicant submitted an executed operating lease agreement; the terms are summarized below:

Date:	January 15, 2021
Premises:	D&TC extension clinic located at 19-20 Brookhaven Avenue, Far Rockway (Queens County)
Landlord:	St. John's Episcopal Holdings Corp. (QALICB)
Lessee:	Episcopal Health Services, Inc.
Term:	35 years
Rent:	\$375,000 per year, paid quarterly at \$93,750 per quarter. 2.5% increase per year In 2028, rent will go up to \$1,219,512 annually, paid quarterly. 2.50% rent increase per year
Provisions:	Triple Net

The lease arrangement is a non-arms-length agreement, meaning the landlord and lessee are related entities. The applicant has submitted letters from two New York Licensed Real Estate Brokers attesting that the lease cost per square foot is at fair market value.

Capability and Feasibility

The total project cost of \$55,431,196 will be met with cash of \$44,523,615, an equipment lease of \$907,581, and two executed loans totaling \$10,000,000 (\$5,000,000 from Capital Impact Partners and \$5,000,000 from Non-profit Finance Fund). The \$44,523,615 in cash consists of \$22,543,770 in accumulated surplus from SJEH, \$5,973,750 in New Markets Tax Credits, \$2,086,095 in Capital Restructuring Financing Program (CRFP), \$13,920,000 in Statewide Health Care Facility Transformation Programs (SHCFTP) Phase 2 and Phase 3.

Incremental working capital will be funded from operations. BFA Attachments A and B present Episcopal Health Services Inc. and Subsidiaries' 2022-2023 certified financial statements and the June 30, 2024 Internal Financial Statements, which indicates the availability of sufficient funds for the project. BFA Attachment C presents SJEH's monthly incremental monthly cash flow analysis. The applicant projects a profit in the first and third years of \$5,229,175 and \$6,492,969, respectively. The budget appears reasonable.

Review of BFA Attachment A and B, Episcopal Health Services Inc. and Subsidiaries' 2021-2022 Certified Financial Statements and September 30, 2023, Internal Financial Statement, shows negative working capital, positive net assets, and positive net income. In 2022, the Corporation received \$114,821,000 in support from New York State through its Value-Based Payment Quality Improvement Program and Vital Access Provider Assurance Program. SJEH has taken steps to improve its financial status including implementing projects that will generate net operating income and help to reverse the negative working capital.

Conclusion

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

Attachments

BHFP Attachment	Map
BFA Attachment A	Financial Summary, Episcopal Health Services Inc., and Subsidiaries' 2022-2023 Certified Financial Statements
BFA Attachment B	Financial Summary, Episcopal Health Services Inc. and June 30, 2024, Internal Financial Statements
BFA Attachment C	St John's Episcopal Hospital South Shore (SJEH), Incremental Cash Flow
BFA Attachment D	Description of the New Markets Tax Credit from Episcopal Health Services Inc. and Subsidiaries 2023 Certified Financial Statement.



Project # 242051-C
ColumbiaDoctors/NewYork-Presbyterian Imaging

Program: Diagnostic and Treatment Center **County:** Westchester
Purpose: Construction **Acknowledged:** August 12, 2024

Executive Summary

Description

ColumbiaDoctors/NewYork-Presbyterian Imaging (CDNYPI), an existing Article 28 diagnostic and treatment center (D&TC), is seeking approval to certify a new extension clinic (the Clinic) on the first and fourth floors at 1111 Westchester Avenue, White Plains NY 10604. The extension clinic will provide imaging services including three (3) MRI machines, one (1) interventional radiology (IR) unit, one (1) Photon CT scanner and one (1) PET CT, three (3) X-Ray rooms, one (1) mammography unit, one (1) mammography unit with stereotactic biopsy, and four (4) ultrasound units.

The proposed extension clinic will be co-located with the hospital extension clinic of New York-Presbyterian Hospital Westchester that received Contingent Approval from the Department in February, 2024, occupying space on the 3rd and 4th floors of the same building. That facility is to be certified for Multispecialty Ambulatory Surgery, , O/P Occupational Therapy, O/P Physical Therapy—Speech Language Pathology, and Other Medical Specialties.

ColumbiaDoctors/NewYork-Presbyterian Imaging is a collaboration between New York-Presbyterian Hospital (NYPH) and The Trustees of Columbia University in the City of New York (Columbia University). The Center has two (2) members. The first member is NYP Programs, Inc., which has as its passive sole corporate member NewYork - Presbyterian Foundation, Inc., a New York not-for-profit corporation. The second member is Columbia NewRad, Inc, whose passive sole member is Columbia University.

Marc Brown, M.D., board-certified in Radiology, will serve as Medical Director. CDNYPI is proposing a Transfer and Affiliation Agreement with NewYork-Presbyterian Hospital, 11.8 miles (18 minutes) from the proposed extension clinic to serve as a backup and provide emergency services.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 38,519 visits in Year One and 66,544 in Year Three with 8.9% Medicaid and 0% Charity Care in Year One and 8.8% Medicaid and 0% Charity Care in Year Three of operations.

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

The total project cost of \$76,801,308 will be met with cash/accumulated funds of \$48,084,371 from NewYork-Presbyterian Hospital and a licensee improvement allowance of \$28,716,937.

Budget:	Year One	Year Three
Revenues	\$19,759,207	\$39,286,942
Expenses	<u>29,546,930</u>	<u>39,591,340</u>
Net Income / (Loss)	(\$9,787,723)	(\$304,398)

Health Equity Impact Assessment

The information and analysis presented in the Health Equity Impact Assessment and the applicant's mitigation plan demonstrate the proposed project will not result in any significant adverse health equity impacts.

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 State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
3. Submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
4. Submission of an executed building lease acceptable to the Department of Health. [BFA]
5. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]

Approval conditional upon:

1. This project must be completed by **March 1, 2026**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **December 1, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. 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]
5. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov [HSP]

Council Action Date

December 5, 2024

Need Analysis

Project Description

Columbia Doctors/New York-Presbyterian Imaging (CDNYPI), an existing Article 28 diagnostic and treatment center (D&TC) at 51 West, 51st Street NY 10019 is requesting approval to certify a new extension clinic on the 1st and 4th floor at 1111 Westchester Avenue, White Plains NY 10604. The proposed center will be certified for services CT Scanner, Magnetic Resonance Imaging, and Medical Services – Other Medical Specialties. The extension clinic will provide imaging services including three (3) MRI machines, one (1) interventional radiology (IR) unit, one (1) Photon CT scanner and one (1) PET CT, three (3) X-ray rooms, one (1) mammography unit, one (1) mammography unit with stereotactic biopsy, and four (4) ultrasound units. CDNYPI also operates extension clinics in Tarrytown and Eastchester.

Background and Analysis

The primary service area for this project includes Westchester and Rockland Counties. The population of Westchester County is projected to increase to 1,033,428 a 3.5% increase and the population of Rockland County is estimated to increase to 354,877 an increase of 5.2% by 2029 according to the Cornell Program on Applied Demographics. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Westchester County	Rockland County	New York State
Total Population	997,904	337,326	19,994,379
Hispanic or Latino (of any race)	25.8%	18.6%	19.5%
White (non-Hispanic)	51.2%	61.9%	53.8%
Black or African American (non-Hispanic)	13.3%	10.9%	13.8%
Asian(non-Hispanic)	6.1%	6.0%	8.8%
Other (non-Hispanic)	3.6%	2.6%	4.1%

Source: 2022 American Community Survey (5-Year Estimates Data Profiles)

In 2022, 95.1% of the population of Westchester County and 95.9% of Rockland County population had health coverage as follows:

Health Plans	Westchester County	Rockland County
Employer plans	56.1%	44.2%
Medicaid	14.1%	28.4%
Medicare	12.9%	11.6%
Non-group plans	11.6%	11.5%
Military or VA plans	0.326%	0.198%

Source: Data USA

The projected payor mix includes:

Applicant Projected Payor Mix		
Payor	Year One	Year Three
Commercial	60.79%	61.54%
Medicare	29.56%	29.08%
Medicaid	8.94%	8.79%
All Other	0.71%	0.59%
Charity Care	0%	0%

The applicant projects 38,519 visits in Year One and 66,544 visits in Year Three for the proposed facility.

This project proposes providing imaging services within a multispecialty ambulatory care center to be operated by New York-Presbyterian Hospital (NYPH). CON-231308 (New York-Presbyterian Hospital Westchester) a hospital extension clinic, has received a Contingent Approval Letter from the Department and will be situated on the 3rd and 4th floors of the same building. The facility approved is certified for the following services Ambulatory Surgery—Multispecialty, Medical Services—Other Medical Specialties, Therapy—Occupational O/P, Therapy—Physical O/P, and Therapy—Speech Language Pathology O/P.

According to the applicant, the new location will offer comprehensive radiological services such as PET/CT, MRI, and expanded cardiac imaging, which is currently available only at their Tarrytown location and currently has a four (4) week wait time to the next appointment. Cardiac imaging aimed at minimizing the need for interventional cardiology procedures will be the focus. Additionally, this site will provide enhanced breast imaging services including stereotactic biopsies, MRI-guided breast biopsies, and contrast-enhanced mammograms to improve diagnostic accuracy and expedite care. These services are currently not offered at the Tarrytown location. The recently opened extension clinic in Eastchester (CON 211264) provides CT Scanner, MRI service as well as Other Medical Specialties, however can accommodate only one screening mammogram unit.

Prevention Quality Indicators (PQIs) are rates of admission to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization, or for which early intervention can prevent complications or more severe disease. The table below provides information on PQI rates for 2021 related to this application.

Hospital Admissions per 100,000 Adults			
PQI Name	Westchester County	Rockland County	New York State
Diabetes Short-Term Complications	46	46	71
Diabetes Long-Term Complications	110	96	117
Chronic Obstructive Pulmonary Disease or Asthma	152	171	239
Hypertension	63	53	70
Heart Failure	301	271	377
Bacterial Pneumonia	75	112	88
Uncontrolled Diabetes	40	37	49
Urinary Tract Infection	117	118	105
Prevention Quality Overall Composite	874	852	1,050

Source: *Health.Data.NY.Gov*

Conclusion

Approval of this project will allow for consolidated access to medical services for Rockland and Westchester County residents.

Program Analysis

Project Proposal

Current Operator	ColumbiaDoctors/NewYork-Presbyterian Imaging
To Be Known As	ColumbiaDoctors/NewYork-Presbyterian Imaging
Site Address	1111 Westchester Avenue, White Plains, NY 10019 (New York County).
Specialties	CT Scanner, Magnetic Resonance Imaging Medical Services – Other Medical Specialties.
Hours of Operation	Monday through Friday, 8 am to 6 pm If needs indicate, hours may expand.
Staffing (1st Year / 3rd Year)	75.17 FTEs / 87.3 FTEs
Medical Director(s)	Marc Brown, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	(Proposed) NewYork-Presbyterian Hospital-Westchester 11.8 miles / 18 minutes away

CDNYPI is working on a Transfer and Affiliation Agreement with NewYork-Presbyterian-Westchester, 11.8 miles (18 minutes) from the proposed extension clinic to serve as a backup and emergency services. The applicant has provided a draft Transfer Agreement.

The Center will be operational five (5) days per week:

- Monday through Friday - 8:00 AM to 6:00 PM
- Weekend hours will be incorporated as determined based on service needs.

The table below presents the projected FTEs in Year One and Year Three after completion of the project.

Positions	Year One FTEs	Year Three FTEs
Management & Supervision	8.7	8.7
Technicians & Specialists	29.0	33.0
Aides, Orderlies & Attendants	2.0	3.0
Registered Nurse	6.0	7.5
Physicians	5.47	9.18
Clerical and Other Administrative	23.5	25.5
Other - Physicist	0.5	0.5
Totals	75.17	87.3

There will be an increase of 12.13 FTEs from Year One to Year Three. The extension clinic will be under the direction of a physician Medical Director and will also have an Administrator who will monitor the operations. Staff of the extension clinic will also be leased through the existing employee lease agreement with Columbia University

The extension clinic will maintain medical records in accordance with applicable requirements, including Section 751.7 of 10 NYCRR, so that all pertinent patient information from exams at the extension clinic are recorded and subject to review and proper evaluation. Epic, electronic medical records system, is shared by all sites in the NYP-CU system to ensure continuity of care across sites and providers.

Marc Brown M.D. will serve as the Medical Director. Dr. Brown received a degree from Columbia University College of Physicians and Surgeons in New York in 1991 and a Bachelor's degree from Harvard University in Massachusetts in 1985. Dr. Brown completed a Pathology Internship at Columbia-Presbyterian Medical Center in New York in 1992. In 1996, Dr. Brown completed a Residency in

Diagnostic Radiology at Columbia-Presbyterian Medical Center in New York. Dr. Brown completed a Fellowship in Ultrasound and Breast Imaging at Columbia-Presbyterian Medical Center in New York in 1997.

Dr. Brown is board certified with the American Board of Radiology. Currently, Dr. Brown is the Medical Director at ColumbiaDoctors/NewYork-Presbyterian Imaging in New York since 2017; is the Executive Vice Chairman for Clinical Operations, in the Department of Radiology at Columbia University Irving Medical Center in New York, since 2008; and was the Medical Director at ColumbiaDoctors Radiology in New York from 2000 to 2017.

New York Presbyterian Hospital-Queens, was issued a Stipulation and Order effective 11/06/17, and was fined \$2,000, based on a survey which occurred on 5/16/16. An Immediate Jeopardy was identified on 5/10/16 for violation of patient rights. The citations were based on utilizing untrained security guards in the application of restraints when doing physical holds of patients in manpower situations.

The staff from the Division of Certification & Surveillance reviewed the ten-year surveillance history of all associated licensed 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 complaints, independent professional reviews, and/or comprehensive/focused inspections.

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

Total Project Cost and Financing

The total project cost for renovations and movable equipment is broken down as follows:

Renovation & Demolition	\$37,629,085
Site Development	72,500
Design Contingency	3,762,908
Construction Contingency	3,762,908
Planning Consultant Fees	20,000
Architect/Engineering Fees	2,257,000
Other Fees	1,850,615
Movable Equipment	21,834,267
Telecommunications	5,189,939
Application Fee	2,000
Additional Processing Fee	<u>420,086</u>
Total Project Cost	\$76,801,308

The financing for this project will be as follows:

Cash / Accumulated Funds from NYPH	\$48,084,371
Licensee Improvement Allowance	<u>28,716,937</u>
Total	\$76,801,308

BFA Attachments A through D show sufficient resources to meet the equity requirement.

Operating Budget

The applicant has submitted an operating budget, in 2024 dollars, for years one and three, summarized below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Proc.</u>	<u>Total</u>	<u>Per Proc.</u>	<u>Total</u>
Revenues:				
Commercial MC	\$727.38	17,031,543	\$833.01	34,115,266
Medicare FFS	\$180.84	1,437,137	\$201.46	2,704,953
Medicare MC	\$190.59	655,805	\$211.46	1,252,913
Medicaid FFS	\$97.90	10,356	\$105.40	20,869
Medicaid MC	\$177.49	592,457	\$201.49	1,138,416
All Other	\$117.31	<u>31,909</u>	\$139.81	<u>54,525</u>
Total Revenue		\$19,759,207		\$39,286,942
Expenses:				
Operating	\$565.47	\$21,781,404	\$478.73	\$31,856,443
Capital	<u>201.60</u>	<u>7,765,526</u>	<u>116.34</u>	<u>7,734,897</u>
Total	\$767.07	\$29,546,930	\$594.97	\$39,591,340
Net Income / (Loss)		<u>(\$9,787,723)</u>		<u>(\$304,398)</u>
Total Visits		38,519		66,544
Cost per Visit		\$767.07		\$594.97

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

<u>Payor:</u>	<u>Years One</u>	<u>Year Three</u>
Commercial MC	60.79%	61.54%
Medicare FFS	20.63%	20.18%
Medicare MC	8.93%	8.90%
Medicaid FFS	0.27%	0.30%
Medicaid MC	8.67%	8.49%
All Other	0.70%	0.59%
Total	100.00%	100.00%

The following is noted with respect to the submitted budget:

- Projected revenues are based on the historical internal ColumbiaDoctors referral trends for each specialty/service line.
- The number and mix of staff were determined by the historical experience of the Center's members in providing radiological surgical services. The staffing levels will be maintained to meet current standards of practice.
- Expenses are projected based on staffing costs, operating expenses, technology and equipment maintenance, administrative overhead, training and development, and variable costs that fluctuate with patient volume.
- The Medicare and Medicaid rates are based on the rates determined by the Centers for Medicare and Medicaid Services (CMS).
- Commercial payor rates are based on the center's negotiated agreements with insurers.
- All Other includes revenue from Self-pay, Workers' Compensation and international patients.
- The applicant indicated they are committed to serving underinsured populations and all persons in need without regard to the patient's ability to pay or the source of payment. The FASC developed a financial assistance policy to be utilized when the center is operational.

Draft Affiliate License Agreement

The applicant has submitted a draft affiliate license agreement for the site to be occupied, summarized below:

Premises:	1111 Westchester Avenue, White Plains, 11217
Licensors:	The New York and Presbyterian Hospital
Licensee:	ColumbiaDoctors at NewYork-Presbyterian Imaging
Term:	30 years
License Fee:	Base fee for total leased space is estimated at \$1,148,385 per year (\$95,698.75 per month) for the 1st year and is based on a \$35.00/sq.ft. multiplied by 32,811 total square footage for the proposed extension clinic. Rent will increase at 2% of the base fee thereafter.
Provisions:	Licensee is responsible for real estate taxes, insurance, utilities and maintenance.

The applicant has indicated that the draft license agreement between the licensor and the lessee is a non-arm's length arrangement. The applicant has submitted letters from two NYS licensed realtors attesting to the reasonableness of the per square footage rental. The extension clinic will have a separate entrance on each floor for its patients.

Capability and Feasibility

The total project cost of \$76,801,308 will be met with cash/accumulated funds of \$48,084,371 from NewYork-Presbyterian Hospital and a licensee improvement allowance of \$28,716,937. The total project cost will be amortized over a 30-year term and will be included in rent paid by CDNYPI.

Working capital requirements are estimated at \$6,598,557 based on two months of third-year expenses. The working capital will be funded through equity from the existing operations of CDNYPI.

BFA Attachment A presents NewYork-Presbyterian Hospital's financial statements for the year ended December 31, 2023, which shows the hospital maintained positive working capital, positive net equity position and excess of revenues over expenses of \$1,185,458,000. BFA Attachment B presents NewYork-Presbyterian Hospital's internal financial statements for period-ended June 30, 2024, during which the hospital maintained positive working capital and positive net equity position and generated a net gain \$663,138,000.

BFA Attachment C presents CDNYPI's financial statements for the year ended December 31, 2023 during which the facility maintained positive working capital and positive net equity position and generated an excess of revenues over expenses of \$18,500,245. BFA Attachment D presents CDNYPI's financial statements for period ended June 30, 2024, during which the facility reported positive working capital and positive net equity position and a net surplus of \$9,204,673.

The submitted budget projects net losses of \$9,787,723 and \$304,398 in Years One and Three, respectively. CDNYPI has provided a letter indicating willingness to cover operating losses with equity from ongoing operations of CDNYPI. The budget appears reasonable.

Conclusion

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

Health Equity

Health Equity Impact Assessment Summary

The anticipated impacts on affected medically underserved groups identified by the Independent Entity are positive. Ten percent of the Applicant's current patient population travel from Rockland and Westchester counties and surrounding areas to midtown Manhattan, where they face a service wait time of three weeks to three months. Providing dedicated imaging services within the project's service area will enhance the patient experience by providing advanced care that is easily accessible to where patients live and receive care, creating a more patient-centric experience and an operationally efficient setting for care. The proposed imaging services operated by the Applicant will complement on-site medical specialties and provide a streamlined and cohesive patient experience in an area that is currently underserved in medical imaging service options. Immigrants and women are more prevalent in the project's service area than the New York State average, and both groups are particularly vulnerable to poor health outcomes without accessible imaging services as preventable measures. Additionally, low income people will benefit from the Applicant's program to connect patients to funding options available at the state-level and/or sliding scale charges.

Conclusion

The information and analysis presented in the Health Equity Impact Assessment and the applicant's mitigation plan demonstrates the proposed project will not result in any significant adverse health equity impacts.

Attachments

BHFP Attachment	Map
BFA Attachment A	The New York and Presbyterian Hospital Consolidated Statements of Financial Position
BFA Attachment B	The New York and Presbyterian Hospital Consolidated Statements of Operations
BFA Attachment C	ColumbiaDoctors/NewYork-Presbyterian Imaging Balance Sheet / Statements of Operations and Changes in Net Assets – 2022 - 2023
BFA Attachment D	ColumbiaDoctors/NewYork-Presbyterian Imaging Balance Sheet as of 6/30/2024 and 12/31/2023 (Audited)
BFA Attachment E	ColumbiaDoctors/NewYork-Presbyterian Imaging Organization Chart
OHEAHR Attachment	Health Equity Impact Assessment



Project # 241095-C
Long Island Jewish Medical Center

Program: Hospital
Purpose: Construction

County: Queens
Acknowledged: March 29, 2024

Executive Summary

Description

The Long Island Jewish Medical Center - Zucker Hillside Hospital (ZHH), a 200-bed psychiatric hospital located at 75-59 263rd St, Glen Oaks, NY (Queens County), seeks approval for the construction of a three-story behavioral health pavilion for adults and geriatric patients. The new pavillion will replace 68 of the 94 beds in the existing Morris Lowenstein building. The 26 remaining beds in the Morris Lowenstein building will still be used for inpatient care, resulting in a net zero change in the total bed capacity on the Zucker Hillside campus.

The project is driven by both clinical considerations and the need for a more modern facility. Overall, this project represents a significant investment in the future of mental healthcare at Zucker Hillside Hospital. The new behavioral health pavilion will relieve overcrowding conditions, limit risks, improve patient safety, and improve staffing workflow.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 3,830 psychiatric inpatient discharges in Year One and Year Three with a Medicaid inpatient percentage of 46%.

Program Summary

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

Financial Summary

Total project cost of \$186,040,473 will be funded with \$18,173,892 in cash and a loan of \$163,565,031 for 30 years at 5% interest.

Behavioral Health

<u>Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$172,035,200	\$176,602,500
Expenses	<u>\$211,430,700</u>	<u>\$213,651,900</u>
Net Income	(39,395,500)	(37,049,400)

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL.

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. Confirmation of final approval by the Behavioral Health Advisory Council and OMH. [PMU]
3. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in BAER Drawing Submission Guidelines DSG-1.0 Required Schematic Design (SD) and Design Development (DD) Drawings, and 2.18 LSC Chapter 18 Healthcare Facilities Public Use, for review and approval. [DASNY]
4. Submission of an executed mortgage acceptable to the Department of Health. [BFA]

Approval conditional upon:

1. This project must be completed by **September 5, 2027**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 5, 2025**, and construction must be completed by **June 5, 2027**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

December 5, 2024

Need Analysis

Background

Long Island Jewish Medical Center – Zucker Hillside Hospital at 270-05 76th Ave, New Hyde Park, NY 11040 seeks approval to construct a replacement behavioral health pavilion to treat geriatric and adult patients. The new facility will replace a portion of the inpatient beds in the aging Morris Lowenstein Building. The new pavilion will use 68 beds from the Morris Lowenstein building leaving 26 beds remaining there. There will be no changes to the operating certificate through the approval of this project. Construction is expected to take two years.

Background and Analysis

The primary service area is Queens County. The county's overall population is estimated to increase to 2,554,994 or 8.2% by 2029 per projection data from the Cornell Program on Applied Demographics. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Queens County	New York State
Total Population – 2022 Estimate	2,360,826	19,994,379
Hispanic or Latino (of any race)	28.0%	19.5%
White (non-Hispanic)	23.8%	53.8%
Black or African American (non-Hispanic)	16.7%	13.8%
Asian (non-Hispanic)	25.9%	8.8%
Other (non-Hispanic)	5.6%	4.1%

Source: 2022 American Community Survey (5-Year Estimates Data Profiles)

In 2022, 91.3% of the population in Queens County had health coverage as follows.

Employer Plans	41.7%
Medicaid	26.5%
Medicare	10.7%
Non-Group Plans	12.1%
Military or VA	0.278%

Source: Data USA

The applicant payor mix is noted below.

Applicant Payor Mix						
Payor	Inpatient			Outpatient		
	Current	Year One	Year Three	Current	Year One	Year Three
Commercial	21.84%	21.88%	21.88%	36.81%	36.81%	36.81%
Medicare	23.84%	23.84%	23.84%	28.98%	28.98%	28.98%
Medicaid	45.85%	45.81%	45.81%	26.03%	26.03%	26.03%
Charity Care	8.23%	8.22%	8.22%	7.27%	7.27%	7.27%
Other	0.24%	0.24%	0.24%	0.91%	0.91%	0.91%

Long Island Jewish Medical Center – Zucker Hillside Hospital Psychiatric Discharges						
	2019	2020	2021	2022	Year 1	Year 3
Psychiatric	4,777	4,114	3,996	3,837	3,830	3,830

Source: Applicant

SPARCS data for psychiatric services shows occupancy has been increasing over the past 3 years, with 80.7% in 2021, 81.5% in 2022 and 83.4% in 2023.

The LIJMC Morris Lowenstein building is aging and outdated. The new mental health pavilion will allow for provision of services in a more modern facility with single bedrooms and bathrooms for approximately 60% of the unit, ample outdoor space, improved nurses' station, and the ability to divide the units into separate functional areas for infection control purposes. There will be no decrease in bed capacity during the renovation and upon completion of the new pavilion. The Morris Lowenstein building will undergo minor renovations and each room will become a single bedded room with its own bathroom. Overall, this project represents an investment in the mental health program at LIJMC.

Conclusion

The creation of this new unit will provide streamlined care and a safer environment for patients and staff.

Program Analysis

Project Proposal

Proposed Operator	Long Island Jewish Medical Center/ Northwell Healthcare, Inc.
To Be Known As	Long Island Jewish Medical Center – Zucker Hillside Hospital
Site Address	270-05 76th Avenue New Hyde Park, NY 11040
Service	No Change
Hours of Operation	24/7
Medical Director(s)	Howard Linder MD

Long Island Jewish Medical Center – Zucker Hillside Hospital seeks approval to construct a behavioral health pavilion to improve the delivery of mental health services for adults and geriatric patients. The new facility will replace a portion of the aged and outdated inpatient beds in the Morris Lowenstein building. Sixty-eight (68) of the ninety-four (94) beds from the existing Morris Lowenstein building will be transferred to the new pavilion. The total bed capacity on the Zucker Hillside campus will remain the same. The project is driven by both clinical considerations and the need for a more modern facility. Overall, this project represents a significant investment in the future of mental healthcare at LIJMC Zucker Hillside Hospital.

This project is located on the Long Island Jewish Medical Center – Zucker Hillside Hospital campus.

The construction of the proposed behavioral health pavilion in the LIJMC campus will not add any net new psychiatric beds to the operating certificate. The intent of this project is to transform care delivery of advanced mental health services at LIJMC, and become a model for safe, cost-effective, and high-quality care. The construction of the pavilion would relieve overcrowding conditions which can increase risks of patient aggression. A modernized and larger facility would thereby alleviate these risks and improve patient safety, and staffing workflow.

In accordance with current policy at Long Island Medical Center's Zucker Hillside Hospital, the ability to pay will not be a factor in the process of accepting patients. Every effort will be made to ensure that appropriate payment is made, but in no circumstance will a patient be refused treatment due to inability to pay. Northwell Health currently has a sliding fee scale for its patients and uninsured patients with household incomes under 500% of the Federal Poverty level are eligible for reduced fees. Expected volume of the proposed extension site is 158,905 visits in Year 1, with no change in visits by Year 3.

Howard Linder, MD is the medical director of the facility. Dr. Linder oversees the overall quality of care at the behavioral health facility. Dr. Linder is currently assistant professor of psychiatry at the Donald and Barbara Zucker School of Medicine at Hofstra/Northwell, where he has been twice recognized with Northwell's Outstanding Teacher Award. He has authored several publications, regularly presented at national meetings, and is a fellow in both the American Psychiatric Association and the Academy of Consultation-Liaison Psychiatry.

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.

Prevention Agenda

Long Island Jewish Medical Center – Zucker Hillside Hospital in Queens County is seeking approval for construction project to improve the delivery of acute psychiatric services for patients with advanced mental health conditions. The intent of this project is to transform care delivery of advanced mental health services at LIJMC and will not add any new psychiatric beds to the facility.

Long Island Jewish Medical Center is implementing multiple interventions to support priorities of the 2019-2024 New York State Prevention Agenda, including:

- Prevent Chronic Disease
- Promote Well-Being and Prevent Mental and Substance Use Disorders
- Promote Healthy Women, Infants and Children

The construction of this facility will improve the delivery of care for patients with advanced mental health conditions and advances the following selected Prevention Agenda Priority: "Promote Well-Being and Prevent Mental and Substance Use Disorders".

In 2021, Long Island Jewish Medical Center spent \$105,594,711 on Community Health Improvement Services and Community Benefit Operations, which accounts for 3.08% of their total operating expenses.

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

Total Project Cost and Financing

Total project cost for new construction, moveable equipment, shell space and fees of \$186,00,473 as follows:

	<u>Project Cost</u>	<u>Shell Space</u>	<u>Total Project Cost</u>
New Construction	120,922,575	\$3,692,975	\$124,615,550
Site Development	\$250,000		\$250,000
Temporary Utilities	\$500,000		\$500,000
Design Contingency	\$11,613,374		\$11,613,374
Construction Contingency	\$5,830,778	\$161,554	\$5,992,332
Plan	\$1,108,889	\$30,724	\$1,139,613
Architect/Engineering Fees	\$9,554,815	\$264,737	\$9,819,552
Construction Management Fees	\$572,000	\$15,848	\$587,848
Other Fees	\$4,898,078	<u>\$135,712</u>	\$5,033,790
Movable Equipment	\$2,920,000		\$2,920,000
Telecommunications	\$14,000,000		\$14,000,000
Financing Costs	\$8,572,329		\$8,572,329
CON Application Fee	\$2,000		\$2,000
Additional CON Fees	<u>\$994,086</u>		<u>\$994,086</u>
Total Project Cost	\$181,738,923	\$4,301,550	\$186,040,473

The applicant will fund project cost with the following:

Cash for the Behavioral Unit	\$18,173,892
Cash for Shell Space	\$4,301,550
Loan for Behavioral unit (30 years at 5% interest	<u>\$163,565,031</u>
Total	\$186,040,473

Morgan Stanley has provided a Letter of Interest (LOI) for the loan at the above stated terms, 30 years at 5% interest.

Operating Budget

The applicant has provided the first- and third-year operating budgets for Behavioral Health Services, in 2024 dollars, summarized as follows:

<u>Revenues</u>	<u>Current Year</u>		<u>First Year</u>		<u>I Third Year</u>	
<u>Inpatient:</u>	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
Medicaid-FFS	\$1,328	11,346,800	\$1,337	\$11,668,700	1,382	\$12,059,000
Medicaid-MC	\$1,554	\$38,642,800	\$1,558	\$39,739,000	1,610	\$41,068,300
Medicare-FFS	\$1,437	\$15,214,300	\$1,443	\$15,645,900	1,491	\$16,169,300
Medicare-MC	\$1,950	\$13,229,800	\$1,953	\$13,605,000	2,018	\$14,060,200
Commercial -MC	\$3,308	\$52,639,200	\$3,311	\$54,132,400	3,422	\$55,943,300
Charity Care	\$252	\$1,509,700	\$253	\$1,552,500	\$261	\$1,604,500
All Other	\$1,027	180,600	\$1,030	\$185,700	1,064	\$191,900
Other Operating		\$3,015,300		\$3,015,300		\$3,015,300
Revenue		<u>(\$2,703,700)</u>		<u>(\$2,703,700)</u>		<u>(\$2,703,700)</u>
Deduction						
Total Inpatient		\$133,074,800		\$136,840,800		\$141,408,100
Revenues						

ExpensesInpatient:

Operating	\$1,797	\$130,911,500	\$1,812	\$135,375,000	\$1,846	\$137,879,600
Capital	<u>\$208</u>	<u>\$15,121,500</u>	<u>\$438</u>	<u>\$32,688,400</u>	<u>\$434</u>	<u>\$32,405,000</u>
Total Inpatient Expenses	\$2,005	\$146,033,000	\$2,250	\$168,063,400	\$2,280	\$170,284,600

Net Inpatient Income (Loss)		(\$12,958,200)		<u>(\$31,222,600)</u>		<u>(\$28,876,500)</u>
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Patient Days		72,867		74,710		74,710
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RevenuesOutpatient:

	<u>Current Year</u>		<u>First Year</u>		<u>Third Year</u>	
	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>
Medicaid-FFS	\$172	\$333,700	\$172	\$333,700	\$172	\$333,700
Medicaid-MC	\$171	\$6,725,400	\$171	\$6,725,400	\$171	\$6,725,400
Medicare-FFS	\$158	\$4,972,300	\$158	\$4,972,300	\$158	\$4,972,300
Medicare-MC	\$179	\$2,622,500	\$179	\$2,622,500	\$179	\$2,622,500
Commercial-FFS						
Commercial-MC	\$296	\$17,325,700	\$296	\$17,325,700	\$296	\$17,325,700
Charity Care	\$260	\$3,008,600	\$260	\$3,008,600	\$260	\$3,008,600
All Other	\$143	<u>\$206,200</u>	\$143	<u>\$206,200</u>	\$143	<u>\$206,200</u>
Other Operating						
Total Outpatient Revenue		35,194,400		\$35,194,400		\$35,194,400

ExpensesOutpatient:

Operating	\$272	\$43,184,500	\$272	\$43,184,500	\$272	\$43,184,500
Capital	<u>\$1</u>	<u>\$182,900</u>	<u>\$1</u>	<u>\$182,900</u>	<u>\$1</u>	<u>\$182,900</u>
Total Outpatient Expenses	\$273	\$43,367,400	\$273	\$43,367,400	\$273	\$43,367,400

Net Outpatient Income (Loss)		(\$8,173,000)		(\$8,173,000)		(\$8,173,000)
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Visits		158,905		158,905		158,905
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The following is noted with respect to the submitted inpatient behavioral health services operating budget:

- Revenue, expense, and utilization assumptions are based upon the current experience of Long Island Jewish Medical Zucker Hillside Hospital.
- The Zucker Hillside Hospital internal cost accounting system was used to generate revenue, expense, utilization, and payer rate assumptions based upon the related inpatient days applicable to the project.
- Staffing assumptions were developed with the Clinical and Operational leadership using staffing models in existing programs.
- The expense and utilization assumptions are based upon the per diem Variable Direct Cost. Once the variable direct costs are calculated, overhead costs are developed using the experience of the clinical and management staff at the hospital. Depreciation expense, based upon the estimated capital costs, are added to calculate the total cost.
- Revenue and payer assumptions are based upon the current experience of the existing volume and payer mix at ZHH.
- Using the revenue and expense as calculated a per day amount was applied to the projected patient days to calculate the incremental revenue, salary, and non-salary expense.

Utilization by payor for the first and third year is summarized below:

<u>Inpatient Behavioral Health</u>	<u>Current Year</u>		<u>Years One & Three</u>	
	<u>Patient Days</u>	<u>%</u>	<u>Patient Days</u>	<u>%</u>
Medicaid-FFS	8,542	11.72%	8,726	11.68%
Medicaid-MC	24,869	34.13%	25,502	34.13%
Medicare-FFS	10,586	14.53%	10,843	14.51%
Medicare-MC	6,784	9.31%	6,967	9.33%
Commercial-MC	15,915	21.84%	16,349	21.88%
All Other	176	0.24%	180	0.24%
Charity Care	<u>5,995</u>	<u>8.23%</u>	<u>6,143</u>	<u>8.22%</u>
Total	72,867	100%	74,710	100%

- The breakeven utilization for the Behavioral Health Unit (Inpatient only) is projected at 74,241 Patient Days in Year One.

<u>Outpatient Behavioral Health</u>	<u>Current Year and Years One and Three</u>	
	<u>Visits</u>	<u>Percentage</u>
Medicaid-FFS	1,935	1.22%
Medicaid-MC	39,434	24.82%
Medicare-FFS	31,429	19.78%
Medicare-MC	14,617	9.20%
Commercial-MC	58,490	36.81%
All Other	1,445	.90%
Charity Care	<u>11,555</u>	<u>7.27%</u>
Total	158,905	100%

Capability and Feasibility

The total project cost of \$186,040,473 is comprised of the behavioral unit cost of \$181,738,923 which will be met with \$18,173,892 in cash and a loan for \$163,565,031 at 5% for 30 years and the shell space of \$4,301,550 which will be financed by accumulated funds of Northwell. Morgan Stanley has provided a LOI for the lending. BFA Attachment A, 2021-2023 Certified Financial Statements and BFA Attachment B, 1/1/2024-3/31/2024 Internal Financial statements of Northwell Health, Inc. show sufficient funds to cover their portion of the project cost and the shell space.

BFA Attachment A, 2021-2023 Certified Financial Statements of Northwell Health, Inc., show the entity maintained positive working capital, a positive net equity position and a net income of \$197.7M in 2023. BFA Attachment B, 1/1/2024-3/31/2024 Internal Financial Statements of Northwell Health, Inc., show the entity has maintained positive working capital, a positive net equity position and a net income of \$359.3M.

The submitted budget indicates a net loss of \$31,222,600 and \$28,876,500 in Years One and Year Three, respectively for the Behavioral Health Unit. The overall net loss is projected at \$39,395,600 in Year One and \$37,049,500 in Year Three. The budget appears reasonable. The CFO of Northwell has provided a letter stating Northwell would cover any losses related to the project.

Conclusion

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

Attachments

BFA Attachment A	2021-2023 Certified Financial Statements of Northwell Health, Inc.
BFA Attachment B	1/1/2024-3/31/2024 Internal Financial Statements of Northwell Health, Inc.



Project # 232123-E
Fifth Avenue Surgery Center

Program: Diagnostic and Treatment Center
Purpose: Establishment

County: New York
Acknowledged: October 12, 2023

Executive Summary

Description

Fifth Avenue Surgery Center, LLC (The Center), the operator of an existing Article 28 Diagnostic and Treatment Center (D&TC), requests approval to transfer 30.4% ownership interest to fourteen (14) new members, 11.6% ownership interest to two (2) existing members, and .9% interest from one (1) withdrawing member to the remaining members. The Center operates as a multi-specialty freestanding ambulatory surgical center (FASC), with its main site at 1049 Fifth Avenue, New York, an extension clinic at 305 East 47th Street, New York.

This application seeks approval to create a new Class M membership interest in the Center for 14 new Class M members: CHC Partner Holdings, LLC (7.0%), Mega Group Solution, Inc. (2.3%), Christopher Kyriakides, D.O. (1.6%), SIGNME, LLC (6.2%), Marcello Russo (1.2%), Alejandro Chaban (0.8%), Sara Dagan (0.8%), Paul Marino (2.3%), Howard Fineman (2.3%), Michael Cafone (0.8%), STP, LLC (2.3%), Yulia Velilla (.8%), Troy Hime (.8%) and PB Ventures 3, LLC (1.2%). Additionally, Gesheft Associates, LLC will purchase 3.1% Class M membership interest in the Center from Fifth Avenue Surgery Center, LLC; Gregg Rock, DPM will purchase an 8.5% Class M membership interest in the Center from Fifth Avenue Surgery Center, LLC. Finally, current member Baruck Kim, MD. will redeem

his .9% Class F membership interest in the Center and withdraw from the Center.

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no need review per Public Health Law §2801-a (4).

Program Summary

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

Financial Summary

The total purchase price for all memberships interests is \$7,380,000 and will be met with personal resources of the proposed members. There is no budget presented in this review since this application is a change of ownership and there are no changes to current operations.

Health Equity Impact Assessment

The was no Health Equity Impact Assessment required for this project under Section 2802-B of the PHL, as it was received by the Department on October 21, 2023.

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 ownership interest purchase agreement for CHC Partner Holdings, LLC as the purchaser that is acceptable to the Department of Health. [BFA]

Approval conditional upon

1. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov [HSP]

Council Action Date

December 5, 2024

Program Analysis

Project Proposal

Fifth Avenue Surgery Center, LLC (the Center), an existing multispecialty freestanding ambulatory surgical center (FASC), seeks approval to create a new Class M membership structure and to transfer 30.4% Class M membership interest to 14 new Class M members.

In addition, the current Class F member Gesheft Associates LLC will purchase a 3.1% Class M membership interest in the center. Dr. Gregg Rock will purchase an 8.5% class M membership interest and Dr. Baruch Kim will withdraw from the Center.

Fifth Avenue Surgery Center, LLC entered into an Administrative Services Agreement with Surgicore Management NY, LLC on 8/1/2021 for services at the extension clinic. The members of Surgicore are Anthony DeGradi (25%), Wayne Hatami (25%) Feliks Kogan (25%) and Leonid Tylman (25%). Surgicore provides administrative services, billing and collection services and similar administrative and financial services.

There will be no change in services or Medical Director as a result of this application. Staffing is expected to increase from 24.3 FTEs in the Current Year to 37.3 FTEs by Year Three.

Character and Competence

The proposed membership of Fifth Avenue Surgery Center is provided in the chart below.

Members	Current Ownership (Class F)	Proposed		
		Class F (44.6%)	Class M (55.4%)	Total Ownership (Classes F and M combined 100%)
SurgiCore 5th Avenue LLC	59.50%	61.30%	58.10%	59.50%
Anthony DeGradi 25%	14.80%	15.30%	14.50%	14.80%
Wayne Hatami 25%	14.80%	15.30%	14.50%	14.80%
Feliks Kogan 25%	14.80%	15.30%	14.50%	14.80%
Leonid Tylman 25%	14.80%	15.30%	14.50%	14.80%
Gregg Rock, D.P.M.	21.30%	21.90%	8.50%	14.40%
Ajoy Sinha	1.80%	0.00%	0.00%	0.00%
Mark McMahon	2.70%	2.70%	0.00%	1.20%
Barry Katzman	2.70%	2.80%	0.00%	1.20%
Kenneth McCulloch	7.50%	7.70%	0.00%	3.40%
Gesheft Associates LLC	0.90%	0.90%	3.10%	2.10%
Dov Berkowitz, MD 100%	0.90%	0.90%	3.10%	2.10%
HPO Group LLC	2.70%	2.70%	0.00%	1.20%
Imram Ashra 100%	2.70%	2.70%	0.00%	1.20%
Baruch Kim	0.90%	0.00%	0.00%	0.00%
CHC Partner Holdings, LLC	0.00%	0.00%	7.00%	3.90%
Howard Fensterman, Esq. 20.044%	0.00%	0.00%	1.40%	0.80%
Sarah Rosenfeld 14.194%	0.00%	0.00%	1.00%	0.50%
Colin Gaines 3.762%	0.00%	0.00%	0.20%	0.10%
Rose Teitelbaum 2.000%	0.00%	0.00%	0.20%	0.10%
Irina Lerman 20.000%	0.00%	0.00%	1.40%	0.80%
Natalya Orlova 20.000%	0.00%	0.00%	1.40%	0.80%
Robert Slinin 20.000%	0.00%	0.00%	1.40%	0.80%
Mega Group Solution, Inc.	0.00%	0.00%	2.30%	1.30%
Yura Yaguda 100%	0.00%	0.00%	2.30%	1.30%
SIGNME, LLC	0.00%	0.00%	6.20%	3.50%
Svetlana Katanov 100%	0.00%	0.00%	6.20%	3.50%
Marcello Russo	0.00%	0.00%	1.60%	0.90%
Alejandro Chaban	0.00%	0.00%	0.80%	0.40%
Sara Dagan	0.00%	0.00%	0.80%	0.40%
Paul Marino	0.00%	0.00%	3.10%	1.70%
Howard Fineman	0.00%	0.00%	2.30%	1.30%
Michael Cafone	0.00%	0.00%	0.80%	0.40%
STP, LLC	0.00%	0.00%	2.30%	1.30%
Thomas J.Cullinane 100%	0.00%	0.00%	2.30%	1.30%
Yulia Velilla	0.00%	0.00%	0.80%	0.40%
Troy A Hine	0.00%	0.00%	0.80%	0.40%
Christopher Kyriakides	0.00%	0.00%	1.60%	0.90%
TOTAL	100.00%	100.00%	100.00%	100.00%

Noted: The proposed new members reside out of state and will serve to strengthen the Center's liquidity and access to capital. These individuals will not be involved in the Center's clinical operations. The Center's physicians will maintain clinical control for the Center's main site and extension clinic.

Michael Cafone graduated from New York Institute of Technology with a Bachelor of Arts in 1991. Michael is a retired firefighter 2013-2020. Current employment as a marketing researcher for All City Healthcare Center, LLC. Since 2020.

Michael Cafone discloses ownership in:

2018- Present All City Family Healthcare Center, Inc. (0.808%)

2018 – Present Surgicore, LLC (Surgicore Surgical Center in NJ (.058%)

No legal disclosures made.

Alejandro Chaban was an actor from 2008 - 2011. Alejandro is also the current owner and CEO of Chaban Wellness, LLC since 2012.

Legal: Alejandro was named in a class action lawsuit Environmental Research Center, Inc v. Chaban Wellness, LLC (RG17866351) California Supreme Court. The lawsuit alleges that Chaban Wellness, LLC marketed and sold products that were contained lead, and not paying its employees the appropriate commission with overtime hours. Case was settled and closed for an undisclosed amount. This information was disclosed only after DOH inquiry.

Thomas Cullinane is retired since 2019. Mr. Cullinane was the Administrator of Main Street Medical in Long Island from 2013 until retirement in 2019.

Thomas Cullinane discloses ownership interest in:

Surgicore of New Jersey City LLC since 2017 (0.98%) indirectly through JAJ, LLC, Surgicore LLC since 2018 (1.8%)

indirectly ownership with TPP Investment, LLC, and Rockland and Bergen Surgery Center LLC from 2020 (1.8240%). All of these are in New Jersey.

No legal disclosures.

Sara Dagan received a vocational certification in Surgical Technology from Concord Career College in 2004. Sara is also a licensed phlebotomist in the State of Florida, registered through 3/2024. Sara is currently a Life Coach with a focus on professional and personal consultation. No formal work experience per applicant statement.

Howard Fensterman, Esq. received a juris doctorate from Georgetown University in 1978. Howard Fensterman is registered as Juris Doctor – Law in NY and NJ currently and is inactive in MD and DC. Current employment is with Abrams Fensterman, LLP since 2000 as Managing Partner. Managing Partner of 110+ Attorney Law Firm.

Abrams Fensterman, LLP. Howard is named in one ongoing infraction, Ulster Supreme Court 2015 EF2014-3485. Case alleges their law firm participated in withholding legal information from the alleging party, case is in discovery and is ongoing.

Previous Holdings:

Tennessee:

2015-2020 Claiborne & Hughes Skilled Nursing and Rehabilitation Center, Claiborne Management, LLC (8%)

Wisconsin:

2017-2020 The Bay at Eastview Health and Rehabilitation, LLC in Wisconsin (14.25%)

2017-2020 The Bay at Colonial Manor Health and Rehabilitation, LLC (14.25%)

2017-2020 The Bay at North Ridge Health and Rehabilitation, LLC (14.25%)

2017-2020 The Bay at Burlington Health and Rehabilitation, LLC (14.25%)

2017-2020 The Bay at Sheridan Health and Rehabilitation, LLC (14.25%)

2017-2020 The Bay at Waters Edge Health and Rehabilitation, LLC (14.25%)

Massachusetts:

2016-2019 Chicopee Gardens Rehabilitation and Care Center Operations, LLC (8.07%)

Pennsylvania:

2014-2019 Deer Meadows Retirement Community (Deer Meadows Operating, LLC) (7.5%)
2015-2022 Rosewood Rehabilitation and Nursing Center (Rest Haven Operating, LLC) (1.25%)
2016-2022 Meadowview Rehabilitation and Nursing center (WM Operating, LLC) (10.25%)

Michigan:

2017-2021 The Bay at Cranbrook Health and Rehabilitation Center, LLC (16.25%)
2017-2021 The Bay at Elmwood Health and Rehabilitation Center, LLC (16.25%)
2017-2021 The Bay at Woodward Health and Rehabilitation Center, LLC (16.25%)

Florida:

2017-2020 Sandalwood Rehabilitation and Nursing Center (Sandalwood Operating, LLC) (13.07%)

New York:

2005-2018 Grace Plaza Nursing & Rehabilitation Center (Pinegrove Manor II, LLC) (15.67%)

Oklahoma:

2012 – 2019 South Park Care and Rehabilitation Center (South Park Health Care, LLC) (10%)
2012-2016 Buena Vista Care and Rehabilitation Center (Buena Vista Health Care, LLC) (10%)

Current Holdings:

Massachusetts:

2015 – Present Westfield Gardens Nursing and Rehab, LLC (8.8%)

California:

2016- present California Post Acute, LLC (16.2%)
2016 – Present New-Vista Post Acute Care Center, LLC (16.67%)
2016 – Present Rialto Healthcare, LLC (15.33%)
2015 – Present Maclay Healthcare, LLC (16.08%)
2016 – Present Royal Palms Post Acute, LLC (17.67%)
2016 – Present Palazzo Post Acute (Serrano Healthcare, LLC) (17.67%)
2016-Present Hollywood Premier (Serrano Post Acute, LLC) (17.67%)
2016 – Present Royal Terrace Healthcare, LLC (17.67%)
2016 – Present Royal Gardens Healthcare, LLC (17.67%)
2016 – Present Monrovia Post Acute, LLC (17.67%)

New Jersey:

2015-Present Neptune Gardens Nursing and Rehabilitation, LLC (8.35%)

Connecticut:

2016 – Present Waterbury Gardens for Nursing and Rehabilitation, LLC (8.07%)

Legal Disclosure after DOH inquiry:

Nassau Supreme Court 2015 020021/2015 – dismissed
New York Supreme Court 2022 153413/2022 – dismissed
Nassau County District Court – 1st District – dismissed
CV-008283-14/NA Nassau County District Court – 2nd district V-022409-12/HE – dismissed
Queens County Civil Court \V-004446-94/QU – dismissed

Ulster County Supreme Court – alleges the law firm and Howard Fensterman did not provide all distributions to the plaintiff at a closing. It started with 13 claims and 11 have been dismissed. It is anticipated the balance will be at the conclusion of discovery and upon a summary judgment.

Howard Fineman, Esq. acquired a law degree from Hofstra University School of Law in 1991. Howard is the Chairman and Chief Executive Officer of Fineman Global Investment, Inc. an investment and charitable initiatives firm since 2021. Prior experience is with SFTF Holdings, Inc. in Florida since 2005

where the Founder/Owner, Chairman and Chief Executive Officer positions were held by Howard Fineman.

Howard Fineman notes passive investment in the facility delegating all management, oversight and compliance to the local team and experts.

Colin Gaines received a Bachelor of Science from Tulane University in 1969. Colin is currently retired since 2021. Colin Gaines is the business manager of Central Park Medicine and Rehabilitation, P.C. There is no salary taken, however, profits through a sub-s corporation to his wife. Together they have run the business since 1989.

Troy Hine graduated in 1982 with a Bachelor of Science in Health Service Administration from Fredonia State University. Troy Hine is a recent retiree (2023) that served as a senior loan officer and banker at Preferred Mortgage Group since 2013, also as a self-employed property manager and investor from 2013-2023

Dr. Svetlana Katanov became a Doctor of Optometry after completing the SUNY State College of Optometry in 2000. Dr. Katanov is registered in NY through 8/2024.

Dr. Katanov currently serves as the Practice Manager at Med Link PA, LLC since 2017. Prior experience from 2004-2014 at Eye Q Optical in the position of Optometrist.

Dr. Katanov discloses ownership in All City Family Healthcare Center, Inc. since 2017 (0.816%; and New Horizon Surgical Center LLC (NJ) since 2012 (2.05%).

No legal disclosures (see cases below)

Dr. Christopher Kyriakides completed a Doctor of Osteopathic Medicine in 1989 at the NY College of Osteopathic Medicine. Dr. Kyriakides is licensed in New York, New Jersey, and Florida to practice medicine, and will be up for renewal in 2024. Currently, Dr. Kyriakides is an educator at the New York University Medical Center at the Rusk Institute of Rehabilitation Medicine as well as an adjunct professor at the New York College of Osteopathic Medicine.

Dr. Kyriakides discloses ownership in Surgicore of Jersey City, LLC (1.47% and Surgicore, LLC in New Jersey (1.76%).

Dr. Kyriakides was named in a malpractice civil suit 506297/2013, Kings Supreme Court. The alleged patient complains of misdiagnosis of the prostate, which led to the development of cancer. Case is ongoing. 656734/2022, Kings Supreme Court is an insurance billing issue. Case is ongoing. Dr. Kyriakides did *not* initially disclose this legal discourse.

Irina Lerman received from Fashion Institute of Technology a Bachelor of Arts in 2003. Irina is employed by the NY Marketing of Physicians, a marketing consulting firm since 2013.

Paul Marino received a Bachelor of Business Administration from the University of Cincinnati in 1979. Paul is the president of Impress Communications, a branding solutions firm in California, since 1989. Paul Marino notes passive investment in the facility delegating all the management, administration and compliance to the leading team of experts.

Dr. Natalya Orlova completed a Doctor of Dental Surgery at NYU College of Dentistry in 2005. Dr. Orlova's license is current and is eligible to practice in NY. It is up for renewal in 2025. Dr. Orlova is not employed at this time. Dr. Orlova is a dental surgeon with 15 years' experience including recruiting, and practice flow with contracts.

Sarah Rosenfeld has been the CFO of Fortis Business Holdings, LLC for the past 24 years. Sarah has experience in managing and overseeing revenue, expenses, managing risk, and analyzing occupancy trends.

Sarah Rosenfeld discloses ownership in:

2020- Current Buena Vida Rehabilitation and Nursing Center (Buena Vida SNF, LLC) (50%)

Citations from the Department not disclosed for this facility include:

- As a result of the Departments survey there were two (2) civil money penalties applied to the facility which were satisfied and closed. 12/15/2021 the Civil Money Penalty was for \$650.00 and on 12/21/2021 the Civil Money Penalty was assessed for \$5,000.
- The review found that any other citations were properly corrected with appropriate remedial action.

Marcello Russo is a self-employed seminar and conference consultant at Cello Russo Productions, LLC. Since 2022 and at Cello Russo Productions Ltd. In the UK since 2021. Prior employment at Seminar Solutions, Ltd. Villa D'Este in Scotland, UK from 2013-2021.

Robert Slinin has been a real estate agent since 2013. Current Real Estate license through 3/2024. Currently, Robert serves in the capacity of General Manager to the Corporate Transportation Group, a non-emergency medical transport and par-transit service provider. Robert completed their Bachelor of Science in Business Administration in 2009.

Robert Slinin discloses ownership in:

2022-Present Surgicore of Jersey City LLC (1.8%)

No legal disclosures (see cases below)

Rose Teitelbaum is the CFO of ODA Primary Healthcare Network in Brooklyn, NY since 2014. ODA Primary Healthcare Network is a provider of primary and specialty care. Rose acquired a Master of Business Administration in Healthcare Management from Quinnipiac University in 2016. Rose is also currently a certified public accountant, in New York State.

Rose is a board member at Lenox Hill Hospital, NYU Langone Brooklyn PPS Financial Committee, and Finance Committee Member Delivery System Reform Incentive Payment State Of New York.

Yulia Velilla completed a bachelor's degree in 2001 in the State University in Russia. Yulia was employed from 2010 – 2023 by Cesar Velilla MD PA as the General Manager, managing seven (7) locations and 120 employees.

Yura Yaguda is the manager of Guarini Plumbing and Heating since 2016. Prior to that Yura Yaguda held a manager position with D&J Plumbing and Heating from 2006-2016.

Yura Yaguda discloses ownership in:

All City Family Healthcare Center, Inc. since 2019 (1.616%)

Indirect ownership disclosed for:

Bronx SC, LLC D/B/A Empire State Ambulatory Surgery Center since 2022 (0.999%)

NYEEQASC, LLC d/b/a North Queens Surgical Center since 2022 (0.9804%)

Rockland and Bergen Surgery Center LLC since 2020 in NJ (4.5613%)

Past ownership:

Surgicore of Jersey City, LLC 2020-2022 in NJ(5.923%)

Surgicore, LLC from 2020-2022 in NJ (2.33%)

No legal disclosures were provided for these facilities (see court cases below).

Affidavits: Affidavits were accepted from Michigan (3 facilities), Pennsylvania (3 facilities), New Jersey two (2) facilities and Wisconsin (9 facilities) for Howard Fensterman's ownership interest. Wisconsin attestation noted that three (3) of the facilities had level G or higher deficiencies and two (2) were immediate jeopardy situations.

The following is legal court case information in regards to ownership:

Defendant/ Related Facility	Jurisdiction (Court)	Additional Details
Bronx SC, LLC	New York State Court	Medical malpractice case filed by Plaintiff against Bronx SC, LLC on July 8, 2020. Plaintiff alleged foot surgery at Bronx SC, LLC was negligent and unskilled podiatric surgery that departed from the standard of care and left plaintiff sore, sick, lame and disabled.
NYEEQASC, LLC	New York State Court	Medical malpractice case filed by Plaintiff against NYEEQASC, LLC on November 22, 2019. Plaintiff alleged that defendant negligently and improperly placed anchors into right shoulder during surgery, placed the anchors too tightly, and failed to remove spurs.
All City Family Healthcare Center, Inc.	New York State Court	Medical malpractice case filed by Plaintiff against All City on June 24, 2019. Plaintiff alleged All City failed to use reasonable care in rendering medical and anesthesia care during right shoulder surgery leaving Plaintiff with severe and permanent injuries and mental anguish.
Fifth Avenue Surgery Center	New York State Court	Medical malpractice case filed by Plaintiff against Fifth Avenue on February 13, 2019. Plaintiff claimed Fifth Avenue failed and neglected to render proper and adequate podiatric care, causing damages in amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.
Fifth Avenue Surgery Center	New York State Court	Medical malpractice case filed by Plaintiff against Fifth Avenue on June 17, 2019. Plaintiff claimed diagnosed with a perioperative corneal abrasion requiring treatment because of eyes not being properly protected by an anesthesiologist during a non-ocular surgery (eyes were not taped closed or lubricated). Plaintiff experienced severe pain to the eyes and sued for damages in a sum that exceeds the jurisdictional limits of all lower courts except the Supreme Court of New York.
Fifth Avenue Surgery Center	New York State Court	Medical malpractice case filed by Plaintiff against Fifth Avenue on December 4, 2019. Plaintiff claimed Fifth Avenue provided negligent and careless medical and surgical care during left shoulder arthroscopy causing serious and severe permanent personal injuries including injury to left hand, scarring, disfigurement, and need for future surgeries. Plaintiff sued for damages in an amount exceeding jurisdictional limits of all lower courts.
Fifth Avenue Surgery Center	New York State Court	Medical malpractice case filed by Plaintiff against Fifth Avenue on August 11, 2020. Plaintiff claimed Fifth Avenue negligently and carelessly administered anesthesia during right sacroiliac joint surgery and failed to properly and timely treat aspiration of gastric contents during and following surgery. Plaintiff sustained lung damage and vocal cord damage and sued for damages in a sum which exceeds the jurisdictional limits of all lower courts.
New Horizon Surgical Center LLC, et. al.	New York State Court	On or about June 22, 2018, Allstate Insurance Company et al. filed a complaint against New Horizon Surgical Center LLC, its individual owners including Wayne Hatami and Anthony DeGradi, in addition to referring and treating providers. Claims against New Horizon were for common law fraud, violation of New York General Business Law § 349, unjust enrichment, arising primarily from allegations challenging New Horizon's ownership structure, the transportation of patients to its facility in New Jersey and coding and billing in excess of the fee schedule.

Defendant/ Related Facility	Jurisdiction (Court)	Additional Details
New Horizon Surgical Center LLC, et. al.	NJ District Court	In August 2016, GEICO filed a complaint in the United States District Court for the District of New Jersey against New Horizon and a number of medical providers, alleging, notwithstanding that the procedures performed at New Horizon were in many instances certified and pre-approved by GEICO, that certain procedures lacked medical necessity and insurance fraud. In October 2017, the parties entered into a settlement agreement resolving GEICO's claims against New Horizon. A stipulation of dismissal was filed with the Court dismissing the action against New Horizon in January 2018.
Surgicore of Jersey City, LLC, et. al.	New Jersey State Court	On or about March 5, 2018, Christine Barnes filed suit in the Superior Court, Hudson County, alleging harassment, and retaliated against by former employer, Surgicore of Jersey City, LLC. The allegations were denied, but to spare all parties the cost of further proceedings the matter settled pursuant to a settlement agreement and the case was fully disposed.
Fifth Avenue Surgery Center, LLC, et al.	New York State Court	Plaintiff underwent a lumbar medial branch nerve radiofrequency ablation in which Plaintiff was left with physical injuries due to the alleged negligent surgical and medical care received.
New Horizon Surgical Center LLC	New York State Court	Plaintiff alleged negligent performance of shoulder surgery on January 28, 2015.
New Horizon Surgical Center LLC	New Jersey State Court	Plaintiff's estate alleged that the negligent and careless treatment received during cervical anterior discectomy resulted in injury and ultimately to the death of Veronica Ann Gates.
New Horizon Surgical Center LLC	New York State Court	Plaintiff alleged that the medical and podiatric care and treatment she received was careless and negligent leaving her with injuries including left foot drop, neuralgia and neuritis of left lower leg and permanent disfigurement.

Active Cases in regard to disclosed ownerships:

Defendant/ Related Facility	Jurisdiction (Court)	Additional Details
NEW HORIZON SURGICAL CENTER LLC	NJ - Passaic Superior Court	ACTIVE / Docket #L00124923 - Plaintiff: New Jersey Manufacturers; Defendant: New Horizon Surgical Center LLC Filed - 05/10/2023 Other Insurance Claim (including declaratory judgment actions)
SURGICORE OF JERSEY CITY LLC	New Jersey Hudson Superior Court	ACTIVE / Docket #L00334522 - Plaintiff: Hogan Debra; Defendant: Surgicore of Jersey City LLC Filed - 10/6/2022 Medical Malpractice
SURGICORE OF JERSEY CITY LLC	NJ - U.S. District Court	ACTIVE / Docket #23CV217 - Plaintiff: Joshua Batista; Defendant: Surgicore of Jersey City LLC Filed - 10/31/2023 Civil Rights
SURGICORE 5TH AVENUE LLC		ACTIVE / Docket #800462-2022E - Plaintiff: Emmanuel Pina; Defendant: Surgicore 5th Avenue LLC Filed - 01/11/2022 Torts - Medical, Dental, or Podiatrist Malpractice

Defendant/ Related Facility	Jurisdiction (Court)	Additional Details
NORTH QUEENS SURGICAL CENTER	New York Supreme Court - Queens County	ACTIVE / Docket #706977-2022 - Plaintiff: Helene Kloepper; Defendant: North Queens Surgical Center, et al. Filed - 03/31/2022 Torts - Other Professional Malpractice
NORTH QUEENS SURGICAL CENTER	New York Supreme Court - Queens County	ACTIVE / Docket #718773-2022 - Plaintiff: Marlene Cole, et al; Defendant: North Queens Surgical Center, et al. Filed - 09/09/2022 Torts - Medical, Dental, or Podiatrist Malpractice
NYEEQASC, LLC	New York Supreme Court - Queens County	ACTIVE / Docket #717504-2023 - Plaintiff: Wendy Halpern; Defendant: NYEEQASC, LLC, et al. Filed - 08/22/2023 Torts - Medical, Dental, or Podiatrist Malpractice
EMPIRE STATE AMBULATORY SURGERY CENTER	New York Supreme Court - Bronx County	ACTIVE / Docket #801809-2022E - Plaintiff: Thirstine Spires; Defendant: Empire State Ambulatory Surgery Center, et al. Filed - 03/04/2022 Torts - Medical, Dental, or Podiatrist Malpractice
EMPIRE STATE AMBULATORY SURGERY CENTER	New York Supreme Court - Bronx County	ACTIVE / Docket #818365/2022E - Plaintiff; Kyle ChanShue; Defendant: Empire Plaintiff; Kyle ChanShue; Defendant: Empire State Ambulatory Surgery Center, et al. Filed - 12/08/2022 Torts - Medical, Dental, or Podiatrist Malpractice
EMPIRE STATE AMBULATORY SURGERY CENTER	New York Supreme Court - Bronx County	ACTIVE / Docket #806654-2023E - Plaintiff: Emiline Delvalle; Defendant: Empire State Ambulatory Surgery Center, et al. Filed - 04/28/2023 Torts - Medical, Dental, or Podiatrist Malpractice
BRONX SC, LLC	New York Supreme Court - Bronx County	ACTIVE / Docket #818365-2022E - Plaintiff; Kyle Chan Shue; Defendant: Bronx SC, LLC, et al. Filed - 12/08/2022 Torts - Medical, Dental, or Podiatrist Malpractice
FIFTH AVENUE SURGERY CENTER	New York Supreme Court - Bronx County	ACTIVE / Docket #800462-2-22E - Plaintiff: Emmanuel Pina; Defendant: Fifth Avenue Surgery Center. Filed - 01/10/2022 Torts - Medical, Dental, or Podiatrist Malpractice

Of the current 375 active legal cases pending, 68 cases have been disposed.

NYEEQASC, LLC - an additional fifty (50) active legal cases were not added to the above chart. Examples of cases not added - Torts/Other (Declaratory Judgment), Commercial Insurance Disputes, Commercial Contract disputes, Torts/Motor Vehicles, Non-Commercial Contract Disputes, Contract Disputes, Civil Action General and Torts-Other (Trial de novo).

EMPIRE STATE AMBULATORY SURGERY CENTER - an additional eight (8) active legal cases were not included in the above chart. Examples of cases not added - Special Proceedings/CPLR Article 75,

Commercial Contract Disputes, Tort/Other (Declaratory Judgment), Contract Disputes, Commercial Insurance Disputes and Contract Disputes.

BRONX SC, LLC - an additional eleven (11) active legal cases were not added to the chart above. Examples of cases not added - Commercial Insurance Disputes, Commercial contract disputes, Non-Commercial Contract Dispute, Contract Dispute, Torts/Other (Declaratory Judgment) and Torts/Motor Vehicle.

ALL CITY FAMILY HEALTHCARE CENTER, INC. - an additional twenty-three (23) active cases were not added to the chart above. Examples of cases not added - Contract Dispute, Special Proceedings/CPLR Article 75 and Commercial Contract Disputes.

FIFTH AVENUE SURGERY CENTER - an additional one hundred and seventy (170) active legal cases were not added to the above chart. Examples of cases not added - Torts/Motor Vehicle, Torts/Other (Declaratory Judgments), Commercial Insurance Disputes, Non-Commercial Insurance Disputes, Contracts Disputes, Civil Actions/General, Employment Discrimination and Special Proceeding/CPLR Article 75. There were another sixty-eight (68) legal cases that were Disposed between 2018 and 2023.

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 Division of Legal Affairs has reviewed the disclosed lawsuits and has determined these cases do not preclude approval under Public Health Law §2801-a(3). A majority of the lawsuits were brought by no-fault insurance carriers against patients that were seen at clinics managed by members of the proposed operator, but do not allege specific misconduct by those members.

Compliance with Applicable Codes, Rules and Regulations:

The medical staff will continue to ensure that the 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 expertise. The Facility's admissions policy includes anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, or source of payment. All procedures are performed in accordance with all applicable federal and state codes, rules, and regulations.

Conclusion

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

Financial Analysis

Capability and Feasibility

There are no project costs associated with this application. Since there will be no change in operations as a result of this application, an operating budget was not reviewed. The purchase price of \$7,380,000 for the membership interest will be met with equity from the proposed members' personal resources. BFA Attachment A, Net Worth Statement – Proposed Members shows sufficient resources to fund the purchase price of the membership interest.

BFA Attachment C, December 31, 2023, Internal Financial Statements - Fifth Avenue Surgery Center LLC, shows the entity had a positive working capital position, positive net asset position, and a net income of \$2,806,079.

Conclusion

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

Attachments

BFA Attachment A	Net Worth Statement – Proposed Members
BFA Attachment B	Current and Proposed Ownership of Fifth Avenue Surgery Center, LLC
BFA Attachment C	December 31, 2023 Internal Financial Statements of Fifth Avenue Surgery Center, LLC
BFA Attachment D	Ownership Interest Purchase Agreements

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to transfer 30.4% ownership interest to fourteen new members, transfer 11.6% ownership interest to two existing members, and transfer 0.9% interest from one withdrawing member to the remaining members, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

232123 E

FACILITY/APPLICANT:

Fifth Avenue Surgery Center

APPROVAL CONTINGENT UPON:

1. Submission of an executed ownership interest purchase agreement for CHC Partner Holdings, LLC as the purchaser that is acceptable to the Department of Health. [BFA]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf.
Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov [HSP]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Department of Health Public Health and Health Planning Council

Project # 241081-E Meridian Surgery Center

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Establishment **Acknowledged:** April 3, 2024

Executive Summary

Description

JM Care Services, LLC, an existing limited liability company, requests approval to establish a new multi-specialty ambulatory surgery center (ASC) to be shared with Gramercy Surgery Center – Queens (Gramercy) in a temporally distinct arrangement at 59-25 Kissena Boulevard, Flushing. The new ASC will be known as Meridian Surgery Center (Meridian).

The applicant will lease equipment from Gramercy Surgery Center. On February 1, 2024, JM Care Services, LLC entered into an Administrative Services Agreement with Gramercy Group, a Nuehealth Affiliate, LLC.

The proposed ASC will offer services on Saturday and Sunday from 6:00 AM to 6:00 PM, while Gramercy operates Monday – Friday. The proposed center will provide surgical services in otolaryngology, gynecology, general surgery, and plastic and reconstruction surgery.

Dr. Moustafa Mourad is the proposed Medical Director. The ASC is in discussion with Jamaica Hospital for a transfer and affiliation agreement, 5 miles and 10 minutes away.

The proposed ownership of JM Care Services, LLC is as follows:

James Gohar, MD 50%
Mustafa Mourad, MD 50%

OPCHSM Recommendation

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

Need Summary

The applicant projects 900 procedures in Year One and 1,050 in Year Three, with Medicaid at 10% and Charity Care at 2%.

Program Summary

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

Financial Summary

There are no total project costs associated with this application.

Budget:	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,710,000	\$2,185,000
Expenses	<u>1,421,200</u>	<u>1,783,100</u>
Net Income	\$288,800	\$401,900

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

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

1. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations, and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include a commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
2. Submission of a signed agreement with an outside, independent entity satisfactory to the Department to provide annual reports to DOH. Reports are due no later than April 1st for the prior year and are to be based upon the calendar year. Submission of annual reports will begin after the first full or, if greater or equal to six months after the date of certification, partial year of operation. Reports should include:
 - a. Data displaying actual utilization including procedures;
 - b. Data displaying the breakdown of visits by payor source;
 - c. Data displaying the number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
 - d. Data displaying the number of emergency transfers to a hospital;
 - e. Data displaying the percentage of charity care provided;
 - f. The number of nosocomial infections recorded during the year reported;
 - g. A list of all efforts made to secure charity cases; and
 - h. A description of the progress of contract negotiations with Medicaid managed care plans. [RNR]
3. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]

Approval conditional upon:

1. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [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 entities will operate at two separate times; there will be no overlap in hours; the clinical space must be used exclusively for the approved purpose; medical records will be separately maintained for each entity and the entrance must not disrupt any other entity's clinical program space. [HSP]
3. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]

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

Council Action Date:

December 5, 2024

Need Analysis

Project Proposal

JM Care Services, LLC is seeking approval to establish a multi-specialty freestanding ambulatory surgery center at 59-25 Kissena Boulevard, Flushing, 11355 (Queens County). The center will provide Otolaryngology, Gynecology, General Surgery, and Plastic & Reconstructive Surgery. The facility plans to have four operating rooms. The center will operate under the name Meridan Surgery Center.

Background and Analysis

The service area consists of Jamaica, Flushing and Bayside in Queens County. The population of Queens County is projected to increase to 2,554,994 by 2029 based on Cornell Program on Applied Demographics estimates. Demographics for the primary service are noted below including a comparison with New York State.

Demographics	Queens County	New York State
Total Population-2022 Estimate	2,360,826	19,994,379
Hispanic or Latino (of any race)	28.0%	19.5%
White (non-Hispanic)	23.8%	53.8%
Black or African American (non-Hispanic)	16.7%	13.8%
Asian(non-Hispanic)	25.9%	8.8%
Other (non-Hispanic)	5.6%	4.1%

Source: 2022 American Community Survey (5-year Estimates Data Profiles)

In 2022, 91.3% of the population of Queens County had health coverage as follows:

Employer Plans	41.7%
Medicaid	26.5%
Medicare	10.7%
Non-Group Plans	12.1%
Military or VA	0.278 %

Ambulatory Surgery within a 3-Mile Radius of Proposed Center

Facility Name	Type	Patient Visits			
		2020	2021	2022	2023
Medex Diagnostic and Treatment Center	ASC	Unavail	Unavail	89	3,318
Gramercy Surgery Center, Inc. - Queens	ASC	1,578	2,290	3,055	3,544
Queens Hospital Center	Hospital	3,548	4,981	5,289	7,171
Jamaica Hospital Medical Center	Hospital	3,719	5,255	5,355	5,865
NY-Presbyterian/Queens	Hospital	13,181	13,960	16,864	18,798
Flushing Hospital Medical Center	Hospital	3,927	4,744	4,824	4,906
Long Island Jewish Forest Hills	Hospital	4,308	5,586	6,068	6,325
North Queens Surgical Center	ASC	7,440	9,865	8,774	9,653
Total Visits		37,701	46,681	50,318	59,580

Source: HFIS and SPARCS

All of the facilities listed above provide multi-specialty services that include at least one of the specialties proposed by the applicant.

The applicant projects 900 procedures in the first year and 1,050 by the third, with Medicaid at 10% and Charity Care at 2%. These projections are based on the current practices of participating surgeons. The applicant states that of the procedures moving to this center, 18% are currently being performed in other ambulatory surgery centers, 42% in a hospital setting, and 40% in an office-based setting (Jamaica Hospital, Flushing Hospital, Northwell Forest Hills), and 40% in office-based settings.

The table below shows the projected payor source utilization for Years One and Three:

Payor	Year One		Year Three	
	Volume	%	Volume	%
Commercial FFS	207	23.00%	242	23.05%
Commercial MC	315	35.00%	368	35.05%
Medicare FFS	234	26.00%	276	26.29%
Medicaid FFS	45	5.00%	51	4.86%
Medicaid MC	45	5.00%	51	4.86%
Private Pay	36	4.00%	40	3.81%
Charity Care	18	2.00%	22	2.10%

The applicant will be working with two Federally Qualified Health Centers in the community and Advanced Care Physicians Group to provide service to the under-insured in their service area. The center has developed a financial assistance policy with a sliding fee scale to be utilized when the center is operational. The hours of operation will be on weekends from 6 AM - 6 PM at the location of an existing Article 28 licensed ASC, Gramercy Surgery Center, Inc. – Queens, which currently provides services Monday-Friday. No construction or renovation is required to implement the project.

Conclusion

Approval of this project will provide increased access to Otolaryngology, Gynecology, General Surgery, and Plastic & Reconstructive Surgery in an outpatient setting for the residents of Queens County.

Program Analysis

Program Description

Proposed Operator	JM Care Services, LLC
To Be Known As	Meridian Surgery Center
Site Address	59-25 Kissena Boulevard, Flushing, NY 11355 (Queens County)
Specialties	Ambulatory Surgery- Multispecialty Otolaryngology, Gynecology, General Surgery and Plastic & Reconstructive Surgery
Hours of Operation	Saturdays and Sundays, 6 AM- 6 PM
Operating Rooms	4
Procedure Rooms	0
Staffing (1st Year / 3rd Year)	6.1 FTEs / 10.1 FTEs
Medical Director(s)	Moustafa Mourad, MD
Emergency, In-Patient and Backup Support Services Agreement and Distance	Expected to be provided by Jamaica Hospital 5 miles / 10 minutes away

The table below shows the FTEs in Year One and Year Three after completion of the project.

Position	Year One	Year Three
Management and Supervision	0.6	0.6
Technician and Specialists	2.0	3.0
Registered Nurses	2.5	4.5
Clerical and Other Administrative	1.0	2.0
Totals	6.1	10.1

Character and Competence

The members of Meridian Surgery Center are:

Name	Ownership Interest
James A. Gohar, MD	50.00 %
Moustafa Mourad, MD	50.00%
Total	100.00%

Dr. Moustafa Mourad is the proposed Medical Director. Since 2018, Dr. Mourad has served as the Director of Otolaryngology - Head and Neck Surgery for TJH Medical PC, which serves more than 5,000 patients a year, and performs more than 300 ambulatory surgeries. Dr. Mourad also serves as the Director of Ambulatory Surgical Services for MediSys Health. As part of this leadership role, Dr. Mourad oversees the performance of more than 3,000 ambulatory surgeries a year. Dr. Mourad also serves as part of the administration at Jamaica Hospital Medical System in Queens and is president and co-founder of the Virtual Tumor Board in New York, NY. Dr. Mourad is also currently a Clinical Assistant Professor of Surgery at New York Medical College since 2016. Dr. Mourad previously worked as Chief Division of Head & Neck and Microvascular Surgery at James J. Peters Hospital for three (3) years. Dr. Mourad received his medical degree from the University of Kentucky in May 2011. He completed his residence in General Surgery at Beth Israel Medical Center in 2012 and completed his residence in Otolaryngology in 2016 at Icahn School of Medicine at Mount Sinai. Dr. Mourad disclosed that he is a partner/officer in City ENT, PLLC.

James A. Gohar is currently the CEO and co-founder of Spectrafem LLC, a medical practice and outpatient surgery management company since 2016. He is also the current CEO and co-founder of Viva Eve, formerly known as Forrest Hills Medical Service, a multi-specialty management group, since 2014. Prior to this Dr. Gohar worked as an attending obstetrician and gynecologist for one (1) year at Urban

Health Plan in Bronx, NY. He received his medical degree from Cairo University in Cairo, Egypt in 2003. He completed his residence at the Medical College of Georgia Medical Center in 2013.

Integration with Community Resources

In response to a request for additional information, the applicant indicated in correspondence on August 19th, 2024, that if patients do not have a pre-existing PCP relationship, they will offer referrals back into the community. This practice will continue in the proposed surgery center. In addition, if prior to surgery, medical clearance and pre-operative testing is needed, the applicant intends to make a direct referral to a local PCP office, ensuring that the Article 28 ambulatory surgery center is participating in the local healthcare community. In addition, the facility has reached out to Federally Qualified Health Centers (FQHCs) in Queens to offer services to their underserved covered lives. They have also reached out to community health centers in the immediate local Queens area to inform them of services that can potentially be offered if the application for an Article 28 licensed ambulatory surgery center is approved. Although the facility does not intend to formally join an Accountable Care Organization (ACO), they are willing to provide their facility as an additional outpatient surgical access point to any ACOs or Medical Homes in the region. The applicant also indicates that they will be using an electronic medical record system called Surgical Information Systems (SIS) Complete. SIS is in the final testing round with Healthix, the RHIO for the New York City area. The applicant intends to participate in the Health Information Exchange once this capability is established. The project will contract with the Managed Medicaid programs in this community so that it can provide access to care to patients who would normally have a significant wait to obtain care due to the lack of access to operating rooms in Queens County.

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.

Enforcements

The Department issued an Stop & Order effective July 15th, 2024, and fined Jamaica Hospital Medical Center \$2,000 based on deficiencies found during inspections completed on March 11, 2024. Deficient practices were found in the following areas: Patient Rights, QAPI. The facility failed to implement physician orders for constant observation (1:1) of patients identified as elopement risk. The facility did not utilize its Quality Assessment and Performance Improvement Program to ensure that all safety incidents/occurrences were quantified, analyzed and corrective actions implemented.

Conclusion

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

Financial Analysis

Operating Budget

The applicant has submitted an operating budget, in 2024 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Procedure</u>	<u>Total</u>	<u>Per Procedure</u>	<u>Total</u>
Revenues:				
Commercial FFS	\$2,922	\$604,854	\$3,221	\$779,551
Commercial MC	\$2,432	\$766,080	\$2,687	\$988,873
Medicare FFS	\$822	\$192,348	\$847	\$233,678
Medicaid FFS	\$724	\$32,580	\$639	\$36,924
Medicaid MC	\$690	\$31,050	\$690	\$35,190
Private Pay	\$2,308	<u>\$83,088</u>	\$2,770	<u>\$110,784</u>
Total Revenues		\$1,710,000		\$2,185,000
Expenses:				
Operating	\$1,246	\$1,121,200	\$1,398	\$1,468,100
Capital	<u>\$333</u>	<u>\$300,000</u>	<u>\$300</u>	<u>\$315,000</u>
Total Expenses	<u>\$1,579</u>	<u>\$1,421,200</u>	<u>\$1,698</u>	<u>\$1,783,100</u>
Net Income		\$288,800		\$401,900
Utilization: (Procedures)		900		1,050

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

	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	23.00%	23.05%
Commercial MC	35.00%	35.05%
Medicare FFS	26.00%	26.29%
Medicaid FFS	5.00%	4.86%
Medicaid MC	5.00%	4.86%
Private Pay	4.00%	3.81%
Charity Care	<u>2.00%</u>	<u>2.10%</u>
Total	100.00%	100.00%

Administrative Services Agreement

The applicant has submitted an executed administrative services agreement, summarized below:

Date	February 1, 2024
Company	JM Care Services, LLC (JMCS)
Consultant	The Gramercy Group, a Nuehealth Affiliate, LLC
Term	Five years
Services Provided	Coordinate marketing & public relations activity, recruit and train administrative staff, negotiate and bind coverage for all insurance, coordinate the credentialing process of medical staff, annual review and negotiation of anesthesia, pathology and radiology contract services, negotiate the facility's HIS and IT contractual agreements, consult with equipment procurements, train business office staff on policies, procedures and manuals and establish accounting and finance protocols.
Compensation	\$150,000 annually.

Specifically, JMCS, in its sole discretion, retains all authority and responsibility over the following:

- Ongoing responsibility for the statutory and regulatory compliance of the Center with all state and federal statutes, rules and regulations, and other requirements.
- Direct independent authority over the appointment or dismissal of the Center's management level employees and medical staff, direct authority to approve the Center's operating and capital budgets, and independent control of the books and records of the Center.
- Authority to adopt and approve the Center's operating policies and procedures, and adoption of policies affecting the delivery of health care services.
- Authority over the disposition of assets of the Center, and authority to incur liabilities not normally associated with the day-to-day operations of the Center.
- Independent and direct authority to approve any certificate of need applications or related documents filed by or on behalf of the Center.
- Authority to independently approve any debt to be incurred by the Center which is necessary to finance the cost of compliance with operational or physical plant standards required by law.
- Authority to approve the Center's contracts for management or clinical services.
- Authority to approve settlements of administrative proceedings or litigation to which the Center is a party.
- Possession of all medical records, patient charts, databases and other documentation relating to the Center.
- Compliance with all laws applicable to the operation of the Center.

Master Lease

The applicant has submitted an executed lease amendment for the site for the master lease, which is summarized below:

Premises	12,100 square feet located at 59-25 Kissena Boulevard, Flushing, New York.
Lessor	Queens Kissena, LLC
Lessee	Gramercy Surgery Center, Inc.
Term	Expire on June 30, 2030.
Rental	Base rent of \$830,480.68 plus additional rent of \$60,000 annually for a minimum of twenty-five spaces for parking designated by landlord.
Provisions	The lessee shall be responsible for real estate taxes, maintenance, and utilities.

Sublease Agreement

The applicant has submitted an executed sublease agreement for the site that they will occupy, which is summarized below:

Premises	12,100 square feet located at 59-25 Kissena Blvd, Flushing, New York.
Sublessor	Gramercy Surgery Center, Inc.
Sublessee	JM Care Services, LLC
Term	Five years with a five-year renewal term.
Rental	\$300,000 annually (\$24.79 per sq.ft.)
Provisions	The sublessee shall be responsible for maintenance, real estate taxes, and utilities.

The applicant has submitted an affidavit indicating that there is a relationship between the sublessor and the sublessee. The applicant has submitted two real estate letters attesting to the reasonableness of the per square foot rental.

Capability and Feasibility

There are no project costs associated with this application. The working capital requirements, estimated at \$297,183, equivalent to two months of third year expenses, will be covered with equity from the proposed members' personal resources. BFA Attachment A, Personal Net Worth Statements of the Proposed Members of JM Care Services, LLC, indicates the availability of sufficient funds for the equity

contribution. BFA Attachment B, Pro Forma Balance Sheet of JM Care Services, LLC, indicates a positive net asset position of \$297,183 as of the first day of operation.

The submitted budget indicates a net income of \$288,800 and \$401,900 during the first and third years, respectively. Revenues are based on current reimbursement methodologies for ambulatory surgery services. The submitted budget appears reasonable.

Conclusion

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

Attachments

BHFP Attachment	Map
BFA Attachment A	Personal Net Worth Statements
BFA Attachment B	Pro Forma Balance Sheet

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish a new multi-specialty ambulatory surgery center to be shared with Gramercy Surgery Center - Queens in a temporally distinct arrangement at 59-25 Kissena Boulevard, Flushing, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

241081 E

FACILITY/APPLICANT:

JM Care Services, LLC d/b/a Meridian Surgery
Center

APPROVAL CONTINGENT UPON:

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

1. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations, and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include a commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
2. Submission of a signed agreement with an outside, independent entity satisfactory to the Department to provide annual reports to DOH. Reports are due no later than April 1st for the prior year and are to be based upon the calendar year. Submission of annual reports will begin after the first full or, if greater or equal to six months after the date of certification, partial year of operation. Reports should include:
 - a. Data displaying actual utilization including procedures;
 - b. Data displaying the breakdown of visits by payor source;
 - c. Data displaying the number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
 - d. Data displaying the number of emergency transfers to a hospital;
 - e. Data displaying the percentage of charity care provided;
 - f. The number of nosocomial infections recorded during the year reported;
 - g. A list of all efforts made to secure charity cases; and
 - h. A description of the progress of contract negotiations with Medicaid managed care plans.[RNR]
3. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [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 entities will operate at two separate times; there will be no overlap in hours; the clinical space must be used exclusively for the approved purpose; medical records will be separately maintained for each entity and the entrance must not disrupt any other entity's clinical program space. [HSP]

3. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf.
Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]
4. The submission of annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Department of Health Public Health and Health Planning Council

Project # 241082-B ASC of Brooklyn

Program: Diagnostic and Treatment Center **County:** Kings
Purpose: Establishment and Construction **Acknowledged:** March 25, 2024

Executive Summary

Description

ASC of Brooklyn (the Center), an existing New York limited liability company, requests approval to establish and construct a multi-specialty Article 28 freestanding ambulatory surgery center (FASC) in leased space at 53 Third Avenue, Suite 100, Brooklyn (Kings County). The FASC will specialize in podiatry and orthopedic surgery, including neuro and spine procedures, and pain management. Kings County will be their primary service area. The FASC will include two (2) operating rooms and (1) one procedure room.

The proposed ownership of the Center consists of six (6) physician members collectively owning 54.21% of membership units and SCD NY, LLC, a New York limited liability company comprised of 13 physician and non-physician individual members collectively owning 45.783% of membership units. The members of SCD NY, LLC were previously approved as indirect members of Westmoreland ASC, LLC through CON 221115.

The applicant states that of the 7000 procedures moving to this center, the majority (approximately 80%) are currently being performed in two other ASCs. The remainder of the projected cases (20%) are being performed in office-based settings.

Sanjeev Agarwal, M.D., a proposed member board-certified in Pain Medicine, will be the Medical Director. All members will be practicing physicians at the Center and are board-certified or board-eligible in their respective specialties. They will continue to be on call at the hospitals

they currently serve. The State University of New York University Hospital at Downstate will serve as a backup hospital to the FASC.

OPCHSM Recommendation

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

Need Summary

The applicant projects 4,000 procedures in Year One and 7,000 in Year Three, with Medicaid at 8% and Charity Care at 2%.

Program Summary

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

Financial Summary

The total project cost of \$6,623,829 will be met with \$1,323,829 in members' equity, and a bank loan for \$5,300,000 with a ten-year term and an interest rate estimated to be 6.00%.

Budget:	<u>Year One</u>	<u>Year Three</u>
Revenues	\$6,520,597	\$11,411,046
Expenses	<u>\$6,243,132</u>	<u>9,520,518</u>
Net Income / (Loss)	\$277,465	\$1,890,528

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval with an expiration of the operating certificate five years from the date of its issuance, 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 construction loan commitment acceptable to the Department of Health. [BFA]
3. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
4. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations, and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include a commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
5. Submission of a signed agreement with an outside, independent entity satisfactory to the Department to provide annual reports to DOH. Reports are due no later than April 1st for the prior year and are to be based upon the calendar year. Submission of annual reports will begin after the first full or, if greater or equal to six months after the date of certification, partial year of operation. Reports should include:
 - a. Data displaying actual utilization including procedures;
 - b. Data displaying the breakdown of visits by payor source;
 - c. Data displaying the number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
 - d. Data displaying the number of emergency transfers to a hospital;
 - e. Data displaying the percentage of charity care provided;
 - f. The number of nosocomial infections recorded during the year reported;
 - g. A list of all efforts made to secure charity cases; and
 - h. A description of the progress of contract negotiations with Medicaid managed care plans. [RNR]
6. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]

Approval conditional upon:

1. This project must be completed by **March 5, 2025**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 5, 2025**, and construction must be completed by **December 5, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

4. The submission of annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]
5. 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]
6. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]

Council Action Date

December 5, 2024

Need Analysis

Project Description

ASC of Brooklyn, LLC is seeking approval to establish a multi-specialty freestanding ambulatory (FASC) surgery center at 53 Third Avenue, Brooklyn, 11217 in Kings County. The proposed FASC will specialize in pain management, podiatry, and orthopedic surgery (including neuro/spine procedures). There will be two (2) operating rooms and one (1) procedure room.

Background and Analysis

The service area consists of Kings County, specifically the zip code of 11217, which is within the neighborhoods of Park Slope & Carroll Gardens. The address is within the NYC-Brooklyn Community District 6--Park Slope & Carroll Gardens Public Use Microdata Area (PUMA). The site location is a Medically Underserved Area. The population of Kings County is projected to increase to 2,854,617 by 2029 based on Cornell Program on Applied Demographics estimates. Demographics for the primary service are noted below including a comparison with New York State.

Demographics	Primary Service Area	Kings County	New York State
Total Population-2022 Estimate	43,045	2,679,620	19,994,379
Hispanic or Latino (of any race)	14.5%	18.9%	19.5%
White (non-Hispanic)	51.7%	36.1%	53.8%
Black or African American (non-Hispanic)	16.5%	28.3%	13.8%
Asian(non-Hispanic)	9.0%	11.9%	8.8%
Other (non-Hispanic)	8.3%	4.8%	4.1%

Source: 2022 American Community Survey (5-year Estimates Data Profiles)

In 2022, the population of zip code 11217 had health coverage as follows:

	Zip code 11217
Public health insurance alone	14.5%
Medicare coverage alone	2.8%
Medicaid/means tested coverage alone	11.6%
VA health care coverage alone	0%

Source: Census Bureau

In 2022, the population of the Park Slope & Carroll Gardens PUMA and Kings County had health coverage as follows:

	Park Slope & Carroll Gardens PUMA	Kings County
With Health Insurance	96.8%	93.7%
Employer plans	66.9%	40.9%
Medicaid	11.2%	33.0%
Medicare	7.57 %	8.2%
Non-group plans	11%	11.4%
Military or VA plans	0.0882%	0.3%

Source: Data USA

Ambulatory Surgery within a 3-Mile Radius of Proposed Center

Facility Name	Type	Patient Visits			
		2020	2021	2022	2023
Brooklyn Hospital Center	Hospital	6,728	8,665	7,517	7,779
NYU Langone- Steinburg ASC	Hospital	unavailable	unavailable	unavailable	3,113
Woodhull Medical	Hospital	2,649	4,781	4,341	5,126
NY-Presbyterian Brooklyn	Hospital	12,058	14,906	14,458	7,970
Center for Community Health (opened 12/2020)	Extension Clinic	N/A	unavailable	unavailable	9,177
Interfaith Medical Center	Hospital	1,159	1,539	1,679	2,282
SurgeCare of Brooklyn	ASC	4,666	3,860	6,920	5,692
Total Visits		27,260	33,751	34,915	41,139

Source: HFIS and SPARCS

All of the facilities listed above provide multi-specialty services. There is another multi-specialty ambulatory surgery center recently approved by the Department, Bridge Street ASC, that will specialize in pain management, orthopedic, and spine surgery in Kings County 1.5 miles away and 14 minutes away from this site.

The number of projected procedures is 4,000 procedures in Year One and 7,000 in Year Three, with Medicaid at 8% and Charity Care at 2%. These projections are based on the current practices of participating surgeons. The applicant states that of the procedures moving to this center, the majority (approximately 80%) are currently being performed in two other ASCs. The remainder of the projected cases (20%) are being performed in office-based settings.

The table below shows the projected payor source utilization for Years One and Three.

Payor	Year One		Year Three	
	Volume	%	Volume	%
Commercial FFS	920	23%	1,610	23%
Commercial MC	920	23%	1,610	23%
Medicare FFS	400	10%	700	10%
Medicare MC	200	5%	350	5%
Medicaid FFS	200	5%	350	5%
Medicaid MC	120	3%	210	3%
Charity Care	80	2%	140	2%
Other (WC)	1160	29%	2030	29%

The Center initially plans to obtain contracts with the following Medicaid Managed Care plans: Healthfirst, Fidelis, and Metro Plus. The center will work collaboratively with local Federally Qualified Health Centers such as Brooklyn Plaza Medical Center, Callen Lorde Community Health Center, Community Health Project, Housing Works Services II, Metro Community Health Centers, and ODA Primary Health Care Network to provide service to the under-insured in their service area. The center has developed a financial assistance policy with a sliding fee scale to be utilized when the center is operational. The hours of operation will be from Monday through Friday from 7 am to 4 pm. Weekend or Evening hours will be available if needed.

Conclusion

Approval of this project will provide increased access to pain management, podiatry, and orthopedic surgery in an outpatient setting for the residents of Kings County.

Program Analysis

Project Proposal

Proposed Operator	ASC of Brooklyn, LLC
To Be Known As	ASC of Brooklyn
Site Address	53 Third Avenue, Suite 100 Brooklyn, New York 11217 (Kings County)
Specialties	Ambulatory Surgery- Multispecialty
Hours of Operation	Monday through Friday, 7:00 a.m. to 4:00 p.m.
Staffing (1st Year / 3rd Year)	16.1 FTEs / 27.3 FTEs
Medical Director	Sanjeev Agarwal, M.D.
Emergency, In-Patient, and Backup Support Services Agreement and Distance	Expected to be provided by The State University of New York, University Hospital at Downstate 3.7 miles / 15 minutes away

The following table shows the FTEs for the ASC in Year One and Year Three after completion of the project:

Position	Year One	Year Three
Management and Supervision	1.3	1.8
Technician and Specialist	2.7	6.1
Registered Nurses	6.7	8.8
Physicians	1.3	3.5
Infection Control, Environment and Food Service	0.7	1.8
Clerical and Other Administrative	3.4	5.3
Totals	16.1	27.3

Character and Competence

The members of ASC of Brooklyn are:

Proposed Membership of ASC of Brooklyn, LLC	
Proposed Member	% Ownership
Sanjeev Agarwal, M.D.	8.43%
Pamela Levine, M.D.	8.43%
Vipul Patel, M.D.	10.84%
Carl Paulino, M.D.	9.64%
Brian Dawson, D.P.M	2.41%
Matthew Wert, M.D.	14.46%
SCD NY, LLC	45.78%
- Gregory George, M.D., PhD. (14.14%)	
- Sean O'Neal (10.53%)	
- Steven Hammerstrom, D.P.M. (5.26%)	
- William Gueck, M.D. (5.26%)	
- Christine Merryman (1.97%)	
- Stacey Berner, M.D. (15.24%)	
- William Christopher Urban (7.62%)	
- Ashley Urban (7.62%)	
- Kelly Fox (15.24%)	
- Vivek Sood, M.D. (11.18%)	
- Emily Berend Grove (1.97%)	
- Nicole Facchina (1.32%)	
- Ian Friedman (2.63%)	
TOTAL	100.00%

Sanjeev Agarwal, M.D. will serve as the Center's Medical Director. They graduated from King George's Medical College in India with a master's degree in 1992 and completed their residency at King George's Medical College, Department of Orthopedic Surgery, in 1993. Sanjeev Agarwal has practiced medicine for over 20 years and has extensive experience and pain management. They currently work for Spine Sports and Interventional Pain Medicine in Brooklyn, NY.

Pamela Levine, M.D. graduated from Mount Sinai School of Medicine with their medical degree in 1997. They have worked for Weill Cornell Medical College since 2012 as the Assistant Professor of Clinical Orthopedic Surgery. Prior to this, they were an attending physician at Kings County Medical Center since 2003, an attending physician at Veteran Affairs Hospital since 2005, and an attending hand surgeon at the Methodist Hospital since 2007. Pamela Levine has been named in three malpractice cases that are ongoing in Kings Supreme Court: Odaliris Allen (administrator for Norma Allen) v. Iosif Gulkarov MD, Berhane Worku MD, Adolfo Badillo MD, Marcus D'Ayala MD, Joseph Santi DPM, Pamela Levine MD, Brian Wong MD, Valeriy Matatov MD, Charles Oribabor MD, Jeremiah Gelles MD, NY Methodist Hospital, Nicholas Aquino MD, Muhammad Sarfraz MD, Center for Nursing and Rehabilitation et al (513790/2016), Shanna Huston v. NY Presbyterian Brooklyn Methodist Hospital aka NY Methodist Hospital, Scott Hammerman MD, Maya Lin MD, Pamela Levine MD and Jessican Vanhoorees MD (501534/2018), and Frank Hinds and Barbara Hinds v. Pamela Levine MD, New York Orthopaedic Hand Surgery, PLLC (503175/2024). Per the applicant's response, the first case is against several providers who saw this patient; Dr. Levine was consulted but did not treat the patient. The applicant states the second case regards a noncompliant patient who missed follow-up appointments and didn't go for therapy and didn't have x-rays. The third case, per the applicant, is a malpractice case related to a rotator cuff repair. This legal discourse was not disclosed.

Vipul Patel, M.D. graduated from SUNY Brooklyn Medical School with a medical degree in 2002. They completed their orthopedic surgery residency in 2008 at NYU Hospital for Joint Diseases. Vipul Patel has worked for New York Hand Surgery since 2014. Dr. Patel is named in three malpractice cases that are ongoing in Kings Supreme Court: JC (by his Father Darryl Chiang) v. Vipul Patel MD, Josette Mazile RN, Deneille Hayes Salmon RN, Alet Mikel RN, Jordan Flood RN, Francheska Rosario RN, Sophia Cooper RN, Christian Noel RN, Justyna Villavicencio RN, New York Presbyterian Brooklyn Methodist Hospital, NY Hand Surgery PC (523501/2020), Polina Gorodetskaya v. Kyu Chul Lee, MA OTR/L CHT, Vipul Patel MD, Vipul Patel PT PC, New York Hand Surgery PC, New York Hand Surgery of Queens PC, Lynn Bassin I MA OTR CHT (518444/2023), Jeffrey Mack and Tracy Mack v. Scott Barbash MD, Vipul Patel MD, Brookdale University Hospital & Medical Center and New York Presbyterian-Brooklyn Methodist Hospital (514897/2019). Per the response from the applicant, the first case is against multiple providers who saw a patient who had a reaction after surgery. The second case, per the applicant's response, regards multiple providers who saw a patient who fractured their forearm adjacent to the initial surgery location during physical therapy. The last case, per the applicant's response, is related to an infection after surgery done by another surgeon, Dr. Patel performed a subsequent surgery to debride the soft tissue and bone infection. This legal discourse was not disclosed.

Carl Paulino, M.D. graduated from St. George's University School of Medicine with a medical degree in 2000. They have spent the past 10 years advancing the clinical educational environment as well as scholarly research activities for the Department of Orthopedic Surgery at SUNY Downstate Medical Center.

Brian Dawson, D.P.M. has been the owner/operator of Atlantic Podiatry, PLLC, since 2020. They have over ten years of experience working as a podiatrist for various practices including Urban Heights Medical, Comprehensive Podiatry Center, and The Metropolitan Foot Group. Brian Dawson graduated from the New York College of Podiatric Medicine in 2009.

Matthew Wert, M.D. graduated from SUNY Health Science Center at Brooklyn with a medical degree in 2000. They are currently working as an orthopedic surgeon for W. Medical Care P.C. since 2019. Prior to this, they were employed as an orthopedic surgeon at the New York Presbyterian Brooklyn Methodist Hospital from 2013-2018.

Gregory George, M.D., Ph.D. graduated from Duke University with a PhD in 1983 and from Duke University Medical School with a medical degree in 1984. They have been an Ophthalmologist for more than a decade before co-founding SurgCenter Development in 1993.

Sean O'Neal graduated from California State University, Northridge, with a bachelor's degree in 1973. They founded SurgCenter Development in 1993 and have ownership in several medical facilities.

Steven Hammerstrom, D.P.M. graduated from the University of Osteopathic Medicine and Health Sciences with a DPM in 1987. Although retired, they are still the president of SurgCenter Development.

William Gueck, M.D. graduated from St. Louis University School of Medicine with a medical degree in 1984, completing an internal medicine internship at Mercy Medical Center in 1985. They have practiced medicine for over 20 years, working as an Emergency Medical Physician at St. Luke's Hospital from 1986-2007. They joined SurgCenter in 2002 and have been a principal since 2007.

Christine Merryman attended the University of Missouri, Colombia, from 1986-1989. They have been an owner/partner in Surgical Center Development.

Stacey Berner, M.D. has been the CEO and President of SurgCenter Development since 2012. They obtained their medical degree from Tufts University School of Medicine in 1988 and received an MBA from Haslam School of Business in 2017.

William Christopher Urban graduated from Notre Dame University with a BBA in 2022. They are currently working as investment banking analysts for M&T Bank.

Ashley Urban is currently attending Syracuse University finishing an undergraduate degree.

Kelly Fox graduated from the University of Notre Dame in 2020 with a BBA. They currently work for PricewaterhouseCoopers Advisory Services, LLC, since 2019.

Vivek Sood, M.D. graduated from SUNY Health Science Center at Brooklyn with a medical degree in 2000. They have been the Chief Resident of the Department of Orthopedics at SUNY Downstate Medical Center since 2006 and is a present principal of SurgCenter Development since 2018.

Emily Berend Grove graduated from Wheaton College with a bachelor's degree in 2019. They are currently the Ministry Director of Wheaton Young Life.

Nicole Facchina is a current student at the University of Miami.

Ian Friedman received a judicial degree from the University of Maryland School of Law in 2007 and practiced as an associate for Ober, Kaler, Grime, and Shriver from 2007-2014.

Integration with Community Resources

The Center plans to work closely with its patients to educate them regarding the availability of primary care services offered by local providers. Through this program, the Center's patients will be better able to make informed choices regarding preventive medicine, understand their personal healthcare options going forward, and hopefully avoid unnecessary hospitalization and emergency room visits. Charity care will be provided at least 2% per financial projections. The Center plans to utilize an Electronic Medical Record (EMR) system and to fully integrate and exchange information with an established Regional Health Information Organization (RHIO) with the capability for clinical referral and event notification.

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

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

Financial Analysis

Total Project Cost and Financing

The total project cost for renovations and movable equipment is estimated at \$6,623,829 broken down as follows:

Renovation & Demolition	\$4,034,144
Design Contingency	403,415
Construction Contingency	403,415
Architect/Engineering Fees	268,103
Construction Manager Fees	43,654
Other Fees	26,000
Movable Equipment	1,300,877
Interim Interest Expense	106,000
Application Fee	2,000
Additional Processing Fee	<u>36,221</u>
Total Project Cost	\$6,623,829

The financing for this project will be as follows:

Members' Equity	\$1,323,829
Bank loan (6.00% interest, 10-year term)	<u>5,300,000</u>
Total	\$6,623,829

Sunflower Bank has provided a letter of interest for the bank loan. BFA Attachments A and B show sufficient resources to meet the equity requirement.

Operating Budget

The applicant has submitted an operating budget, in 2024 dollars, for years one and three, summarized below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Proc.</u>	<u>Total</u>	<u>Per Proc.</u>	<u>Total</u>
Revenues:				
Commercial FFS	\$2,218.70	\$2,041,203	\$2,218.70	\$3,572,105
Commercial MC	\$2,218.70	2,041,203	\$2,218.70	3,572,105
Medicare FFS	\$1,279.51	511,804	\$1,279.51	895,657
Medicare MC	\$1,279.51	255,902	\$1,279.51	447,829
Medicaid FFS	\$680.00	136,000	\$680.00	238,000
Medicaid MC	\$680.00	81,600	\$680.00	142,800
All Other	\$1,252.49	<u>1,452,885</u>	\$1,252.49	<u>2,542,550</u>
Total Revenue		\$6,520,597		\$11,411,046
Expenses:				
Operating	\$1,236.01	\$4,944,034	\$1,182.85	\$8,280,000
Capital	<u>324.77</u>	<u>1,299,098</u>	<u>177.22</u>	<u>1,240,518</u>
Total	\$1,560.78	\$6,243,132	\$1,360.07	\$9,520,518
Net Income / (Loss)		<u>\$277,465</u>		<u>\$1,890,528</u>
Total Procedures		4,000		7,000
Cost per Procedure		\$1,560.78		\$1,360.07

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

<u>Pavor:</u>	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	23.00%	23.00%
Commercial MC	23.00%	23.00%
Medicare FFS	10.00%	10.00%
Medicare MC	5.00%	5.00%
Medicaid FFS	5.00%	5.00%
Medicaid MC	3.00%	3.00%
Charity Care	2.00%	2.00%
All Other	<u>29.00%</u>	<u>29.00%</u>
Total	100.00%	100.00%

The following is noted with respect to the submitted budget:

- The number and mix of staff were determined by the historical experience of the proposed physician members in providing ambulatory surgical services, and experience of other similar FASCs. Staffing patterns will be based on demand.
- Revenues and operating expenses are based on the experience of the proposed physician members in providing ambulatory surgery services.
- The payer mix was determined based on the demographics of the service area and with input from the members of the applicant and the physicians involved with this project.
- Utilization is based on the current caseload of the physicians who've committed to perform cases at the Center.
- The Medicaid rate is based on the downstate region's Medicaid APG base rate of \$117.40, which is adjusted based on the given procedure's APG weight factor of 2.3, plus the downstate capital add-on rate of \$176.50.
- Medicare rates in Years One and Year Three are based on the Nassau County Wage Index for Medicare ASC payments for the service area served by the proposed Center.
- Commercial payor rates are based on the center's proposed service area.
- The Workers' Compensation is based on the New York State Workers' Compensation fee schedule for the proposed service area.
- The applicant indicated they are committed to serving underinsured populations and all persons in need without regard to the patient's ability to pay or the source of payment. The FASC developed a financial assistance policy to be utilized when the center is operational.

Lease Agreement

The applicant has submitted an executed lease rental agreement for the site to be occupied, summarized below:

Premises:	522 Atlantic Avenue, Brooklyn, 11217
Landlord:	PVII HSC Atlantic LLC, LLC
Tenant:	Advanced Surgery Center of Brooklyn, LLC
Term:	10 years
Rental:	Base rent for total leased space is \$593,093 per year (\$49,424 per month) for the 1st year. Rent will increase at 3% of the base year rent for years 2 - 10.
Provisions:	Tenant is responsible for real estate taxes, insurance, utilities and maintenance

The applicant has submitted an affidavit stating the lease between the property owner and the lessee is an arm's length arrangement. The applicant has submitted letters from two NYS licensed realtors attesting to the reasonableness of the per square footage rental. The FASC will have a separate entrance for its patients.

First Amendment to Lease Agreement

The applicant has submitted an executed lease rental agreement for the site to be occupied, summarized below:

Premises:	522 Atlantic Avenue, Brooklyn, 11217
Landlord:	PVII HSC Atlantic LLC, LLC
Tenant:	ASC of Brooklyn, LLC
Tenant Legal Name	The name "Advanced Surgery Center of Brooklyn, LLC" wherever located in the Lease is hereby deleted and replaced with "ASC of Brooklyn, LLC".
Address of Premises	The mailing address of the premises is 53 Third Avenue, Suite 100, Brooklyn, New York 11217.

Second Amendment to Lease Agreement

The applicant has submitted an executed lease rental agreement for the site to be occupied, summarized below:

Premises:	522 Atlantic Avenue, Brooklyn, 11217
Landlord:	PVII HSC Atlantic LLC, LLC
Tenant:	ASC of Brooklyn, LLC
Landlord Reentry and Notice	Amended Section 15 of the lease to include Landlord Reentry and Notice Under 10 NYCRR Sec. 600.2(d).

Capability and Feasibility

The total project cost of \$6,623,829 will be met with \$1,323,829 in members' equity and a bank loan for \$5,300,000 with a ten-year term and an interest rate estimated to be 6.00%. The loan will have an 18-month interest-only term, with the balance at maturity of the interest-only period termed out over a 102-month term with payments based on a 102-month amortization. Sunflower Bank has provided a letter of interest.

Working capital requirements are estimated at \$1,586,753 based on two months of third-year expenses. The working capital will be funded with members' equity of \$1,086,753 and a bank loan of \$500,000 with a four-year term and an interest rate of 9.00%. The loan will have a 24-month term with interest-only payments due monthly, followed by a 48-month term with a 48-month amortization with principal and interest payments due monthly. Sunflower Bank has provided a letter of interest.

BFA Attachment A presents the physician members' personal net worth statements, which indicate sufficient resources overall to fund the equity requirements. Mr. Ian Friedman, a member of SCD NY, LLC, provided an affidavit confirming his willingness to contribute personal resources disproportionate to his membership interest to cover any equity shortfall for William Christopher Urban, Ashley Urban, and Kelly Fox.

The submitted budget projects a net income of \$277,465 and \$1,890,528 during Year One and Year Three of operations, respectively. The budget appears reasonable.

BFA Attachment B is the Pro-Forma Balance Sheet for ASC of Brooklyn, LLC, which shows the operation will start with \$2,410,582 in members' equity on the first day of operations.

Conclusion

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

Attachments

BHFP Attachment	Map
BFA Attachment A	Net Worth Statement of Proposed Members of ASC of Brooklyn, LLC
BFA Attachment B	Pro-Forma Balance Sheet
BFA Attachment C	ASC of Brooklyn, LLC Organizational Chart, and list of Members

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a multi-specialty ambulatory surgery center at 53 Third Avenue, Suite 100, Brooklyn, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

241082 B

FACILITY/APPLICANT:

ASC of Brooklyn

APPROVAL CONTINGENT UPON:

Approval with an expiration of the operating certificate five years from the date of its issuance, 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 construction loan commitment acceptable to the Department of Health. [BFA]
3. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
4. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations, and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include a commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
5. Submission of a signed agreement with an outside, independent entity satisfactory to the Department to provide annual reports to DOH. Reports are due no later than April 1st for the prior year and are to be based upon the calendar year. Submission of annual reports will begin after the first full or, if greater or equal to six months after the date of certification, partial year of operation. Reports should include:
 - a. Data displaying actual utilization including procedures;
 - b. Data displaying the breakdown of visits by payor source;
 - c. Data displaying the number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
 - d. Data displaying the number of emergency transfers to a hospital;
 - e. Data displaying the percentage of charity care provided;
 - f. The number of nosocomial infections recorded during the year reported;
 - g. A list of all efforts made to secure charity cases; and
 - h. A description of the progress of contract negotiations with Medicaid managed care plans.[RNR]
6. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]

APPROVAL CONDITIONAL UPON

1. This project must be completed by **March 5, 2025**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 5, 2025**, and construction must be completed by **December 5, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. The submission of annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]
5. 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]
6. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf.
Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Department of Health Public Health and Health Planning Council

Project # 242018-B Woodside ASC, LLC

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Establishment and Construction **Acknowledged:** August 6, 2024

Executive Summary

Description

Woodside ASC, LLC d/b/a Woodside Gastroenterology and Endoscopy Center (the Center), a New York limited liability company, requests approval to establish and construct a single-specialty, Article 28 freestanding ambulatory surgery center (FASC) in leased space at 69-28 Queens Boulevard, Woodside (Queens County).

The Center will include 4,500 square feet of renovated space in an existing building with three (3) Endo procedure rooms, six (6) patient bays, a patient changing area, a nurse's station, a waiting area, and a reception area with offices for admittance of patients. The proposed renovations include a new HVAC system and upgrades to the current fire alarm and sprinkler systems.

Chuansheng Wang, M.D. Ph.D, Board Certified in Gastroenterology, is the sole member of the Center and will also serve as the Medical Director. The applicant is negotiating a transfer agreement for backup and emergency services with Elmhurst Hospital Center, 1.1 miles (8 minutes travel time) from the proposed Center.

OPCHSM Recommendation

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

Need Summary

The applicant projects 5,130 procedures in Year One and 5,656 in Year Three, with 49% Medicaid and 2% Charity Care in Year One and 51.5% Medicaid and 2% Charity Care in Year Three.

Program Summary

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

Financial Summary

The applicant and the landlord will fund the total project costs of \$2,026,493. The applicant's portion, \$226,493, will be funded with equity. The landlord's portion for the Center's build-out is \$1,800,000, and it will be funded with \$200,000 in equity and a \$1,600,000 construction loan.

Budget:	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$3,040,982	\$3,412,239
Expenses:	<u>\$2,709,305</u>	<u>\$2,964,414</u>
Gain	\$331,677	\$447,825

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval with an expiration of the operating certificate five years from the date of its issuance, 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. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]
4. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
5. Submission of an executed construction loan commitment acceptable to the Department of Health. [BFA]
6. Submission of an executed working capital loan commitment acceptable to the Department of Health [BFA]
7. Submission of an executed lease agreement acceptable to the Department of Health. [BFA]
8. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations, and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include a commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
9. Submission of a signed agreement with an outside, independent entity satisfactory to the Department to provide annual reports to DOH. Reports are due no later than April 1st for the prior year and are to be based upon the calendar year. Submission of annual reports will begin after the first full or, if greater or equal to six months after the date of certification, partial year of operation. Reports should include:
 - a. Data displaying actual utilization including procedures;
 - b. Data displaying the breakdown of visits by payor source;
 - c. Data displaying the number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
 - d. Data displaying the number of emergency transfers to a hospital;
 - e. Data displaying the percentage of charity care provided;
 - f. The number of nosocomial infections recorded during the year reported;
 - g. A list of all efforts made to secure charity cases; and
 - h. A description of the progress of contract negotiations with Medicaid managed care plans. [RNR]

Approval conditional upon:

1. This project must be completed by **February 15, 2025**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **November 15, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR

Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]

3. The staff of the facility must be separate and distinct from the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
4. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]
5. 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]
6. The submission of annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]

Council Action Date

December 5, 2024

Need Analysis

Project Description

Woodside ASC, LLC d/b/a Woodside Gastroenterology and Endoscopy Center is requesting to establish and construct a single-specialty, Article 28 freestanding ambulatory surgery center (FASC) to provide gastroenterological surgical procedures to patients in the Woodside community, which includes the surrounding area of Queens in NYC. Woodside Gastroenterology and Endoscopy Center will be at 69-28 Queens Boulevard, Woodside, New York 11377 in Queens County. The Center will be owned by Chuansheng Wang, M.D.

Background and Analysis

The primary service area for this project is Queens County, specifically zip code 11377. The population of Queens County is estimated at 2,360,826 based on 2022 American Community Survey data and is expected to increase to 2,554,994 by 2029 per projection data from the Cornell Program on Applied Demographics, an increase of 8.2%. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Zip Code 11377	Queens County	New York State
Total Population	86,977	2,360,826	19,994,379
Hispanic or Latino (of any race)	39.4%	28.0%	19.5%
White (non-Hispanic)	19.9%	23.8%	53.8%
Black or African American (non-Hispanic)	1.5%	16.7%	13.8%
Asian(non-Hispanic)	36.5%	25.9%	8.8%
Other (non-Hispanic)	2.7%	5.6%	4.1%

Source: 2022 American Community Survey (5-Year Estimates Data Profiles)

In 2022, 91.3% of the population of Queens County had health coverage as follows:

Employee plans	41.7%
Medicaid	26.5%
Medicare	10.7%
Non-group plans	12.1%
Military or VA plans	0.278%

Source: Data USA

Ambulatory Surgery within 3-Mile Radius of Proposed Center

Facility Name	Type	Patient Visits		
		2021	2022	2023
The Endoscopy Center of Queens	ASC	7,547	7,689	9,893
Mount Sinai Hospital - Mount Sinai Hospital of Queens	Hospital	3,414	4,773	5,960
Elmhurst Hospital Center	Hospital	7,368	6,301	6,279
Queens Boulevard ASC, LLC	ASC	11,849	10,370	11,145
Long Island Jewish Forest Hills	Hospital	5,586	6,068	6,325
Total Visits		35,764	35,201	39,602

Source: HFIS and SPARCS

All of the facilities listed above provide single-specialty or multi-specialty ambulatory gastroenterology surgery services.

Queens County had 16 ASCs from 2021 through 2023 according to data from the Health Facilities Information System (HFIS). For 2023, there were approximately 140,762 people in Queens County per ASC.

There is another proposed single-specialty ambulatory surgery center for gastroenterology (CON 242077 Rego Park Endo, LLC) under review by DOH in Queens County just 2.6 miles away and 13 minutes drive time away from this site.

The applicant projects 5,130 procedures in Year One and 5,656 in Year Three, with 49% Medicaid and 2% Charity Care in year 1 and 51.5% Medicaid and 2% Charity Care in Year 3. These projections are based on the current practices of participating surgeons. The applicant states that this project will bring existing gastroenterological cases performed in office based surgical settings to their Article 28 facility. The table below shows the projected payor source utilization for Years One and Three.

Payor	Year One		Year Three	
	Volume	%	Volume	%
Commercial MC	1,539	30%	1498	26.5%
Medicare MC	975	19%	1129	20%
Medicaid MC	2,514	49%	2911	51.5%
Charity Care	102	2%	118	2%

The center initially plans to obtain contracts with the following Medicaid Managed Care plans: Healthfirst, Fidelis, Metro Plus and United Healthcare Community Plan (Medicaid) The center will operate up to six days per week from 7:00 a.m. to 6:00 pm, Monday through Saturday. The hours and days of operation may be modified to accommodate patient demand and convenience.

Conclusion

Approval of this project will provide increased access to Gastroenterology in an outpatient setting for the residents of Queens County.

Program Analysis

Project Proposal

Proposed Operator	Woodside ASC, LLC
To Be Known As	Woodside ASC, LLC
Site Address	69-28 Queens Boulevard, Woodside, NY 11377 (Queens County)
Specialties	Ambulatory Surgery - Single Specialty - Gastroenterology
Hours of Operation	Monday through Saturday Friday, 7:00 a.m. to 6:00 p.m.
Staffing (1st Year / 3rd Year)	17.8 FTEs / 19.3 FTEs
Medical Director	Chuansheng Wang
Emergency, In-Patient and Backup Support Services Agreement and Distance	Elmhurst Hospital Center 1.1 miles / 8 minutes away

The Center will include 4,500 square feet of renovated space in an existing building with three (3) Endo procedure rooms, six (6) patient bays, a patient changing area, a nurse's station, a waiting area, and a reception area with offices for admittance of patients. The proposed renovations include a new HVAC system and upgrades to the current fire alarm and sprinkler systems.

The Center will operate up to 6 days per week from 7:00 a.m. to 6:00 pm, Monday through Saturday. The hours and days of operation may be modified to accommodate patient demand and convenience.

The applicant anticipates an increase in patient volume due to the aging population and the lowering of the recommended age to have colonoscopy screening. The unmet need is to provide these services to patients in a regulated Surgical Center. Two (2) physicians have provided letters of interest to perform procedures at the center and project a total of 5,700 patient procedures.

The Center plans to work closely with its patients to educate them regarding the availability of primary care services offered by local providers. Through this program, the Center's patients will be better able to make informed choices regarding preventive medicine, to understand their personal health care options going forward, and avoid unnecessary hospitalization and emergency room visits. The Center plans to seek accreditation from the Accreditation Association for Ambulatory Health Care (AAAHC). An Electronic Medical Record (EMR) system will be implemented to fully integrate and exchange information with an established Regional Health Information Organization (RHIO) with the capability for clinical referral and event notice.

Employees will be coming from the office-based practice, which will be closed. Any additional employees will come from the Greater New York City area. The proposed staffing will increase by 1.5 FTEs from Year One to Year Three. The table below shows the projected FTEs in Year One and Year Three after completion of the project.

Position	Year One	Year Three
Management and Supervision	1.0	1.0
Technician and Specialist	11.1	12.2
Registered Nurses	3.7	4.1
Physicians	2.0	2.0
Clerical and Other Administrative	2.0	2.0
Totals	17.8	19.3

Character and Competence

The sole member of Woodside ASC, LLC is Chuansheng Wang, M.D. Dr. Wang will also serve as the Medical Director.

Chuansheng Wang M.D. graduated with a medical degree from Beijing Medical University, in Beijing China in 1996. Dr. Wang received a PH.D. from the New York Albert Einstein College of Medicine in 2003 and is licensed to practice in New York and Maryland. Dr. Wang is a Board-Certified Gastroenterologist, certified through 12/2031.

Since 2014, Dr. Wang has owned and operated Elmhurst Queens Gastroenterology and Hepatology Consultant PC, which specializes in gastroenterology and hepatology, and was an owner in Queens Boulevard ASC, LLC in New York from June 2017 to December 21, 2021. Since 2019, Dr. Wang has been an Assistant Clinical Professor at NYU Langone Medical Center in New York. Dr. Wang was an Assistant Clinical Professor with the Department of Medicine at Mount Sinai Hospital in New York from 2013 to 2018 and was an Associate at JiangJun Li GI Medical P.C, in New York from 2013 to 2014. Dr. Wang was an Assistant Professor with the Department of Medicine at the Medical University of South Carolina from 2012 to 2013. Dr. Wang anticipates performing 2950 procedures annually.

Dr. Snow Trinh Nguyen, a gastroenterologist, submitted a letter of interest to perform procedures at Woodside ASC, LCC. Dr. Nguyen specializes in Gastroenterology and Hepatology; is Board Certified in Gastroenterology and currently has physician privileges at NYU Langone Hospital. Dr. Nguyen anticipates performing 2750 procedures annually at Woodside ASC, LLC.

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

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

Financial Analysis

Total Project Cost and Financing

The total project cost for renovations and movable equipment is estimated at \$2,026,493, as follows.

Renovation & Demolition	\$1,255,800
Design Contingency	125,580
Construction Contingency	125,580
Architect/Engineering Fees	85,000
Movable Equipment	404,213
Interim Interest Expense	17,246
Application Fees	2,000
Additional Processing Fees	<u>11,074</u>
Total Project Cost	\$2,026,493

The financing plan of the applicant and its landlord is as follows:

Equity-Applicant member	\$226,493
Equity-Landlord member	200,000
Bank Loan -Landlord (variable rate, estimated at 6.5% interest as of 5/2/2024, amortization up to 25 years)	<u>1,600,000</u>
Total	\$2,026,493

BFA Attachments A.1 and A.2 present the net worth summaries for Woodside ASC, LLC and New Avatar Property Holdings, LLC members, which show sufficient resources to meet the equity requirements. Chase Bank has provided a letter of interest.

Operating Budget

The applicant has submitted the first and third year projected operating budgets in 2025 dollars, as summarized below:

	<u>Year One</u>		<u>Year Three</u>	
ASC Revenues:	<u>Per Procedure</u>	<u>Total</u>	<u>Per Procedure</u>	<u>Total</u>
Medicaid - MC	\$571.48	\$1,436,701	\$585.85	\$1,705,417
Medicare - MC	\$601.67	586,630	\$616.80	696,372
Commercial - MC	\$661.24	<u>1,017,651</u>	\$674.53	<u>1,010,450</u>
Total Revenues:		\$3,040,982		\$3,412,239
Expenses:				
Operating	\$457.93	\$2,349,160	\$458.44	\$2,592,913
Capital	<u>\$70.20</u>	<u>360,145</u>	<u>\$65.68</u>	<u>371,501</u>
Total Expenses:	\$528.13	\$2,709,305	\$524.12	\$2,964,414
Net Income (Loss)		<u>\$331,677</u>		<u>\$447,825</u>
Visits		5,130		5,656

The following is noted concerning the submitted ASC budget.

- Reimbursement rates were determined based on the Centers for Medicare & Medicaid Services (CMS) 2024 Final Rule Rates for each current procedural terminology (CPT) code. The other payer rates were predicated on the Medicare rate based on the applicant's experience negotiating insurance rates and their relationships as a percentage of the Medicare rate (Commercial at 110% of the Medicare rate and Medicaid at 95% of the Medicare rate).
- Staffing is based on a pro forma model using the number of cases and industry benchmarks for gastroenterological surgical centers.
- Expense assumptions, other Depreciation, and Rent are based on projected yearly cases in conjunction with industry standards.

- Utilization assumptions are supported by participating physicians' volume letters based on their current experience. Utilization by payor source is as follows:

	<u>Year One</u>		<u>Year Three</u>	
Payor:	<u>Procedure</u>	<u>%</u>	<u>Procedure</u>	<u>%</u>
Medicaid-MC	2,514	49.01%	2,911	51.47%
Medicare-MC	975	19.00%	1,129	19.95%
Commercial-MC	1,539	30.00%	1,498	26.49%
Charity Care	<u>102</u>	<u>1.99%</u>	<u>118</u>	<u>2.09%</u>
Total	5,130	100%	5,656	100%

Lease Rental Agreement

The applicant has submitted a draft Lease Agreement for the proposed site, the terms of which are summarized below:

Premises:	4,500 sq. ft. located at 69-28 Queens Boulevard, Woodside, NY
Landlord:	New Avatar Property Holdings, LLC
Lessee:	Woodside ASC, LLC
Landlord to Construct:	Construct all tenant improvements in compliance with 10NYCRR Parts 711 and 715
Term:	15 Years and two (2) five-year renewals
Rental:	\$270,000 with an annual escalation of 2%
Provisions:	The tenant is responsible for taxes, insurance, utilities, and maintenance.

The lease arrangement is a non-arms-length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operator. Letters from two NYS licensed realtors attest to the rental rate being of fair market value have been provided.

Capability and Feasibility

The applicant and the landlord will fund the total project costs of \$2,026,493. The applicant's portion, \$226,493, will be funded with equity. The landlord's portion for the FASC's build-out is \$1,800,000, and it will be funded with \$200,000 in equity and a \$1,600,000 construction loan. The construction loan will be converted into a permanent loan at a fixed rate estimated at 6.5% as of 5/2/2024 with amortization up to 25 years. Chase Bank has provided a letter of interest.

The working capital requirement is estimated at \$494,069 based on two months of third-year expenses, and will be funded with \$247,035 in members' equity and a five-year loan for \$247,034 at an interest rate of 8%. Chase Bank has provided a letter of interest. A review of BFA Attachment A.1 and A.2 shows sufficient resources to meet all equity requirements. BFA Attachment B presents Woodside ASC, LLC's Pro Forma Balance Sheet, which shows operations will start with \$464,322 in equity. BFA Attachment C presents New Avatar Property Holdings, LLC's Pro Forma Balance Sheet, which shows \$1,645,138 in equity. The budget appears reasonable.

Conclusion

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

Attachments	
BHFP Attachment	Map
BFA Attachment A1	Woodside ASC Net Worth Statement
BFA Attachment A2	New Avatar Property Holdings Net Worth Statement
BFA Attachment B	Woodside ASC Pro Forma Balance Sheet
BFA Attachment C	New Avatar Property ASC Pro Forma Balance Sheet

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a single-specialty ambulatory surgery center for Gastroenterology at 69-28 Queens Boulevard, Woodside, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

242018 B

FACILITY/APPLICANT:

Woodside ASC, LLC

APPROVAL CONTINGENT UPON:

Approval with an expiration of the operating certificate five years from the date of its issuance, 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. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]
4. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
5. Submission of an executed construction loan commitment acceptable to the Department of Health. [BFA]
6. Submission of an executed working capital loan commitment acceptable to the Department of Health [BFA]
7. Submission of an executed lease agreement acceptable to the Department of Health. [BFA]
8. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations, and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include a commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
9. Submission of a signed agreement with an outside, independent entity satisfactory to the Department
to provide annual reports to DOH. Reports are due no later than April 1st for the prior year and are to be based upon the calendar year. Submission of annual reports will begin after the first full or, if greater or equal to six months after the date of certification, partial year of operation. Reports should include:
 - a. Data displaying actual utilization including procedures;
 - b. Data displaying the breakdown of visits by payor source;
 - c. Data displaying the number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
 - d. Data displaying the number of emergency transfers to a hospital;
 - e. Data displaying the percentage of charity care provided;
 - f. The number of nosocomial infections recorded during the year reported;
 - g. A list of all efforts made to secure charity cases; and
 - h. A description of the progress of contract negotiations with Medicaid managed care plans.[RNR]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **February 15, 2025**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **November 15, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The staff of the facility must be separate and distinct from the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
4. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf.
Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]
5. 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]
6. The submission of annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Project # 242077-B
Rego Park Endo, LLC

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Establishment and Construction **Acknowledged:** August 23, 2024

Executive Summary

Description

Rego Park Endo, LLC (Rego Park), an existing New York limited liability company, requests approval to establish and construct a single specialty free standing ambulatory surgery center (FASC) specializing in gastroenterology services. The new facility, at 99-01 Queens Blvd, Rego Park (Queens County) will include five (5) endoscopy procedure rooms. This project will combine multiple private practices into a single FASC.

The proposed members of Rego Park Endo, LLC are Dr. David Tenenbaum, Dr. David Beyda, Dr. Albert Shalomov, Dr. Dan Reich, and Sapient Health Management, LLC.

Dr. David Tenenbaum, board-certified in internal medicine and a gastroenterologist will serve as Medical Director. Four (4) gastroenterologists have provided letters of interest to perform procedures at the Center. Collectively, the physicians are currently performing approximately 7,200 procedures annually that can be performed in an ASC. The physicians are all board-certified in Gastroenterology.

The applicant is negotiating with Flushing Hospital Medical Center regarding a Transfer and Affiliation Agreement for backup and emergency services. The closest hospital to the facility is Long Island Jewish Forest Hills Hospital, .2 miles or 4 minutes from the proposed facility.

OPCHSM Recommendation

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

Need Summary

The applicant projects 6,528 procedures in Year One and 7,528 in Year Three, with Medicaid at 30% and Charity Care at 2% by the Year Three.

Program Summary

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

Financial Summary

The total project costs of \$6,002,594 will be funded with \$52,594 of member's equity, \$550,000 in Landlord Tenant improvement allowance, a \$3,600,000 bank construction loan, self-amortizing for a 10-year term at an 8.05% interest rate, and an \$1,800,000 bank loan for equipment, self-amortizing for a 5-year term at an 8.50% interest rate.

Budget:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$5,940,924	\$6,936,709
Expenses:	\$5,401,636	\$6,231,897
Net Income	\$539,288	\$704,812

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval with an expiration of the operating certificate five years from the date of its issuance, 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 Administrative Services Agreement acceptable to the Department. [HSP]
4. Submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-1.0. [AER]
5. Submission of Engineering (MEP) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
6. Submission of an executed loan commitment for the buildings construction, acceptable to the Department of Health. [BFA]
7. Submission of an executed loan commitment for equipment, acceptable to the Department of Health. [BFA]
8. Submission of an executed working capital loan, acceptable to the Department of Health. [BFA]
9. Submission of an executed building lease agreement, acceptable to the Department of Health. [BFA]
10. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the centers commitment to meet the health care needs of the community, including the provision of services to those in need, regardless of ability to pay. The statement shall also include a commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
11. Submission of a signed agreement with an outside, independent entity satisfactory to the Department to provide annual reports to DOH. Reports are due no later than April 1st for the prior year and are to be based upon the calendar year. Submission of annual reports will begin after the first full or, if greater or equal to six months after the date of certification, partial year of operation. Reports should include:
 - a. Data displaying actual utilization including procedures;
 - b. Data displaying the breakdown of visits by payor source;
Data displaying the number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
 - c. Data displaying the number of emergency transfers to a hospital;
 - d. Data displaying the percentage of charity care provided;
 - e. The number of nosocomial infections recorded during the year reported;
 - f. A list of all efforts made to secure charity cases; and
 - g. A description of the progress of contract negotiations with Medicaid managed care plans.[RNR]

Approval conditional upon:

1. This project must be completed by **February 15, 2025**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

2. Construction must start on or before **June 15, 2025**, and construction must be completed by **November 15, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The staff of the facility must be separate and distinct from the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
4. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]
5. 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]
6. The submission of annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]

Council Action Date

December 5, 2024

Need Analysis

Project Description

Rego Park Endo, LLC (Rego Park), an existing New York limited liability company, requests approval to establish and construct an Article 28 Diagnostic and Treatment Center (D&TC) to be certified as a single-specialty freestanding ambulatory surgery center (FASC) specializing in gastroenterology services. The new facility will include five (5) endoscopy procedure rooms and will be located at 99-01 Queens Blvd, 2nd floor, Rego Park (Queens County). This project will combine multiple private practices into a single FASC. The Center will be owned by Dr. David Tenenbaum, Dr. David Beyda, Dr. Albert Shalomov, Dr. Dan Reich, and Sapient Health Management, LLC.

Background and Analysis

The service area consists of Queens County. The population of Queens County is projected to increase to 2,554,994 by 2029 based on Cornell Program on Applied Demographics estimates. Demographics for the primary service are noted below including a comparison with New York State.

Demographics	Queens County	New York State
Total Population-2022 Estimate	2,360,826	19,994,379
Hispanic or Latino (of any race)	28.0%	19.5%
White (non-Hispanic)	23.8%	53.8%
Black or African American (non-Hispanic)	16.7%	13.8%
Asian(non-Hispanic)	25.9%	8.8%
Other (non-Hispanic)	5.6%	4.1%

Source: 2022 American Community Survey (5-year Estimates Data Profiles)

In 2022, 91.3% of the population of Queens County had health coverage as follows:

Employer Plans	41.7%
Medicaid	26.5%
Medicare	10.7%
Non-Group Plans	12.1%
Military or VA	0.278%

Source: Data USA

Ambulatory Surgery within a 3-Mile Radius of Proposed Center

Facility Name	Type	Patient Visits		
		2021	2022	2023
Flushing Hospital Medical Center	Hospital	4,744	4,818	4,888
New York-Presbyterian/Queens	Hospital	13,960	16,863	18,711
Queens Boulevard ASC, LLC	ASC	11,849	10,370	11,145
Elmhurst Hospital Center	Hospital	7,368	6,301	6,279
Long Island Jewish Forest Hills	Hospital	5,586	6,068	6,325
Jamaica Hospital Medical Center	Hospital	5,254	5,353	5,822
Medex Diagnostic and Treatment Center	ASC	Unavailable	89	3,318
Queens Hospital Center	Hospital	4,981	5,289	7,175
Queens Surgical Center	ASC	545	1,264	2,238
Flushing Endoscopy Center, LLC	ASC	8,541	10,030	11,323
Total Visits		62,828	66,445	77,224

Source: HFIS and SPARCS

All the facilities listed above provide single specialty or multi-specialty ambulatory gastroenterology surgical services.

Queens County had 16 ASCs from 2021 through 2023 according to data from the Health Facilities Information System (HFIS). For 2023, there were approximately 140,762 people in Queens County per ASC.

Per the applicant, this project will combine multiple private practices into a single FASC resulting in operational efficiencies, bringing together local, established Gastroenterologists. One of the proposed member surgeons will be bringing his cases from another ASC. After the Center is established, the participating physicians will continue to be on call at the hospitals they currently serve and will continue to see patients at the hospitals with which they are affiliated. There will be no procedures that come from local hospitals.

The applicant projects 6,528 procedures in Year One and 7,528 in Year Three, with Medicaid at 30% and Charity Care at 2%. These projections are based on the current practices of participating surgeons. The table below shows the applicant's projected payor source utilization for Years One and Three.

	Year One		Year Three	
	Volume	%	Volume	%
Commercial FFS	2,313	35.43%	2,545	33.81%
Commercial MC	754	11.55%	829	11.01%
Medicare FFS	497	7.61%	547	7.27%
Medicare MC	124	1.90%	136	1.81%
Medicaid FFS	577	8.84%	634	8.42%
Medicaid MC	1,508	23.10%	1,658	22.02%
Private Pay	0	0.00%	0	0.00%
Charity Care	60	0.92%	160	2.13%
Other (WC)*	695	10.65%	1,019	13.53%

* includes union contracts

The Center initially plans to obtain contracts with the following Medicaid Managed Care Plans: Health First, Fidelis, Metroplus, and Molina. The center will work collaboratively with the following Federally Qualified Health Centers to provide service to the under-insured in their service area: Apicha Community Health Center, Sun River Health Richmond Hill, and Myrtle Avenue Family Health Center. The center has developed a financial assistance policy to be utilized when the center is operational. The hours of operation will be Monday through Friday 7AM – 5PM. Weekend and/or evening procedures will be made available, if needed, to accommodate patient scheduling issues.

Project 242018 (Woodside ASC, LLC) is currently under review to establish a single specialty – gastroenterology ASC in Queens County and is 2.6 miles/13 minutes away from this site.

Conclusion

Approval of this project will provide increased access to gastroenterology in an outpatient setting for the residents of Queens County.

Program Analysis

Project Proposal

Proposed Operator	Rego Park Endo, LLC
To Be Known As	Rego Park Endo, LLC
Site Address	99-01 Queens Boulevard, 2nd Floor, Rego Park, New York 11374 (Queens County)
Surgical Specialties	Ambulatory Surgery- Single Specialty - Gastroenterology
Hours of Operation	Monday through Friday, 7:00 a.m. to 5:00 p.m
Staffing (1st Year / 3rd Year)	31.8 FTEs / 40.7 FTEs
Medical Director(s)	David Tenembaum, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Expected to be provided by Flushing Hospital Medical Center 4 miles / 15 minutes away
Nearest Hospital	Long Island Jewish Forest Hills Hospital .2 Miles / 4 mins

**Weekend and/or evening procedures will be made available, if needed, to accommodate patient scheduling issues.*

The following table show the projected FTEs in Year One and Year Three after completion of the project:

Position	Year One	Year Three
Management and Supervision	4.0	4.0
Technician and Specialist	8.0	10.0
Registered Nurses	6.0	8.0
Licensed Practical Nurses	2.0	2.0
Aides, Orderlies & Attendants	1.0	1.0
Surgeons (will only be member physicians)	4.0	4.0
Clerical and Other Administrative	6.0	8.0
Totals	31.0	37.0

This project will bring together experienced professionals, who are affiliated with Sapient Health Management, LLC, into the operation of an Article 28 FASC specializing in gastroenterology, with local, established gastroenterologists. Procedures performed at the proposed FASC will originate from Queens County. There will be no procedures that come from local hospitals. After the Center is established, the participating physicians will continue to be on call at the hospitals they currently serve and will continue to see patients at the hospitals with which they are affiliated. The physicians will also continue to perform inpatient and ambulatory procedures that are more appropriately performed in a general hospital setting at the hospitals with which they are affiliated.

Rego Park, LLC proposes to bring existing procedures performed by the physicians' private offices into a regulatory environment of an Article 28. The procedures will be performed under local anesthesia or conscious sedation and will not require an overnight stay in an acute care hospital. The applicant is projecting 6,528 procedures in Year One and 7,528 procedures in Year Three.

The applicant will seek accreditation from either the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Accreditation Association for Ambulatory Health Care (AAAHHC) or the American Association for the Accreditation of Ambulatory Surgery Facilities, Inc. (AAAASF) within two (2) years of becoming operational.

The Center will have five (5) procedure rooms, which includes preoperative and recovery areas, and will occupy 7,800 of the 15,000 square feet of space available on the 2nd floor of a commercial building.

Upgrades will include the installation of a new HVAC system and systems will be modified to the ASC build out. Renovations will take approximately five months.

The Center plans to work closely with its patients to educate them regarding the availability of primary care services offered by local providers. Through this program, the Center's patients will be better able to make informed choices regarding preventive medicine, to understand their personal health care options going forward, and to hopefully avoid unnecessary hospitalization and emergency room visits. Charity care will be provided at least 2% and 30% of the procedures the Center will perform will be for Medicaid recipients. The Center plans to utilize an Electronic Medical Record (EMR) system and to fully integrate and exchange information with an established Regional Health Information Organization (RHIO) with the capability for clinical referral and event notification.

The members of Rego Park Endo, LLC are as follows:

Name	Membership Interest
Rego Park Endo, LLC:	
David Tenenbaum, M.D.	23.75%
David Beyda, M.D.	23.75%
Albert Shalomov, M.D.	23.75%
Dan Reich, M.D.	23.75%
Total	95.00%
Sapient Health Management, LLC:	5.00%
Joseph Romano (50%) Alexander (Bill) Ingram (50%)	
Total	5%

**David Reich, M.D. currently performs procedures at The Endoscopy Center of Queens, approximately 6 miles or 24 minutes from the proposed FASC. Pursuant to Dr. Reich's Schedule 2A, he is not an owner of The Endoscopy Center of Queens. Upon approval of this Application, and Dr. Reich becoming an owner of this proposed FASC, it is Dr. Reich's intent to perform the procedures at Rego Park Endo.*

***The initial managers of Rego Park Endo, LLC will be David Tenenbaum, M.D., David Beyda, M.D., Daniel Reich, M.D., Albert Shalomov, M.D., and Joseph Romano (on behalf of Sapient Health Management, LLC).*

*****The Center will enter into a Development Agreement and an Administrative Services Agreement with Sapient Health Management, LLC to provide certain administrative functions for the development and operation of the Center.*

Character and Competence

David Tenenbaum, M.D. will serve as the Center's Medical Director. Dr. Tenenbaum is board-certified in Internal Medicine and Gastroenterology; graduated from the Ponce School of Medicine in Puerto Rico with a Medical Doctorate degree in 2009; and completed a Fellowship in Gastroenterology and in Hepatology at New York Presbyterian-Queens in 2016; is certified by the American Board of Internal Medicine, American Board of Gastroenterology and by Advanced Cardiovascular Life Support (ACLS/BLS).

Currently, Dr. Tenenbaum is a Consultant Physician at Jackson Heights since 2022 and has admitting privileges at New York Presbyterian-Queens.

Daniel S. Reich, M.D. graduated with a Doctor of Medicine degree from Albert Einstein College of Medicine in New York in 2000; completed a Residency in Internal Medicine at Montefiore Medical Center in New York in 2003; and completed a Gastroenterology Fellowship at the Westchester Medical Center in New York in 2006.

Currently, Dr. Reich works in Gastroenterology at Forest Hills in New York since 2013, has admitting privileges at Flushing Hospital Medical Center since 2013, and as a voluntary attending Physician at Montefiore Medical Center in New York since 2006. Dr. Reich also received Board Certification by the American Board of Internal Medicine and Gastroenterology.

Dr. Reich had ownership interest with Queens Endoscopy ASC (2014-2023), continues to have ownership interests with Advanced Endoscopy Center (since 2007) and with Mid-Bronx Endoscopy Center.

On October 22, 2024, Dr. Reich provided an explanation of a malpractice suit settlement for \$380,000. Patient sued for negligence and delay in diagnosis that resulted in a perforation during colonoscopy.

David J. Beyda, M.D., graduated with a Doctor of Medicine degree from Sackler School of Medicine in Israel in 2007; completed a Residency at the Albert Einstein College of Medicine at Beth Israel Medical Center in New York in 2010; was the Chief Medical Resident at the Albert Einstein College of Medicine at Beth Israel Medical Center in 2011; and completed a Gastroenterology Fellowship at SUNY Downstate Medical Center at Long Island Hospital in New York in 2014.

Currently, Dr. Beyda is an attending Gastroenterologist at Main Street Medical Services, PLLC in New York since 2014, has admitting privileges at New York Presbyterian-Queens and at St. Francis Hospitals, and was a Clinical Assistant Instructor at SUNY Downstate Medical Center at Long Island College Hospital from 2011 to 2014.

Albert Shalomov, M.D., graduated with a Doctor of Medicine degree from St. George's University School of Medicine in West Indies in 2003; completed an Internship in General Surgery at Monmouth Medical Center in New Jersey in 2004, completed a Residency in Internal Medicine at New York Presbyterian Queens in New York in 2008 and is Board Certified in Gastroenterology since 2011.

Currently, Dr. Shalomov is the Medical Director at Queens Boulevard Endoscopy Center in New York since 2018; has a private practice at Gastroenterology & Liver Disease, PC in New York since 2012; is an attending Gastroenterologist at New Presbyterian Queens Hospital in New York since 2011 and is an attending Gastroenterologist at Advanced Gastroenterology, PC on New York since 2011. Dr. Shalomov also has admitting privileges at Norwell Forest Hills Hospital.

Sapient Health Management is a healthcare management company, which focuses on developing outpatient Surgery Centers for over 10 years and has been an administrator at several Article 28 Surgery Centers in New York.

Joseph A. Romano received a Bachelors in Business Management degree from Ramapo College of New Jersey in 2004. Currently, Joseph Romano is the president and co-owner of Sapient Health Management, LLC; and was the Vice-President of Logistics at Frontier Healthcare Holding, LLC in New York from 2012 to 2015.

Alexander W. (Billy) Ingram received a Bachelors in BSC/BCOM degree from the University of Melbourne in Australia in 2006. Currently, Alexander Ingram is a Partner in Sapient Health Management, LLC; was a Managing Director at SCALE HEALTHCARE in New York from 2019 to 2023, was the Chief Executive Officer of The Motherhood Center in New York from 2014 to 2018; is a consultant and partner/officer with Armadale Health, LLC, and was a senior member of Frontier Healthcare that developed and operated eight (8) New York State ASCs.

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

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

Financial Analysis

Total Project Cost and Financing

Total project costs for construction, fit-out and the acquisition of moveable equipment is estimated at \$6,002,594, broken down as follows:

Renovation & Development	\$3,009,812
Design Contingency	300,981
Construction Contingency	300,981
Architect/Engineering Fees	300,981
Construction Manager Fees	150,491
Other Fees	20,000
Movable Equipment	1,800,000
Interim Interest Expense	84,525
CON Application Fee	2,000
Additional CON Processing Fee	<u>32,823</u>
Total Project Cost	\$6,002,594

The applicant's plan for financing is as follows:

Equity (Applicant Member)	\$52,594
Landlord Tenant Improvement Allowance	\$550,000
Construction Loan (10-year term, 8.05% interest, 10-year amortization)	\$3,600,000
Equipment Loan (5 -year term, 8.50% interest, 5-year amortization)	<u>\$1,800,000</u>
Total Project Financing	\$6,002,594

BFA Attachment A presents the applicants' Personal Net Worth Statements, which indicates sufficient liquid resources to fund the equity requirement for the project costs. Chase Bank has submitted a letter of interest for the respective financings of Construction and Equipment loans at the stated terms.

Operating Budget

The applicant has submitted their first-and third-year operating budget, in 2024 dollars, summarized below.

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per</u>	<u>Revenues</u>	<u>Per</u>	<u>Revenues</u>
Revenues:				
Commercial FFS	\$1,200.20	\$2,776,073	\$1,267.77	\$3,226,476
Commercial MC	\$1,199.40	\$904,346	\$1,267.88	\$1,051,071
Medicare FFS	\$680.43	\$338,172	\$718.54	\$393,039
Medicare MC	\$675.00	\$83,700	\$715.29	\$97,280
Medicaid FFS	\$649.58	\$374,806	\$687.09	\$435,616
Medicaid MC	\$624.87	\$942,297	\$660.54	\$1,095,179
Other	\$750.40	<u>\$521,530</u>	\$626.15	<u>\$638,048</u>
Total Revenues		\$5,940,924		\$6,936,709
Expenses:				
Operating Expense	\$629.60	\$4,110,000	\$667.19	\$5,022,600
Capital Expense	<u>\$197.86</u>	<u>\$1,291,636</u>	<u>\$160.64</u>	<u>\$1,209,297</u>
Total Expense:	\$827.46	\$5,401,636	\$827.83	\$6,231,897
Net Income:		<u>\$539,288</u>		<u>\$704,812</u>
Total Procedures		6,528		7,528

Utilization for by payor sources is anticipated as follows:

<u>Payor Source:</u>	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	35.43%	33.81%
Commercial MC	11.55%	11.01%
Medicare FFS	7.61%	7.27%
Medicare MC	1.90%	1.81%
Medicaid FFS	8.84%	8.42%
Medicaid MC	23.10%	22.02%
All Other	10.65%	13.53%
Charity Care	.92%	2.13%
Total	100.00%	100.00%

The following is noted in respect to the operating budget:

- Volume is based on the historical experience of the four proposed physicians' members of Rego Park Endo, LLC. The proposed physicians' members have submitted letters in support of utilization projections.
- Medicare revenues are based on the Medicare fee schedule. Commercial revenues are based on the physicians past commercial payor rate experience for the types of gastroenterology cases they would perform at the center. Medicaid revenues are based on the recent APG rates listed on the Department of Health website.
- Expense and utilization assumptions reflect the physicians' experience in operating through private practice.
- Data by CPT code detailing case mix and volume was provided to support payment rates and revenue projections. It is estimated that 38.25% will be esophagogastroduodenoscopies, 60.53% will be colonoscopies, and 1.22% of the procedures will be Hemorrhoidectomy. The budget appears reasonable given the payment and expense rates for these types of procedures performed at the FASC.

Lease Rental Agreement

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

Date:	TBD
Premises:	15,350 sq. ft on the 2nd floor at 99-01 Queens Blvd, Queens, NY
Landlord:	BDG 99 QB, LLC
Tenant:	Rego Park Endo, LLC
Term:	30 Years
Rent:	\$700,000 for year 1 (\$58,333.33 per month) increased 2.5% annually from years 2-19, year 20 the increase is 8% with year 21-30 being 2.5% annually.
Provisions:	Triple net lease

There is no relationship between landlord and tenant, making this an arm's length agreement. The applicant submitted letters from two (2) New York State licensed realtors attesting to rent being of fair market value.

Administrative Services Agreement

The applicant has submitted an executed Administrative Service Agreement, the terms are summarized below:

Date:	July 24, 2024
	Rego Park Endo, LLC
Consultant:	Sapient Health Management, LLC
Terms:	2 years with automatic 1-year renewals
Services Provided:	Securing/monitoring all permits/licenses and certifications to operate, Advising/assisting in the purchase of supplies/capital equipment; developing/providing/advising regarding production/updating of Center policies/procedure manuals, seeking advice of legal counsel at Company's cost/expense regarding the creation of organizational/operational documents; reviewing the menu of services to confirm each service will be provided in practice/revise the list accordingly; Providing billing services and organizing/managing/supervising billing/collection/accounts receivable/accounts payable processing/procedures, Assist/supervise but not provide billing/collection services under this Agreement; Assisting with development of fee schedules/payor contracts (assisting with obtaining such contracts), assisting with developing contracts with managed care payors; Assisting in formation/implementation/ongoing monitoring of utilization management/quality assurance procedures/protocols, and software management systems; Consultant shall assist in human resources administration; Consultant shall advise Company on hiring/terminating the Center Administrator, all actions subject to Company's ultimate authority. Consultant shall provide supervisory administrative services; Consultant shall provide on-site oversight/presence not less than an average of three (3) days per week; Assisting in developing a proposed capital budget for Company reflecting appropriate levels of expenditures. Assisting in developing operating budget and assist in establishing/maintaining appropriate accounting procedures/controls, and systems for the timely generation of all financial records/reports, maintaining all accounting/payroll systems/procedures/practices appropriate to business operations of the Center; Assisting Company with its obligations in connection with credentialing/education/training of clinical staff; Meeting with the Company's governing board/ownership to review performance; Assist with efforts to syndicate to other physicians/otherwise advise with respect to strategic growth/performance improvement; Performing other consulting/administrative duties reasonably requested by Company on mutually acceptable terms and subject to New York State law.
Payment:	\$180,000 annually (\$15,000 monthly)

ASC Development Agreement

The applicant has submitted an executed ASC Development Agreement, the terms are summarized below:

Date:	7/24/24
Owner:	Rego Park Endo, LLC
Developer:	Sapient Health Management, LLC
Services Provided:	Consulting services with respect to the development activities relating to the surgerycenter.
Term:	20 months with the option to extend for 10additional months
Payment:	\$11,500 a month for with first 20 months with theoptional 10 months being \$5,000 a month

Capability and Feasibility

The total project costs of \$6,002,594 will be funded as with \$52,594 of member's equity, a \$3,600,000 bank construction loan, self-amortizing for a 10-year term at an 8.05% interest rate, an \$1,800,000 bank loan for equipment, self-amortizing interest rate, and \$550,000 in landlord-tenant improvement allowance. Chase bank has provided a letter of interest for the two loans. BFA r 5-year term at an 8.50% in Attachment A indicates that the applicants have sufficient funds to cover the equity requirement.

Working capital requirements are estimated at \$1,038,650 based on two months of third year expenses. The applicant will fund the working capital needs with a loan of 500,000 at 11.5% interest for a 5-year term and the remaining \$538,650 will be funded with members' equity. Chase Bank has provided a letter of Interest for the working capital loan. BFA Attachment A is the summary of the member's net worth statement which indicates the availability of sufficient funds for the stated levels of equity. BFA Attachment B is the Pro Forma Balance sheet of as of the first day of operations, which indicates a positive member equity position of \$1,691,243.

The applicant projects net income of \$539,288 and \$704,812 in Year One and Year Three, respectively. Revenues are based on the current Medicare fee schedule, the Medicaid APG rates and the Commercial rates experience of the physicians in their private medical practice. The budget appears reasonable.

Conclusion

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

Attachments

BHFP Attachment	Map
BFA Attachment A	Personal Net Worth Statement
BFA Attachment B	Rego Park Endo, LLC Pro Forma Balance Sheet
BFA Attachment C	Rego Park Endo, LLC Organizational Chart

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a single specialty ambulatory surgery center for gastroenterology at 99-01 Queens Boulevard, 2nd Floor, Rego Park, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

242077 B

FACILITY/APPLICANT:

Rego Park Endo, LLC

APPROVAL CONTINGENT UPON:

Approval with an expiration of the operating certificate five years from the date of its issuance, 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 Administrative Services Agreement acceptable to the Department. [HSP]
4. Submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-1.0. [AER]
5. Submission of Engineering (MEP) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
6. Submission of an executed loan commitment for the buildings construction, acceptable to the Department of Health. [BFA]
7. Submission of an executed loan commitment for equipment, acceptable to the Department of Health. [BFA]
8. Submission of an executed working capital loan, acceptable to the Department of Health. [BFA]
9. Submission of an executed building lease agreement, acceptable to the Department of Health. [BFA]
10. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the centers commitment to meet the health care needs of the community, including the provision of services to those in need, regardless of ability to pay. The statement shall also include a commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
11. Submission of a signed agreement with an outside, independent entity satisfactory to the Department to provide annual reports to DOH. Reports are due no later than April 1st for the prior year and are to be based upon the calendar year. Submission of annual reports will begin after the first full or, if greater or equal to six months after the date of certification, partial year of operation. Reports should include:
 - a. Data displaying actual utilization including procedures;
 - b. Data displaying the breakdown of visits by payor source;
Data displaying the number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
 - c. Data displaying the number of emergency transfers to a hospital;
 - d. Data displaying the percentage of charity care provided;
 - e. The number of nosocomial infections recorded during the year reported;
 - f. A list of all efforts made to secure charity cases; and
 - g. A description of the progress of contract negotiations with Medicaid managed care plans. [RNR]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **February 15, 2025**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **November 15, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The staff of the facility must be separate and distinct from the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
4. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf.
Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]
5. 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]
6. The submission of annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Project # 241185-E

Felix Health New York, LLC d/b/a Felix Health

Program: Diagnostic and Treatment Center
Purpose: Establishment

County: Bronx
Acknowledged: May 7, 2024

Executive Summary

Description

Felix Health New York LLC, d/b/a Felix Health (the Center) requests approval to be established as the new operator of Bronx Health Center, a diagnostic and treatment center currently operated by E&A Medical Solutions, LLC. The Center, at 253 East 142 2nd Street, Bronx, New York, will continue to provide primary care, Dental O/P and Medical Services- Other Medical Specialties including cardiology, vascular, ophthalmology, neurology, endocrinology, urology, wound care, and behavioral health up to the 30% allowable threshold. The Center will also add Optometry O/P and Podiatry O/P services through this CON.

Per CON 231229, E&A Medical Solutions, the current operator of the Bronx Health Center, will retain ownership of its extension clinic at 51 East 125th Street, which will become E&A Medical Solutions' main site following the approval of this CON.

Adam Schreiber is the sole member of Felix Health New York, LLC. Ervin Rene Richo Marin, MD will serve as the Medical Director. The applicant has an Affiliation and Transfer Agreement with NYC H+H- Lincoln Hospital located 0.4 mile and 3 minutes away.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 13,745 visits in Year One and 25,200 in Year Three with 75% Medicaid and 5% Charity Care.

Program Summary

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

Financial Summary

The purchase price of \$3,000,000 will be met with the sole member's personal resources.

Budget:	Year One	Year Three
Revenues	\$1,931,621	\$3,541,356
Expenses	<u>1,739,568</u>	<u>2,736,379</u>
Net Income	\$192,053	\$804,977

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL.

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 lease assignment that is acceptable to the Department of Health. [BFA]
2. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]

Approval conditional upon:

1. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Council Action Date

December 5, 2024

Need Analysis

Project Description

Felix Health New York LLC dba Felix Health is seeking approval to be established as the new operator of the Bronx Health Center, a Diagnostic and Treatment Center (D&TC) currently operated by E & A Medical Solutions, LLC, at 253 East 142nd Street, Bronx, NY 10451 (Bronx County) and add Optometry O/P and Podiatry O/P services. Medical Services - Primary Care, Medical Services - Other Medical Specialties, and Dental O/P services will continue to be available. T

Background and Analysis

The location is in a Health Professional Shortage Area (HPSA) for Primary Care, Mental Health, and Dental Health and is a Medically Underserved Area/Population (MUA/P). The primary service area for this project is Bronx County, specifically zip codes 10451, 10452, 10453, 10454, 10455, 10456, and 10457. These zip codes represent the communities of Mott Haven, the Hub, Concourse Village, Melrose, Highbridge, Morrisania, Port Morris, Longwood, and Hunts Point. The population of Bronx County is estimated at 1,443,229 based on 2022 American Community Survey data and is expected to increase to 1,597,728 by 2029 per projection data from the Cornell Program on Applied Demographics, an increase of 10.7%. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Primary Service Area	Bronx County	New York State
Total Population	464,165	1,443,229	19,994,379
Hispanic or Latino (of any race)	65.1%	56.4%	19.5%
White (non-Hispanic)	2.5%	8.6%	53.8%
Black or African American (non-Hispanic)	29.2%	28.3%	13.8%
Asian(non-Hispanic)	0.9%	3.8 %	8.8%
Other (non-Hispanic)	2.3%	2.9%	4.1%

Source: 2022 American Community Survey (5-Year Estimates Data Profiles)

In 2022, 92.4% of the population of Bronx County had health coverage as follows:

Employee plans	30.1%
Medicaid	43.3%
Medicare	6.87%
Non-group plans	11.8%
Military or VA plans	0.379%

Source: Data USA

The projected payor mix includes:

Applicant Projected Payor Mix		
Payor	Year One	Year Three
Commercial	10%	10%
Medicare	10%	10%
Medicaid	75%	75%
Private Pay	0%	0%
Charity Care	5%	5%
Other	0%	0%

The applicant projects an increase from 4,797 visits in the current year to 13,745 visits in Year One and 25,200 in Year Three. The applicant has stated they will undertake extensive marketing and outreach

activities and expand the availability of services and hours of operation. Some of the projected increase in visits will be from adding Optometry O/P and Podiatry O/P services.

The hours of operation will be Sunday 9 am-3 pm, Monday 8 am-6 pm, Tuesday 8 am-8 pm, Wednesday 8 am-6 pm, Thursday 8 am-8 pm, Friday 8 am-6 pm, Saturday 9 am-4:30 pm. An answering service will be provided to address patient concerns during hours when the facility is closed.

The applicant has an Affiliation and Transfer Agreement with NYC H+H - Lincoln Hospital located 0.4 miles and 3 minutes away.

Prevention Quality Indicators (PQIs) are rates of admission to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization, or for which early intervention can prevent complications or more severe disease. The table below provides information on PQI rates for 2021 related to this application.

Hospital Admissions per 100,000 Adults			
PQI Name	Primary Service Area	Bronx County	New York State
Diabetes Short-Term Complications	148	117	71
Diabetes Long-Term Complications	257	227	117
Chronic Obstructive Pulmonary Disease or Asthma	845	565	239
Hypertension	161	150	70
Heart Failure	667	526	377
Bacterial Pneumonia	143	98	88
Uncontrolled Diabetes	140	106	49
Prevention Quality Overall Composite	2189	1751	1050

Conclusion

Approval of this project will allow for increased access to Medical Services - Primary Care, Medical Services - Other Medical Specialties, Dental O/P, Podiatry O/P, and Optometry O/P services for the residents of Bronx County.

Program Analysis

Program Description

Bronx Health Center, an existing diagnostic and treatment center, currently operated by E&A Medical Solutions, request approval for a change of ownership. The proposed name will become Felix Health New York, LLC. The incoming owner will provide the same services of Medical services – primary care, medical services – other medical specialties and Dental O/P. Other medical specialties include cardiology, vascular, podiatry, ophthalmology, optometry, neurology, endocrinology, urology, wound care, and behavioral health (Less than 30% to be under the threshold).

The table below presents current staffing levels and projected staffing in Year One and Year Three:

Staffing Categories	Current Year	Year One	Year Three
Management and Supervision	2.2	1.0	2.0
Technician & Specialist	0.7	1.5	4.0
Registered Nurses	0	1	2
Aides, orderlies, and attendants	5.7	6	6
Physicians	1.9	1	3
Nurse Practitioners	0.2	1.5	2.0
Social Workers and Psychologists	0.1	0.6	1.5
Clerical and Other Administrative	0	2.0	2.0
Safety Officer	0.5	1.0	1.7
TOTAL	11.3	15.6	24.2

The Center is expected to generate 13,745 visits in Year One of operation, and increase to 25,200 by Year Three.

The Center will assume the current hospital transfer and affiliation agreement with NYC H+H/Lincoln Hospital 0.4 miles and 3 minutes travel from Felix Health.

Hours of operation are Sunday 9 am – 3 pm, Monday 8 am – 6 pm, Tuesday 8 am – 8 pm, Wednesday 8 am – 6 pm, Thursday 8 am – 8pm, Friday 8 am – 6 pm, and Saturday 9 am -4:30 pm. An answering service will be provided to address patient concerns during hours the facility is closed.

Adam Schreiber is the sole Member and Managing Member of Felix Health New York, LLC.

Character and Competence

Dr. Rene Riano Marin - proposed Medicaid Director - Dr. Marin graduated from Pontificia Universidad Javeriana in 2003. Dr. Riano Marin completed a residency in OB/GYN at Flushing Hospital Medical Center in 2015. He is licensed in NY through December 31,2024, and Board Certified in OB/GYN. Dr. Marin reports experience as a Clinical Director at Queens OB/GYN and Empire State Medical Wellness. Since 2019, Dr. Marin has been employed at Queens Obstetrics & Gynecology Services P.C. and Associate Program Director in the Department of Obstetrics and Gynecology at Flushing Hospital Medical Center since 2017. Dr. Marin has also been a Labor and Delivery Instructor at the Department of Obstetrics and Gynecology at Flushing Hospital Medical Center since 2015.

Dr. Marin was previously employed as a Clinical Instructor at Flushing Hospital Medical Center from 2015-2017 and Clinical Research Assistant at Oregon Health and Science University in Portland Oregon in 2010-2011.

Adam J. Schreiber - President and CEO of Juvo Autism and Behavioral Health Services from 2017-2021. The company provided therapy in homes, schools, and outpatient facilities for those diagnosed with autism spectrum disorder. He was responsible for all company operations.

President and CEO of Sunspire Health/Alita Care, an Inpatient & Outpatient Treatment Program for those suffering from substance use disorder and other behavioral health conditions from 2011-2017. He was responsible for all company operations.

Mr. Schreiber is currently in partnership with CareWell Health, Fairway GPO, Greenbrook TMS, Multi-Specialties Management, SDAP Corporation, and The Meadows Behavioral Health.

Adam J. Schreiber discloses ownership interest in other health care facilities. The States of California, Florida, Illinois, New Jersey, Texas, and Washington did not respond to the applicant's request for a Schedule 2D therefore the applicant submitted an affidavit attesting that the agencies are either currently licensed and in compliance with all applicable federal regulations or have closed. Mr. Schreiber reports less than a 5% ownership interest in all facilities.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted for the proposed individual members identified above regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, and a record of legal actions. 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.

CareWell Health (CWH) in NJ disclosed that in the beginning of 2024, subsequent to a complaint related to hemodialysis and radiology services, CareWell Health had several surveys from February until June. On February 1, 2024, a DPoC (Directed Plan of Correction) was issued by NJDOH related to radiology services predominantly being driven by CWH being a primary stroke center. There were further amendments to the DPoC on February 21st & 23rd. CareWell remained compliant to the DPoC throughout this time period. Subsequently, CMS issued a notice of termination from Medicare on April 26, 2024, related to patient rights and EMTALA. The PoC was submitted and accepted with a resurvey that was completed on June 24-26. On July 12, NJDOH rescinded the DPoC with the official letter provided on July 15th indicating CareWell was meeting standards of care as a primary stroke center. Lastly, CMS rescinded the termination from Medicare on July 24 and CWH was deemed compliant for Medicare Conditions of Participation as a result of the resurvey.

Colorado disclosed Meadows Outpatient Center Denver LLC as currently licensed. However, noted three (3) rule violations were issued in 9/2022 for lack of required information on Release of Informations. Signatures from guardians on treatment documentation and required staff signatures on documentation. All were state violations and were resolved with a 90 day action plan issued on 9/9/2022.

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

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

Financial Analysis

Operating Budget

The applicant has submitted an operating budget, in 2024 dollars, for the first and third years after the change in operator, summarized below:

	<u>Per Visit</u>	<u>Current Year</u> <u>(2022)</u>	<u>Per Visit</u>	<u>Year One</u>	<u>Per Visit</u>	<u>Year Three</u>
Revenues:						
Commercial MC	\$139.91	\$33,579	\$139.95	\$192,434	\$140.00	\$352,800
Medicare MC	\$94.94	\$22,786	\$94.97	\$130,580	\$95.00	\$239,400
Medicaid MC	\$168.02	\$685,012	\$168.00	\$1,731,902	\$168.00	\$3,175,200
Less Bad Debt		<u>\$0</u>		<u>\$123,295</u>		<u>\$226,044</u>
Total Revenues		\$741,377		\$1,931,621		\$3,541,356
Expenses:						
Operating	\$116.36	\$558,188	\$91.32	\$1,255,255	\$88.98	\$2,242,364
Capital	<u>\$32.24</u>	<u>\$154,673</u>	<u>\$35.24</u>	<u>\$484,313</u>	<u>\$19.60</u>	<u>\$494,015</u>
Total Expenses	\$148.61	\$712,861	\$127	\$1,739,568	\$109	\$2,736,379
Net Income		\$28,516		\$192,053		\$804,977
Utilization:						
(Visits)		4,797		13,745		25,200

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

- Expense and utilization assumptions are based on historical experience.
- Revenues are based on current reimbursement methodologies.
- The applicant indicated that the increase in visits from the Current Year to Year One and Year Three is the result of the applicant undertaking extensive marketing and outreach activities, and expanded availability of service hours of operation.

Utilization is broken down by payor source during the current year, year one, and year three, summarized as follows:

	<u>Current</u> <u>(2022)</u>	<u>Year One</u>	<u>Year Three</u>
Commercial MC	5.00%	10.00%	10.00%
Medicare MC	5.00%	10.00%	10.00%
Medicaid MC	84.99%	75.00%	75.00%
Charity Care	<u>5.00%</u>	<u>5.00%</u>	<u>5.00%</u>
Total	100.00%	100.00%	100.00%

Asset Purchase Agreement

The applicant has submitted an executed asset purchase agreement for the acquisition of the operation, which is summarized below:

Date	September 15, 2023
Seller	E&A Medical Solutions, LLC
Purchaser	Felix Health New York, LLC
Assets Acquired	Equipment, furniture, furnishings, supplies, Seller's goodwill and business associated with the Clinic, client lists, patient files and medical records of any and all clients served by the Clinic, all other intangible assets owned by Seller and principally used in the business of the Clinic, all accounts receivable of the Clinic only for services rendered after the Closing Date and all rights, licenses or real property interests of Seller in connection with the Clinic.

Assets Excluded	Accounting records relating to the Clinic that the Seller is required to retain under applicable laws, Seller's cash, cash equivalents, and accounts receivable accruing from operations prior to the Closing Date, Seller's financial records, canceled checks, and bank statements accruing from operations prior to the Closing Date, Seller's books and records, tax records and the tax returns, the trade names used by Seller or the Clinic, insurance premiums regarding the Clinic and Seller's Federal Tax Identification Number, and government and non-government provider agreements.
Assumed Liabilities	Liabilities for payment of any applicable federal, state, or local taxes, any liability or obligation arising out of a breach or default by Seller of any contract or governmental permits or license, any liability or obligation in respect to the Excluded Assets, accounts payable arising or accruing as of the Closing Date attributable to the operation of the Clinics and any liability arising from the operation of the Clinic prior to the Closing.
Purchase Price	\$3,000,000
Payment of Purchase Price	\$50,000 pre-signing deposit, \$100,000 signing deposit and \$2,850,000 to be paid in total at the Closing.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement, or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of June 17, 2024, the facility had outstanding Medicaid liabilities of \$973.

Lease Rental Agreement

The applicant has submitted a draft lease assignment for the site that they will occupy, summarized below:

Premises	4,548 square feet located at 253 East 142 2 nd Street, Bronx, New York.
Lessor	Morris Rider Developers, LLC
Lessee	E&A Medical Solutions, LLC
Term	Extends to 2034.
Rental	\$154,672 annually with a 3% increase each year thereafter.
Provisions	The lessee shall be responsible for real estate taxes, maintenance, and utilities.

The applicant has indicated that the lease agreement will be an arm's length lease arrangement.

Capability and Feasibility

The purchase price of \$3,000,000 will be met with the sole member's personal resources. The working capital requirements are estimated at \$456,063, which is equivalent to two months of third-year expenses. The sole member will provide equity from personal resources to meet the equity requirements. BFA Attachment A, Net Worth Statement of the Proposed Member of Felix Health New York LLC, indicates the availability of sufficient funds for the equity contribution. BFA Attachment B, Pro Forma Balance Sheet of Felix Health New York LLC, indicates a positive net asset position of \$3,355,514 as of the first day of operation.

The submitted budget indicates a net income of \$192,053 and \$804,977 during Year One and Year Three, respectively. Revenues are based on current reimbursement methodologies. The submitted budget appears reasonable.

BFA Attachment C, 2022 and 2023 Internal Financial Statements of E&A Medical Solutions, LLC, show a negative working capital position and a positive net asset position in 2022 and 2023. The entity achieved a net income of \$90,755 and \$31,394 in 2022 and 2023, respectively. The applicant has indicated that the reason for the negative working capital positions are pandemic-related issues including loss of staff,

which resulted in overtime for remaining staff coverage, and increased costs of goods and services due to inflation which required a restructuring of the facility's business model.

Conclusion

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

Attachments

BHFP Attachment	Map
BFA Attachment A	Personal Net Worth Statement of the Proposed Member of Felix Health New York LLC
BFA Attachment B	Pro Forma Balance Sheet of Felix Health New York LLC
BFA Attachment C	Financial Summary- 2022 and 2023 Internal Financial Statements of E&A Medical Solutions

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish Felix Health New York, LLC as the new operator of Bronx Health Center, a Diagnostic and Treatment Center currently operated by E & A Medical Solutions, LLC at 253 East 142nd Street, Bronx., and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

241185 E

FACILITY/APPLICANT:

Felix Health New York, LLC d/b/a Felix Health

APPROVAL CONTINGENT UPON:

1. Submission of an executed lease assignment that is acceptable to the Department of Health. [BFA]
2. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Project # 241236-B

**East 180 Operating, LLC d/b/a East 180th Street Health and
Treatment Center**

Program: Diagnostic and Treatment Center

County: Bronx

Purpose: Establishment and Construction

Acknowledged: May 29, 2024

Executive Summary

Description

East 180th Operating, LLC, d/b/a East 180th Street Health and Treatment Center (The Center), requests approval to establish and construct an Article 28 diagnostic and treatment center (D&TC) at 870 East 180th Street, Bronx. This project amends and supersedes Project 212213-B. The original application's membership included Adam Henick and Divina Abreu-Espinal. Mr. Adam Henick is withdrawing his 20% ownership for health-related reasons and will be replaced with Hector Reyes.

The Center will occupy three (3) floors that will house twenty-one (21) exam rooms, two (2) dental rooms, a closed pharmacy, five (5) behavioral health treatment rooms with consultation rooms and designated support areas. The Center will be certified for Primary Medical Care and Specialty Care Services, including Psychological, O/P and Dental, O/P.

Dr. Cecilia Griselda Calderon, who is board-certified in Internal Medicine, will continue to serve as the Medical Director. The applicant maintains a transfer and affiliation agreement with a local area hospital, Bronx-Lebanon Bronx Health Care System, 2.2 miles (15 min) away.

Membership before and after the requested change is as follows:

<u>Current Membership</u>	<u>Ownership Percentage</u>
Adam Henick	20%
Divina Abreu-Espinal	80%

<u>Proposed Membership</u>	<u>Ownership Percentage</u>
Hector Reyes	20%
Divina Abreu-Espinal	80%

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 28,393 visits in Year One and 47,318 visits in Year Three with 67% Medicaid and 5% Charity Care.

Program Summary

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

Financial Summary

Total project cost of \$16,700,121 will be funded with Member's Equity of \$3,504,870 and two (2) separate and distinct loans totaling \$13,195,251. Mr. Hector Reyes will acquire Adam Henick's 20% membership interest for \$393,672.53,

<u>Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$4,331,026	\$7,218,376
Expenses	<u>3,856,456</u>	<u>4,849,778</u>
Net Income	\$474,570	\$2,368,598

Health Equity Impact Assessment

This project does not require a Health Equity Impact Assessment as it does not meet the requirements under Public Health Law Section 2802-B

Recommendations

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. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
3. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
4. Submission of an executed loan commitment for the SBA Loan, acceptable to the Department. [BFA]
5. Submission of an executed loan commitment for the bridge loan, acceptable to the Department. [BFA]
6. Submission of an executed loan commitment agreement for the permanent loan acceptable to the Department. [BFA]
7. Submission of an executed RBAC Federal loan commitment for the permanent mortgage acceptable to the Department. [BFA]

Approval conditional upon:

1. This project must be completed by **March 15, 2028**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **December 15, 2027**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

December 5, 2024

Need Analysis

Project Description

East 180 Operating, LLC, is submitting this amendment to CON project number 212213 requesting only a change in operator membership.

East 180 Operating, LLC, received Public Health and Health Planning Council approval on April 5, 2022, and an All Contingencies Satisfied letter on January 31, 2023, to establish and certify a newly constructed diagnostic and treatment center for the provision of traditional Article 28 diagnostic and treatment services to adult and pediatric patients. The Center, at 870 East 180th Street, Bronx, NY 10460 (Bronx County), will provide primary care, psychological, dental, and pharmacy services.

Background and Analysis

The Center will provide services to residents of Bronx County. The location is within a Health Professional Shortage Area for Primary Care, Mental Health, and Dental Health within a Medically Underserved Area. The population of Bronx County is estimated to increase to 1,597,728 by 2029 per projection data from the Cornell Program on Applied Demographics, an increase of 10.7%. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Bronx County	New York State
Total Population	1,443,229	19,994,379
Hispanic or Latino (of any race)	56.4%	19.5%
White (non-Hispanic)	8.6%	53.8%
Black or African American (non-Hispanic)	28.3%	13.8%
Asian(non-Hispanic)	3.8%	8.8%
Other (non-Hispanic)	2.9%	4.1%

Source: 2022 American Community Survey (5-Year Estimates Data Profiles)

In 2022, 92.4% of the population of Bronx County had health coverage as follows:

Employee plans	30.1%
Medicaid	43.3%
Medicare	6.87%
Non-group plans	11.8%
Military or VA plans	0.379%

Source: Data USA

The projected payor mix includes:

Applicant Projected Payor Mix		
Payor	Year One	Year Three
Commercial	6%	6%
Medicare	19%	19%
Medicaid	67%	67%
Private Pay	1%	1%
Charity Care	5%	5%
Other	2%	2%

The Center will be operational six days per week for at least 66 hours. Hours of operation will increase as demand warrants.

The applicant maintains a transfer and affiliation agreement with a local area hospital, Bronx-Lebanon Bronx Health Care System, 2.2 miles (15 min) away.

Prevention Quality Indicators (PQIs) are rates of admission to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization, or for which early intervention can prevent complications or more severe disease. The table below provides information on PQI rates for 2021 related to this application, indicating that the service area has higher PQI rates than New York State.

Hospital Admissions per 100,000 Adults		
PQI Name	Bronx County	New York State
Diabetes Short-Term Complications	117	71
Diabetes Long-Term Complications	227	117
Chronic Obstructive Pulmonary Disease or Asthma	565	239
Hypertension	150	70
Heart Failure	526	377
Bacterial Pneumonia	98	88
Uncontrolled Diabetes	106	49
Urinary Tract Infection	135	105
Prevention Quality Overall Composite	1,751	1,050

Conclusion

Approval of this project will allow the center to carry its efforts to serve the residents of Bronx County.

Program Analysis

Program Proposal

Proposed Operator	East 180 Operating, LLC
To Be Known As	East 180th Street Health and Treatment Center
Site Address	870 East 180th Street, Bronx NY, 10460. (Bronx County)
Specialties	Medical Services, Primary Care, Dental O/P
Hours of Operation	Monday through Friday 8:00 AM to 4:00 PM Saturday 8:00 AM to 12:00 PM
Staffing (1st Year / 3rd Year)	26.5 FTEs / 36.2 FTEs
Medical Director(s)	Cecilia Griselda Calderon, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Bronx Lebanon/BronxCare Health System 2.2 miles / 15 minutes away

The following table shows the projected FTEs after Year One and Year Three of the project:

Position	Year One	Year Three
Management and Supervision	1.0	1.0
Technician and Specialists	1.0	2.0
Registered Nurses	1.0	1.0
Licensed Practical Nurses	4.0	5.0
Aides, Orderlies and Attendants	3.0	4.5
Physicians	2.0	2.7
Physicians' Assistants	1.0	2.0
Nurse Practitioners	0.5	1.0
Social Worker and Psychologist	2.0	3.0
Clerical and Other Administrative	8.0	11.0
Pharmacist	1.0	1.0
Pharmacist Assistant	1.0	1.0
Dentist	1.0	1.0
Totals	26.5	36.2

Character and Competence

The members of Meridian Surgery Center are:

Name	Ownership Interest
<i>Divina Espinal (previously approved in 212213-B)</i>	80.0%
<i>Hector Reyes (member new to this amendment)</i>	20.00%
Total	100.00%

Dr. Cecilia Griselda Calderon is the proposed Medical Director. Dr. Cecilia Griselda Calderon has been the Chief Medical Officer of HDR Healthcare Network for over two (2) years, Senior Medical Officer of Audubon Primary Care Medicine for over seven (7) years, and the Medical Director of 181st Street Medical PC for over eight (8) years. Dr. Calderon has been an Internal Medical Physician at CCN General Medicine for over eleven (11) years and a Primary Medical Physician at Amsterdam Medical PC for over three (3) years. Dr. Cecilia Griselda Calderon received her medical degree at Universidad Autonoma de Santo Domingo in the Dominican Republic and completed a residency in Internal Medicine at Bronx Lebanon Hospital. Dr. Cecilia Griselda Calderon is board certified in Internal Medicine.

Divina Abreu Espinal has been the Special Education High School Teacher and Chairperson for the Yonkers Public Schools for approximately ten (10) years. Divina Abreu Espinal has experience in human resources management and health care coordination as a Program Coordinator for special needs

students. During this time, Divina Abreu Espinal developed and implemented programs for students with learning disabilities of all spectrums, including interaction and coordination with the student's specialist providers. Divina Abreu Espinal represented the school district with more than 400 special needs students and acted as a liaison between the schools and the districts and have engaged with all agencies to ensure services are provided properly. Divina Abreu Espinal has ensured compliance with state regulations for special education students, HIPAA, and New York State's Dignity for All Student's Act. Divina Abrei Espinal has supervised a team of teachers, social workers, and specialist providers to ensure the full spectrum of services are provided to the students in accordance with regulations.

Hector Reyes, replacing Adam Henick fro previously approved Project 212213-B, received an MBA from the University of Tennessee in 2009. Hector Reyes is the current president of HDR Healthcare Management, a management company operating primary care medical practice, and has been in this role since 2018. From 2016 to present, Hector Reyes has functioned as the president of Morris Park Urgent Care Center. Hector Reyes is the current Chief Financial Officer of Audubon Primary Care Medicine and a managing partner/founder of 181st Street Urgent Care Center since 2014. Hector Reyes is also the Executive Vice President of CCN General Medicine PLLC, and the President of HDR Management Corp since 2014.

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.

Conclusion

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

Financial Analysis

Total Project Cost and Financing

The total project cost is estimated at \$16,700,121 and detailed as follows:

New Construction	\$12,180,000
Renovation & Demolition	274,050
Site Development	537,950
Temporary Utilities	37,555
Design Contingency	1,200,000
Construction Contingency	600,000
Fixed Equipment (NIC)	101,500
Planning Consultant Fees	35,000
Architect /Engineering Fees	350,000
Construction Manager Fees	158,616
Other Fees	35,275
Moveable Equipment	329,875
Telecommunications	126,875
Financing Costs	40,000
Interim Interest Expense	600,088
CON Fee	2,000
Additional Processing Fee	<u>91,337</u>
Total Project Cost	\$16,700,121

The total project costs of \$16,700,121 will be met with \$3,504,870 in Members' Equity and with two (2) loans totaling \$13,195,251. Following the construction period, the first loan of \$8,315,251 will be a 120-month permanent loan based on a 25-year amortization schedule. The second loan of \$4,880,000 is based on a 25-year fixed term loan and 25-year amortization schedule.

Operating Budget

The applicant submitted a projected budget for year one and year three, in 2024 dollars, as shown below:

	<u>Year One</u>		<u>Year Three</u>	
Revenues:	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>
Commercial FFS	\$77.69	\$66,169	\$77.69	\$110,282
Commercial MC	\$62.60	53,334	\$62.60	88,890
Medicare FFS	\$134.05	152,228	\$134.05	253,714
Medicare MC	\$110.39	470,142	\$110.39	783,570
Medicaid FFS	\$219.27	124,503	\$219.27	207,504
Medicaid MC	\$176.77	3,262,052	\$176.77	5,436,753
Private Pay	\$80.00	22,712	\$80.00	37,854
*Other Revenue		<u>145,499</u>		<u>242,499</u>
Total Revenue		\$4,331,026		\$7,218,376
Expenses:				
Operating	\$100.96	\$2,904,634	\$81.57	\$3,897,956
Capital	<u>34.86</u>	<u>951,822</u>	<u>20.12</u>	<u>951,822</u>
Total Expenses	\$135.82	\$3,856,456	\$101.69	\$4,849,778
Net Income		<u>\$474,570</u>		<u>\$2,368,598</u>
Visits		28,393		47,318
Cost/Visit		\$135.82		\$101.69

*Other revenue is for in-house pharmacy revenue.

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

	<u>Year One</u>		<u>Year Three</u>	
	<u>Visits</u>	<u>%</u>	<u>Visits</u>	<u>%</u>
Commercial FFS	852	3%	1,420	3%
Commercial MC	852	3%	1,420	3%
Medicare FFS	1,136	4%	1,893	4%
Medicare MC	4,259	15%	7,098	15%
Medicaid FFS	568	2%	946	2%
Medicaid MC	18,454	65%	30,756	65%
Private Pay	284	1%	473	1%
Charity Care	1,420	5%	2,366	5%
All Other/WC	<u>568</u>	<u>2%</u>	<u>946</u>	<u>2%</u>
Total	28,393	100%	47,318	100%

The following is noted with respect to the submitted budget:

- Revenue assumptions are based on the Ambulatory Health Care Facility-1 Cost Reports for several Article 28 D&TCs operating in the same geographic area with similar square footage, specialties, and anticipated patient flow.
- Year Three revenues are based on 100% visits in treating Primary Medical Care, and Specialty Care Services, including Psychological, O/P and Dental, O/P.
- Expenses in Years One and Three include salaries, benefits, rent and depreciation.
- The applicant anticipates lower volume during the start up period. Volume is expected to increase by Year Three, due to marketing efforts and name recognition..

Purchase and Sale Agreement

The applicant submitted an executed purchase and sale agreement which will be effectuated in accordance with the purchase agreement, the terms of which are summarized below.

Date	TBD
Buyer	Hector Reyes
Seller	Adam Henick
Deliverables	Bill of Sale, affidavit of title evidencing the purchase of the membership interest.
Purchase Price	\$393,672.53
Payment of Purchase Price	Equity to be paid at closing, by the buyer, upon PHHPC approval.

Operating Agreement

The applicant submitted an executed amended operating agreement the terms which are summarized below.

Date	July 21, 2021
Company	East 180 Operating, LLC
Location	870 East Street, Bronx, New York 10460
Profit/Loss	Proportional to shareholders interest
*Management	Member Managed

*Members will have the right to sell his or her interest under the agreement under the guideline written in the agreement.

Lease Agreement

The applicant has submitted an executed lease agreement summarized below.

Date:	September, 2021
Premises:	11,979 square feet of space at 870 East 180th Street, Bronx, NY 10460
Owner:	Sonid Holdings, LLC (Jose Espinal-Sole Member).
Tenant:	East 180 Operating, LLC
Security:	\$56,250 deposit paid
Rental:	The base rent is \$225,000 per annum for years one through five, with a 10% increase for each five-year period thereafter. From the Commencement date until the existing building is vacant there shall be no rent due. From the date the existing building is vacant until the date construction commences, base rent shall be \$5,000 plus additional rent equal to all taxes and water/sewer due. The rent and additional rent due shall accrue and be payable by Tenant upon the commencement of construction. From the date construction commences until a date that is six months after the issuance of a permanent or temporary certificate of occupancy and the issuance of an operating certificate, Base Rent and Additional Rent shall accrue and be payable by Tenant to Landlord of 60% of the distribution of profits according to the Operating Agreement of Tenant.
Term:	49 years
Provisions:	Tenant is also responsible for taxes, assessments, water and sewer rates or charges, and other governmental charges.

The lease will be non-arms length as there is a relationship between the landlord and one of the lessees. The applicant has submitted two (2) letters of rent reasonableness from New York State realtors indicating that the rental was reasonable.

Capability and Feasibility

The total project cost of \$16,700,121 will be funded with Members' Equity of \$3,504,870 and two (2) separate and distinct loans in the amount of \$13,195,251 to East 180 Operating, LLC. Working capital requirements are estimated at \$808,296 based on two months of third year expense and will be funded in Members' Equity. A disproportionate share affidavit has been provided by Hector Reyes. BFA Attachment A, Net Worth Statement of the Proposed Members, shows sufficient resources to meet the total project cost and working capital requirement.

The Purchase and Sale Agreement Price for the 20% membership by Hector Reyes is \$2,368,598.

The submitted budget indicates the facility will generate a net income of \$474,570 and \$2,368,598 in Year One and Year Three, respectively. The revenue assumptions are based on several actual Article 28 diagnostic and treatment centers operating in the same geographic area with similar square footage, specialties, and anticipated patient flow.

BFA Attachment C, Pro Forma Balance Sheet of the Proposed Members, indicates that the facility will initiate operations with members equity of \$4,310,166.

Conclusion

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

Attachments

BFA Attachment A	Net Worth Statement of Proposed Members
BFA Attachment B	Organizational Chart
BFA Attachment C	Pro Forma Balance Sheet of Proposed Members

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a new diagnostic and treatment center at 870 East 180th Street, Bronx (amends and supercedes CON 212213), and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

241236 B

FACILITY/APPLICANT:

East 180 Operating, LLC d/b/a East 180th
Street Health and Treatment Center

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. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
3. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
4. Submission of an executed loan commitment for the SBA Loan, acceptable to the Department. [BFA]
5. Submission of an executed loan commitment for the bridge loan, acceptable to the Department. [BFA]
6. Submission of an executed loan commitment agreement for the permanent loan acceptable to the Department. [BFA]
7. Submission of an executed RBAC Federal loan commitment for the permanent mortgage acceptable to the Department. [BFA]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **March 15, 2028**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **December 15, 2027**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Project # 242028-B

Gamms, LLC d/b/a Zelcare Family Health Network

Program: Diagnostic and Treatment Center **County:** Orange
Purpose: Establishment and Construction **Acknowledged:** August 21, 2024

Executive Summary

Description

GAMMS LLC (The Center), an existing limited liability company, requests approval to establish and construct a new Diagnostic and Treatment Center (D&TC) by converting a private practice at 3 Hamaspik Way, Monroe (Orange County). The Center will provide primary care and other medical specialties including, internal medicine, neurology, ophthalmology/optometry, cardiology, pain management, psychiatry and psychology, pulmonology, gastroenterology, and orthopedics.

The Center will be known as Zelcare Family Health Network. Jonathan Gamss, MD. will serve as the Medical Director. St. Luke's Cornwall, 11 miles and 17 minutes away, will serve as the backup hospital for this project.

The proposed members of GAMMS, LLC are as follows:

<u>Members</u>	<u>Ownership</u>
Jonathan Gamss, MD.	33.4%
Moses Jacobowitz	33.3%
Lazar Schwartz	33.3%
Total	100%

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 16,000 visits in Year One and 29,600 in Year Three with 63% Medicaid and 2% Charity Care.

Program Summary

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

Financial Summary

Total project costs of \$3,035,055 will be met with \$303,506 from the proposed members' personal resources and \$2,729,549 funded by the landlord and one of the individuals who is a party of the sublease.

Budget:	<u>Year One</u>	<u>Year Three</u>
Revenues	\$2,638,642	\$4,881,492
Expenses	<u>2,330,960</u>	<u>3,782,399</u>
Net Income	\$307,682	\$1,099,093

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL.

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 a working capital loan commitment that is acceptable to the Department of Health. [BFA]

Approval conditional upon:

1. This project must be completed by **March 15, 2025**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **December 15, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. 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]
5. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov [HSP]
6. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

December 5, 2024

Need Analysis

Project Description

GAMMS LLC (The Center), an existing limited liability company, requests approval to establish and construct a new Diagnostic and Treatment Center (D&TC) by converting a private practice at 3 Hamaspik Way, Monroe (Orange County). The Center will provide primary care and other medical specialties including, internal medicine, neurology, ophthalmology/optometry, cardiology, pain management, psychiatry and psychology, pulmonology, gastroenterology, and orthopedics.

Background and Analysis

The proposed service area is Orange County centered upon zip code 10950, which includes the village of Kiryas Joel coterminous with the Town of Palm Tree. The majority of residents in Kiryas Joel are members of a Hasidic Jewish sect, tend to have large families, with many young residents within their community. The proposed location is in a Health Professional Shortage Area for primary care and mental health. The population of Orange County is estimated to decrease to 396,429 by 2029 per projection data from the Cornell Program on Applied Demographics, a decrease of 1.19%. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Kiryas Joel	Zip Code 10950	Orange County	New York State
Total Population	34,368	63,011	401,237	19,994,379
Hispanic or Latino (of any race)	2.6%	12.5%	22.3%	19.5%
White (non-Hispanic)	96.1%	81.4%	60.5%	53.8%
Black or African American (non-Hispanic)	0.1%	2.6%	10.5%	13.8%
Asian(non-Hispanic)	0%	1.3%	2.8%	8.8%
Other (non-Hispanic)	0.5%	2.2%	3.9%	4.1%

Source: 2022 American Community Survey (5-Year Estimates Data Profiles)

In 2022, 95.1% of the population of Orange County and 99.1% of Kiryas Joel population had health coverage as follows:

Health Plans	Kiryas Joel	Orange County
Employee plans	9.9%	49.0%
Medicaid	81.3%	22.6%
Medicare	1.11%	10.5%
Non-group plans	6.77%	11.7%
Military or VA plans	0.0262%	1.26%

Source: Data USA

The projected payor mix includes:

Applicant Projected Payor Mix		
Payor	Year One	Year Three
Commercial	13.99%	14%
Medicare	18%	18%
Medicaid	63.01%	63%
Private Pay	3%	3%
Charity Care	2%	2%

According to the applicant, the primary care practice currently has over 10,500 patients with approximately 30,000 patient visits yearly. They project 16,000 visits in Year One and 29,600 visits in Year Three for the proposed facility.

The establishment of this diagnostic and treatment center is part of an overall plan to provide expanded comprehensive integrated primary care and other medical specialty services to those in the target area, necessitated in part due to the death of the physician who owned the Primary Care practice. With the establishment of an Article 28 D&TC, the applicant seeks to reduce preventable hospital admissions and the reduction in unnecessary use of hospital emergency rooms in the community through treatment and education, in a culturally and linguistically sensitive setting. In addition to decreasing the use of hospital emergency rooms, this project seeks to prevent illness and disease through early diagnosis and intervention, information, and advocacy.

There are two approved facilities which are under construction within the 3-mile radius of the proposed facility providing similar services as the applicant planning to serve Kiryas Joel and surrounding areas. Ezras Choilim Health Center Inc is 0.3 miles from the proposed facility and GMZY Health Management is within 2.7 Miles from the proposed facility.

Prevention Quality Indicators (PQIs) are rates of admission to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization, or for which early intervention can prevent complications or more severe disease. The table below provides information on PQI rates for 2021 related to this application.

Hospital Admissions per 100,000 Adults			
PQI Name	Zip Code 10950	Orange County	New York State
Diabetes Short-Term Complications	25	72	71
Diabetes Long-Term Complications	62	97	117
Chronic Obstructive Pulmonary Disease or Asthma	108	220	239
Hypertension	47	96	70
Heart Failure	171	329	377
Bacterial Pneumonia	56	132	88
Uncontrolled Diabetes	31	55	49
Urinary Tract Infection	75	127	105
Prevention Quality Overall Composite	543	1,066	1,050

Source: *Health.Data.NY.Gov*

Conclusion

Approval of this project will allow for increased access to medical services, such as primary care, other medical specialties, optometry, and podiatry services for the residents of Kiryas Joel and Orange County.

Program Analysis

Project Proposal

Proposed Operator	Gamms, LLC
To Be Known As	Zelcare Family Health Network
Site Address	3 Hamaspik Way Monroe, NY 10950 (Orange)
Specialties	Medical Services-Primary Care Medical Services-Other Medical Specialties Internal Medicine Neurology Ophthalmology/Optometry Cardiology Pain Management Psychiatry and Psychology Pulmonology Gastroenterology Orthopedics Endocrinology Optometry O/P Podiatry O/P
Hours of Operation	Monday through Thursday: 9:00 AM - 11:00 PM Friday: 9:00 AM - 11:00 PM Saturday 4:00 PM – midnight Sunday 10:00 AM – 11:00 PM Hours will be adjusted as needed to better reflect the needs of the community.
Staffing (1st Year / 3rd Year)	16.70 FTEs / 30.45 FTEs
Medical Director(s)	Dr. Jonathan Gamss
Emergency, In-Patient and Backup Support Services Agreement and Distance	Expected to be provided by St. Lukes Cornwall 17 minutes / 11 miles

The following table presents the projected FTEs in Year One and Year Three after completion of the project:

Position	Year One	Year Three
Management and Supervision	1.2	1.2
Technician and Specialist	1.0	2.0
Registered Nurses	0.5	1.0
Aides, Orderlies and Attendants	3.0	5.0
Physicians	4.0	8.25
Nurse Practitioners	1.0	2.0
Social Workers and Psychologists	1.0	2.0
Infection Control, Environment and Food Service	2.0	4.0
Clerical and Other Administrative	3.0	5.0
Totals	16.7	30.45

Character and Competence

The members of Gamms, LLC are:

Name	Ownership Interest
Jonathan Gamss, MD	33.4%
Moses Jacobowitz	33.3%
Lazar Schwartz	33.3%
Total	100%

Dr. Jonathan Gamss will serve as the medical director and partial owner of the facility. Dr. Gamss received a medical degree from Albert Einstein College of Medicine in 2004 and holds licensure in NY and NJ. Dr. Gamss is the current owner of PC practice with experience in managing, staffing, scheduling, budgeting, reviewing, and maintaining compliance with laws of a practice with 10,000 patient visits in 2022. Dr. Gamss was named as a defendant in the following disclosed lawsuits:

Chahua - this case was dismissed with prejudice on 3/25/15.

Piperato - regarding a young patient who injured their leg on a trampoline. The patient was seen on 3/22, 3/24, 3/25 and 3/26 and discharged after a workup. On 3/27 the patient sought care at another facility who identified compartment syndrome with emergency fasciotomy performed without success, resulting in the patient's lower leg being amputated. Per the applicant, training was done with medical staff to recognize the early stages of compartment syndrome and the case was settled.

Bargellini - Dr. Jonathan Gamss has been dismissed from this case.

Kearney - a newborn with fever presented and admitted to the hospital however there was a delay in administering antibiotics and the infant had a seizure.

Abdul Rau f- A nine-month-old patient with viral illness was seen in Fast Track by a physician assistant. The patient was discharged after workup with normal vitals and a positive viral panel noted. The patient presented back to the emergency room the next day with worsening respiratory complaints and decompensated. The patient coded and died in the emergency room. Autopsy revealed overwhelming viremia.

Moses Jacobowitz currently works for Diamond Billing NY, LLC, a medical billing business. Moses Jacobowitz graduated from Yashiba of Nitra Rabbinical College with a First Talmudic Degree in 2000. Prior to this Moses Jacobowitz attended Yeshiva Bnei Shimon Yisroel of Shopron for four (4) years. Moses Jacobowitz has disclosed ownership in three (3) facilities: BMG East Orange, LLC, Riverview Medical Care, LLC, and Citywide Urgent Care NJ, LLC. Moses Jacobowitz has provided a signed affidavit indicating these facilities are in good standing.

Lazar Schwartz currently works as a Physician Assistant for Vladimir Zelenko M.D., PC since 2022 and works as a per-diem physician assistant for Ahava Rehabilitation and Medical Center since 2023. Lazar Schwartz also is currently working as a paramedic for KJ volunteer EMS since 2018. Prior to this Lazar Schwartz worked as a paramedic for Rockland Paramedic Services for five (5) years and as the Director of Employment for Yedei Chesed, an Office for People with Developmental Disabilities (OPWDD) for three (3) years. Lazar Schwartz attended SUNY Rockland from 2014-2016, studying Pre-Med and Touro University from 2019-2022, receiving a bachelor's in science and Masters in PA Studies.

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

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

Financial Analysis

Total Project Cost and Financing

Total project cost for renovations and the acquisition of moveable equipment is estimated at \$3,035,055, further broken down as follows:

Renovation and Demolition	\$1,907,148
Design Contingency	190,715
Construction Contingency	190,715
Architect/Engineering Fees	148,128
Other Fees (Consultant)	55,000
Moveable Equipment	524,758
CON Fee	2,000
Additional Processing Fee	<u>16,591</u>
Total Project Cost	\$3,035,055

The applicant has indicated that the total project cost has already been paid for and completed. The proposed members paid \$303,506 with personal resources and the remainder, \$2,729,549, was paid by the landlord and one of the individuals who is a party of the sublease. Moses Jacobowitz provided an affidavit attesting to the equity contributions.

Operating Budget

The applicant has submitted an operating budget, in 2024 dollars, for the first and third year of operation, summarized below:

	Year One		Year Three	
	Per Visit	Total	Per Visit	Total
Revenues:				
Commercial FFS	\$200.00	\$320,000	200.00	\$592,000
Commercial MC	\$170.00	\$108,630	170.00	\$201,280
Medicare FFS	\$200.00	\$480,000	200.00	\$888,000
Medicare MC	\$170.00	\$81,600	170.00	\$150,960
Medicaid FFS	\$179.60	\$57,473	179.60	\$106,145
Medicaid MC	\$152.66	\$1,490,139	152.66	\$2,756,627
Private Pay	\$210.00	<u>\$100,800</u>	210.00	<u>\$186,480</u>
Total		\$2,638,642		\$4,881,492
Expenses:				
Operating	\$107.96	\$1,727,307	\$107.88	\$3,193,171
Capital	<u>\$37.73</u>	<u>\$603,653</u>	<u>\$19.91</u>	<u>\$589,228</u>
Total Expenses	\$145.69	\$2,330,960	\$127.78	\$3,782,399
Net Income		\$307,682		\$1,099,093
Utilization: (Visits)		16,000		29,600

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

- Revenues are based on current reimbursement methodologies for providing primary care and other medical specialties.
- Expense and utilization assumptions are based on the actual experience, expenses and utilization of the existing PC.
- Reimbursement for Commercial Insurance (fee for service and managed care) and Medicare (fee for service and managed care) will remain the same. The Medicaid rate for fee for service was based on the Medicaid base rate plus approved cost capital. The Medicaid Managed Care rate is based on a percentage of the Medicaid fee for service rates.

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

	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	10.00%	10.00%
Commercial MC	3.99%	3.99%
Medicare FFS	15.00%	15.00%
Medicare MC	3.00%	3.00%
Medicaid FFS	2.00%	2.00%
Medicaid MC	61.01%	61.01%
Private Pay	3.00%	3.00%
Charity Care	<u>2.00%</u>	<u>2.00%</u>
Total	100.00%	100.00%

Lease Rental Agreement

The applicant has submitted an executed lease rental agreement for the site that the Center will be located, summarized below:

Date	May 7, 2024
Premises	6,876 square feet located at 3 Hamaspik Way, Monroe, New York.
Lessor	Beyo Hoc LLC
Lessee	Moses Jacobowitz and Dov Markowitz
Term	10 years
Rental	Year 1-3.5: \$185,652 (\$27.00 per sq.ft.)
	Year 3.5-4.5: \$189,365 (27.54 per sq.ft.)
	Year 4.5-5.5: \$193,147 (\$28.09 per sq.ft.)
	Year 5.5-6.5: \$196,997 (\$28.65 per sq.ft.)
	Year 6.5-7.5: \$200,895 (\$29.23 per sq.ft.)
	Year 7.5-8.5: \$204,974 (\$29.81 per sq.ft.)
	Year 8.5-9.5: \$209,099 (\$30.41 per sq.ft.)
	Year 9.5-10: \$213,225 (\$31.01 per sq.ft.)
Provisions	The lessee shall be responsible for real estate taxes, maintenance and utilities.

Sublease Agreement

The applicant has submitted an executed sublease agreement for the site that the Center will be located, summarized below:

Premises	6,876 square feet located at 3 Hamaspik Way, Monroe, New York
Sublessor	Moses Jacobowitz and Dov Markowitz
Sublessee	Gamms LLC
Term	10 years
Rental	Year 3.5-4.5: \$189,365 (27.54 per sq.ft.)
	Year 4.5-5.5: \$193,147 (\$28.09 per sq.ft.)
	Year 5.5-6.5: \$196,997 (\$28.65 per sq.ft.)
	Year 6.5-7.5: \$200,895 (\$29.23 per sq.ft.)
	Year 7.5-8.5: \$204,974 (\$29.81 per sq.ft.)
	Year 8.5-9.5: \$209,099 (\$30.41 per sq.ft.)
	Year 9.5-10: \$213,225 (\$31.01 per sq.ft.)
Provisions	The sublessee shall be responsible for real estate taxes, maintenance and utilities.

The sublease agreement will be a non-arm's length lease arrangement since there is a relationship between the sublessor and the sublessee. The applicant has submitted two real estate letters attesting to the reasonableness of the per square foot rental.

Capability and Feasibility

The applicant has indicated that the total project cost has already been paid for and completed. The proposed members paid \$303,506 from personal resources and the remainder, \$2,729,549, was paid by the landlord and one of the individuals who is a party of the sublease. The applicant provided an affidavit from Moses Jacobowitz attesting to the equity contributions.

The working capital requirements are estimated at \$630,400, which is equivalent to two months of third year expenses. The applicant will finance \$315,200 at an interest rate of 7% for a three-year term and has provided a letter of interest for the financing. The remainder, \$315,200, will be provided in equity from the proposed members of GAMMS, LLC. BFA Attachment A indicates the availability of sufficient funds to meet the equity contributions for the total project cost and the working capital contributions. The applicant has provided in the operating agreement that, if necessary, the proposed members will provide equity disproportionate to their ownership interests. BFA Attachment B, Pro Forma Balance Sheet of GAMMS, LLC as of the first day of operation, indicates a positive net asset position of \$3,665,455.

The submitted budget indicates a net income of \$307,682 and \$1,099,093 during Year One and Year Three, respectively. Revenues are based on current reimbursement methodologies for providing primary care and other medical specialties. The submitted budget appears reasonable.

Conclusion

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

Attachments

BHFP Attachment	Map
BFA Attachment A	Net Worth
BFA Attachment B	Pro Forma Balance Sheet

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a new diagnostic and treatment center by converting a private practice at 3 Hamaspik Way, Monroe, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

242028 B

FACILITY/APPLICANT:

Gamms, LLC d/b/a Zelcare Family Health
Network

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 a working capital loan commitment that is acceptable to the Department of Health. [BFA]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **March 15, 2025**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **December 15, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. 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]
5. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf.
Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov [HSP]
6. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Department
of Health

Public Health and Health Planning Council

Project # 231215-E Covenant Care of New York, LLC

Program: LHCSA
Purpose: Establishment

County: Columbia
Acknowledged: June 7, 2023

Executive Summary

Description

Covenant Care of New York, LLC requests approval to obtain licensure as a Licensed Home Care Services Agency (LHCSA) pursuant to Article 36 of the Public Health Law.

OALTC Recommendation

Approval

Need Summary

In accordance with 10 NYCRR §765-1.16(c), this application meets the need requirements as they are proposing to operate in Columbia County, which is a county with presumed need.

Program Summary

The individual background review indicates the proposed member has met the standard for approval as set forth in Public Health Law §3605.

Financial Summary

In accordance with 10 NYCRR §765-1.2(b)(3), the applicant has submitted financial documents prepared by a Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Aging and Long-Term Care

Approval conditional upon:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date.
[PMU]

Council Action Date

December 5, 2024

Program Analysis

Background

Covenant Care of New York, LLC seeks to establish an LHCSA to serve the residents of the following county from an office located at 1 Hudson City Center, Suite 304D, Hudson, NY. 12534:

- Columbia

The applicant proposes to provide the following healthcare services:

- Nursing
- Personal Care Aid
- Homemaker
- Housekeeper

Character and Competence Review

Covenant Care of New York, LLC will be comprised of the following individual:

Beatrice Ortsin – 100%

Employment

Direct Support Professional and Medication Administration, New Horizon Resources (May 2018 - Present)

Affiliations

No offices held or ownership interests in other health facilities.

The applicant states that they have extensive experience in the health care field, including home health care, and have high standards when it comes to compliance while fostering a culture of empathy and innovation among their team. They are committed to making a positive difference in the lives of their clients. The applicant also states they have hands-on experience working directly with patients, understanding their unique needs, and developing tailored care plans to promote their well-being and independence. In addition, they commit to staying abreast of industry regulations and best practices and will continuously refine operations to exceed expectations and maintain compliance with all governing bodies.

A review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a Licensed Home Care Services Agency.

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

Facility Compliance/Enforcement

Not applicable, as there are no affiliated licensed agencies.

Need Review

In accordance with 10 NYCRR §765-1.16(c), this application meets the need requirements as they are proposing to operate in Columbia County, which is a county with presumed need.

Financial Review

In accordance with 10 NYCRR §765-1.2(b)(3), the applicant has submitted financial documents prepared by a Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Workforce Review

Covenant Care of New York, LLC reports they are committed to addressing workforce shortages through strategic investments in recruitment and training. Covenant Care of New York, LLC has allocated a budget for the development of an organized training program in collaboration with local community colleges and vocational schools. This program will focus on training new home health aides and continuing education for existing staff. The applicant will aim to train at least 50 new aides annually and provide specialized training in areas such as geriatric care, chronic disease management, and palliative care. Please refer to Attachment A for the entire Workforce Review submission.

Conclusion

The individual background review indicates the proposed member has met the standard for approval as set forth in New York State Public Health Law §3605.

Attachments

Attachment A	Workforce Summary
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RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish a new Licensed Home Care Services Agency at 1 Hudson City Center, Suite 304D, Hudson, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

231215 E

FACILITY/APPLICANT:

Covenant Care of New York, LLC

APPROVAL CONDITIONAL UPON:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Department
of Health

Public Health and Health Planning Council

Project # 241261-E

Brookdale Hospital Medical Center d/b/a Brookdale Licensed Home Care Services Agency

Program: LHCSA
Purpose: Establishment

County: Kings
Acknowledged: June 21, 2024

Executive Summary

Description

The Brookdale Hospital Medical Center d/b/a Brookdale Licensed Home Care Services Agency, a not-for-profit corporation, requests approval to obtain licensure as a Licensed Home Care Services Agency (LHCSA) pursuant to Article 36 of the Public Health Law.

OALTC Recommendation

Contingent approval

Need Summary

In accordance with 10 NYCRR §765-1.16(c)(3), this application is exempt from Public Need review as the agency is only serving patients associated with the Assisted Living Program (ALP), as attested to by the current operator.

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3605.

Financial Summary

In accordance with 10 NYCRR §765-1.2(b)(3), the applicant has submitted financial documents prepared and signed by the Chief Financial Officer of One Brooklyn Health System demonstrating the financial feasibility of the agency.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Aging and Long-Term Care

Approval contingent upon:

1. Submission of a photocopy of an executed copy of the proposed Amended and Executed Bylaws of The Brookdale Hospital Medical Center, acceptable to the Department. [CSL]
2. Submission of a photocopy of an amended and executed copy of the Certificate of Incorporation of The Brookdale Hospital Medical Center, acceptable to the Department. [CSL]

Approval conditional upon:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Council Action Date

December 5, 2024

Program Analysis

Background

Brookdale Hospital Medical Center d/b/a Brookdale Licensed Home Care Services Agency seeks to establish an LHCSA to service its Assisted Living Program (ALP). The LHCSA and the ALP will have identical membership.

The applicant proposes to serve the residents of the following county from an office at 560 Rockaway Parkway, Brooklyn, New York 11212:

- Kings

The applicant proposes to provide the following healthcare services:

- Nursing
- Home Health Aide

Character and Competence Review

Brookdale Hospital Medical Center d/b/a Brookdale Licensed Home Care Services Agency will be comprised of the following board members:

Alexander Rovt – Chairperson

Employment

IBE Trade Corp. (November 1989 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (October 2016 - Present)
- Brookdale University Hospital and Medical Center (January 2001 - Present)
- Maimonides Medical Center (January 2010 - Present)
- Prime Home Health Services, LLC (January 2007- Present)
- Prime Health Choice, LLC (January 2010 - Present)
- Assisted Home Care, LLC (January 2016 - Present)
- Optima Center Brentwood, LLC d/b/a Maria Regina Rehab & Nursing (May 2024 - Present)
- TLCN Home Care (January 2016 - Present)
- Optima Care Little Neck, LLC d/b/a Little Neck Care Center For Nursing (January 2016 - Present)
- Optima Care White Plains, LLC d/b/a White Plains Center For Nursing (January 2016 - Present)
- Optima Care Smithtown, LLC d/b/a Brookside MultiCare Center For Nursing (January 2016 - Present)

Robert Waterman – Vice Chairperson

Employment

Career Manager and Internship Coordinator (April 2008 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (October 2016 - Present)

Henna White – Secretary/Treasurer

Employment

Touro University (January 2018 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (October 2016 - Present)

Victor A. Ayala – Board MemberEmployment

New York City College of Technology CUNY (September 1980 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (January 2017 - Present)

Lewis W Marshall Jr. – Board MemberEmployment

Health & Hospitals/Lincoln Hospital (April 2020 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (March 2024 - Present)

Michael J. Scagnelli – Board MemberEmployment

Town Of Neversink (January 2023 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (January 2017 - Present)

Hope L. Mason – Board MemberEmployment

Retired (January 2015)

Affiliations

- Ryan/Chelsea-Clinton Community Health Center (January 2010 - Present)
- William F. Ryan Community Health Center (January 1985 - December 2023)
- One Brooklyn Health Systems, Inc. (June 2017 - Present)

RC Hugh Nelson – Board MemberEmployment

Ebenezer Urban Ministry Center formerly Church of God (April 2020 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (June 2017 - Present)

Mark N. Shelton – Board MemberEmployment

The Juilliard School (December 2020 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (June 2017 - Present)

Richard E. GreenEmployment

Crown Heights Youth Collective, Inc (May 1978 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (June 2018 - Present)

Nusin Shtern – Board Member

Employment

Retired

Affiliations

- One Brooklyn Health Systems, Inc. (June 2018 - Present)

Michael L. Nairne – Board Member

Employment

Mesirow (April 2022 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (June 2018 - Present)

Maurice A. Reid – Board Member

Employment

Kenjaccon Consultants, LLC (January 2003 - Present)

Affiliations

- Brownsville Multi-Service Family Health Center (January 1994 - January 2023)
- One Brooklyn Health Systems, Inc. (June 2018 - Present)

Aryeh Katzin – Board Member

Employment

RAJE USA (September 2012 – Present)

Affiliations

- One Brooklyn Health Systems, Inc. (June 2018 - Present)

Anthony Clemenza – Board Member

Employment

Retired

Affiliations

- One Brooklyn Health Systems, Inc. (June 2018 - Present)

Edna D. Wells-Handy – Board Member

Employment

LSC, LLC Consultants/ Investigations, Compliance, Monitoring: DE&I/OD (January 2008 - Present)

Affiliations

- One Brooklyn Health Systems, Inc. (June 2018 - Present)

Joseph Ciuffo, MD – Board Member

Employment

Joseph Ciuffo MD Self Employed (January 1987 - Present)

Affiliations

- One Brooklyn Health Systems, Inc. (August 2018 - Present)

Jonathan Mawere – Board Member

Employment

Queens Boulevard Extended Care Facility Management, LLC (January 2014 - Present)

Affiliations

- Queens Boulevard Extended Care Facility Dialysis Center, LLC (July 2019 - Present)
- Queens Boulevard Extended Care Facility Management, LLC (July 2014 - Present)
- Queens Boulevard Extended Care Facility Corp. (July 2008 - December 2013)
- One Brooklyn Health Systems, Inc. (March 2024 - Present)

Alexander Lanzman – Board Member

Employment

Oppenheimer & Co. (November 1997 - Present)

Affiliations

- One Brooklyn Health Systems, Inc. (May 2023 - Present)

A review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a Licensed Home Health Agency.

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

Facility Compliance/Enforcement

A review of the compliance history of the above-mentioned affiliated facilities reveals the following:

- Queens Boulevard Extended Care Facility was fined a \$650 civil penalty pursuant to survey findings F884 survey exit date was June 21, 2021.
- White Plains Center for Nursing Care was fined a \$650 civil penalty pursuant to survey findings F884 survey exit date was February 15, 2021.
- Brookside Multicare Nursing Center was fined a \$3,145.35 civil penalty pursuant to survey findings F884 survey. Exit date was August 14, 2023.
- Brookside Multicare Nursing Center was fined a \$9,750 civil penalty pursuant to survey findings F880 survey exit date was November 2, 2022.
- Brookside Multicare Nursing Center was fined a \$9,750 civil penalty pursuant to survey findings F880 survey exit date was November 22, 2021.
- Brookside Multicare Nursing Center was fined a \$15,000 civil penalty pursuant to survey findings F880 survey exit date was December 18, 2020.
- Brookside Multicare Nursing Center was fined a \$6,893.25 civil penalty pursuant to survey findings F689 survey exit date was January 24, 2018.
- Brookside Multicare Nursing Center was fined \$6,000 pursuant to a Stipulation and Order NH-23-015 for Infection Control 415.19 on November 2, 2022.
- Brookside Multicare Nursing Center was fined \$2,000 pursuant to a Stipulation and Order NH-22-087 for Infection Control 415.19 (a) on November 22, 2021.
- Brookside Multicare Nursing Center was fined \$14,000 pursuant to a Stipulation and Order NH-21-216 for Infection Control 415.19(a) (1,2) and 415.19(b)(4) on December 18, 2020.
- Brookside Multicare Nursing Center was fined \$2,000 pursuant to a Stipulation and Order NH-20-070 for Infection Control 415.19(a)(1) on June 15, 2020.
- Brookside Multicare Nursing Center was fined \$36,000 pursuant to a Stipulation and Order NH-23-010 for PPE reporting 415.19(f)(1) infection control on April 19, 2020, and April 27, 2020.
- Brookside Multicare Nursing Center was fined \$10,000 pursuant to a Stipulation and Order NH-19-015 for Quality-of-care Adequate Supervision to prevent accidents 415.12(h)(1). Survey exit date was January 24, 2018.

Need Review

In accordance with 10 NYCRR §765-1.16(c)(3), this application is exempt from Public Need review as the agency is only serving patients associated with the Assisted Living Program (ALP), as attested to by the current operator.

Financial Review

In accordance with 10 NYCRR §765-1.2(b)3, the applicant has submitted financial documents prepared and signed by the Chief Financial Officer of One Brooklyn Health System demonstrating the financial feasibility of the agency.

Workforce Review

The applicant's response regarding the recruitment and retention of the workforce was adequately addressed. Please refer to Attachment A.

Conclusion

The individual background review indicates that the proposed members have met the standard for approval as set forth in New York State Public Health Law §3605.

Attachments

Attachment A	Workforce Summary
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RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish a new Licensed Home Care Services Agency at 560 Rockaway Parkway, Brooklyn, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

241261 E

FACILITY/APPLICANT:

Brookdale Licensed Home Care Services
Agency

APPROVAL CONTINGENT UPON:

1. Submission of a photocopy of an executed copy of the proposed Amended and Executed Bylaws of The Brookdale Hospital Medical Center, acceptable to the Department. [CSL]
2. Submission of a photocopy of an amended and executed copy of the Certificate of Incorporation of The Brookdale Hospital Medical Center, acceptable to the Department. [CSL]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Department
of Health

Public Health and Health Planning Council

Project # 222211-E Nurturing Angels Homecare, Inc.

Program: LHCSA
Purpose: Establishment

County: Kings
Acknowledged: December 23, 2022

Executive Summary

Description

Nurturing Angels Homecare, Inc., an existing Licensed Home Care Services Agency (LHCSA), is requesting approval for a 95% ownership transfer from one withdrawing shareholder to one existing shareholder and one new shareholder.

There will be no changes to the LHCSA's service area, branch offices, or licensed services.

OALTC Recommendation

Contingent Approval

Need Summary

In accordance with 10 NYCRR §765-1.16(c)2, this application is exempt from Public Need review as the agency is actively serving over 25 patients, as attested to by the current operator.

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3605.

Financial Summary

In accordance with 10 NYCRR §765-1.2(b)3 the applicant has submitted financial documents prepared by a Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Aging and Long-Term Care

Approval contingent upon:

1. Submission of a photocopy of an amended and executed copy of the Certificate of Incorporation, acceptable to the Department. [CSL]

Approval conditional upon:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Council Action Date

December 5, 2024

Program Analysis

Background

Nurturing Angels Homecare, Inc., requests approval for a 95% ownership transfer from one withdrawing shareholder to one existing shareholder and one new shareholder.

The current ownership of Nurturing Angels Homecare, Inc. is as follows:

- Mana Masih (95%)
- Gail Avshayev (5%)

Following the approval of this application, the proposed ownership will be as follows:

- Gail Avshayev (80%)
- Aphelia Gurshomov (20%)

The applicant will continue to serve residents from its main office located at 1707 Kings Highway, 2nd Floor, Brooklyn, NY 11229.

The agency serves the following counties:

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

The agency provides the following healthcare services:

- Audiology
- Home Health Aide
- Homemaker
- Housekeeper
- Medical Social Services
- Medical Supplies Equipment and Appliances
- Nursing
- Nutritional
- Personal Care
- Therapy – Occupational
- Therapy – Physical
- Therapy – Respiratory
- Therapy - Speech Language Pathology

Character and Competence Review

Nurturing Angels Homecare, Inc. will be comprised of the following individuals:

Gail Avshayev, President - 80%

Employment

Registered Nurse, Nurturing Angels Homecare, Inc. (November 2023 – Present)

Affiliations

Nurturing Angels Homecare, Inc. (May 2019 – Present)

Aphelia Gurshomov, Vice President - 20%

Employment

Manager, Nurturing Angels Homecare, Inc. (June 2019 – Present)

Affiliations

No offices held or ownership interests in health facilities were disclosed.

A review of the Personal Qualifying Information indicates that the applicants have the required character and competence to operate a Licensed Home Care Services Agency.

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

Facility Compliance/Enforcement

The information provided by the Center for Home and Community Based Services has indicated that the applicant has provided sufficient supervision to prevent harm, maintain the health, safety, and welfare of residents, and prevent recurrent code violations.

Need Review

In accordance with 10 NYCRR §765-1.16(c)2, this application is exempt from Public Need review as the agency is actively serving over 25 patients, as attested to by the current operator.

Financial Review

In accordance with 10 NYCRR §765-1.2(b)3 the applicant has submitted financial documents prepared by a Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Workforce Review

The applicant's response regarding the recruitment and retention of the workforce was adequately addressed. Refer to Attachment A for the Workforce Review.

Conclusion

The individual background review indicates the proposed members have met the standards for approval as set forth in Public Health Law §3605.

Attachments

Attachment A	Workforce Summary
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RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to transfer 95% ownership interest from a withdrawing shareholder to the remaining shareholder and one new shareholder, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

222211 E

FACILITY/APPLICANT:

Nurturing Angels Homecare, Inc.

APPROVAL CONTINGENT UPON:

1. Submission of a photocopy of an amended and executed copy of the Certificate of Incorporation, acceptable to the Department. [CSL]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Department
of Health

Public Health and Health Planning Council

Project # 222224-E Responsible Homecare, Inc.

Program: LHCSA
Purpose: Establishment

County: Kings
Acknowledged: December 15, 2022

Executive Summary

Description

Responsible Homecare, Inc., an existing Licensed Home Care Services Agency (LHCSA), is requesting approval for an 80.2% ownership transfer from two current shareholders to two existing shareholders.

OALTC Recommendation

Approval

Need Summary

In accordance with 10 NYCRR §765-1.16(c)2, this application is exempt from public need review as the agency is actively serving over 25 patients, as attested to by the current operator.

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3605.

Financial Summary

In accordance with 10 NYCRR §765-1.2(b)3 the applicant has submitted financial documents prepared by a Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Aging and Long-Term Care

1. **Approval conditional upon:** This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Council Action Date

December 5, 2024

Program Analysis

Background

Responsible Homecare, Inc., is requesting approval for an 80.2% ownership transfer from two current shareholders to two existing shareholders.

The current ownership for Responsible Homecare, Inc. is as follows:

- Arnold Rabinovich (70.2%)
- Natalya Chornaya (10%)
- Milana Orkina (9.9%)
- Ryan Orkin (9.9%)

Following the approval of this application, the proposed ownership will be as follows:

- Milana Orkina (51%)
- Ryan Orkin (49%)

The applicant will continue to serve the residents of the following counties from an office located at 1719 East 12th Street, 2nd Floor, Brooklyn, New York 11229:

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

The applicant will continue to provide the following home care services:

- Nursing
- Audiology
- Nutritional
- Medical Supplies, Equipment & Appliances
- Home Health Aide
- Personal Care
- Therapy – Respiratory
- Therapy – Physical
- Therapy – Speech Language Pathology
- Therapy – Occupational
- Medical Social Services
- Housekeeper
- Homemaker

Character and Competence

Responsible Homecare, Inc. will be comprised of the following individuals:

Milana Orkina – 51%

Employment

President, Responsible Homecare, Inc. (September 2019 – Present)

Affiliations

- Choose CDPAP, Inc. (December 2022 – Present)
- Responsible Homecare, Inc. (September 2019 – Present)

Ryan A Orkin – 49%

Employment

- HR Coordinator, Responsible Homecare, Inc. (April 2024 – Present)
- HR Aide On-boarder, Responsible Homecare, Inc. (March 2024 – March 2024)
- Assistant, Steel Trade Services, LLC. (April 2021 – March 2022)

Affiliations

Responsible Homecare, Inc. (March 2021 – Present)

A review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a Licensed Home Care Services Agency.

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

Facility Compliance/Enforcement

The information provided by the Center of Home and Community Based Services has indicated that the applicant has provided sufficient supervision to prevent harm, maintain the health, safety, and welfare of residents, and prevent recurrent code violations.

Need Review

In accordance with 10 NYCRR §765-1.16(c)2, this application is exempt from public need review as the agency is actively serving over 25 patients, as attested to by the current operator.

Financial Review

In accordance with 10 NYCRR §765-1.2(b)3, the applicant has submitted financial documents prepared by the Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Workforce Review

The applicant's response regarding the recruitment and retention of the workforce was adequately addressed. Please refer to Attachment A.

Conclusion

The individual background review indicates the proposed members have met the standard for approval as set forth in New York State Public Health Law §3605.

Attachments

Attachment A	Workforce Summary
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RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to transfer 80.2% ownership interest from two current shareholders to two existing shareholders, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

222224 E

FACILITY/APPLICANT:

Responsible Homecare, Inc.

APPROVAL CONDITIONAL UPON:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Department
of Health

Public Health and Health Planning Council

Project # 231099-E

1st Class Home Care Services of NY Inc. d/b/a 1st Class Care Services Inc.

Program: LHCSA
Purpose: Establishment

County: Queens
Acknowledged: April 3, 2023

Executive Summary

Description

1st Class Home Services of NY Inc. d/b/a 1st Class Care Services Inc. requests approval to become the new operator of 1st Class Care Services, Inc., an existing Licensed Home Care Services Agency (LHCSA).

The proposed operator has been assisting the agency pursuant to a management agreement approved by the Department of Health on September 25, 2018.

OALTC Recommendation

Approval

Need Summary

In accordance with 10 NYCRR §765-1.16(c)2, this application is exempt from Public Need review as the agency is actively serving over 25 patients, as attested to by the current operator.

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3605.

Financial Summary

In accordance with 10 NYCRR §765-1.2(b)3 the applicant has submitted financial documents prepared by a Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Aging and Long-Term Care

1. **Approval conditional upon:** This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Council Action Date

December 5, 2024

Program Analysis

Background

1st Class Home Services of NY Inc. d/b/a 1st Class Care Services Inc. requests approval to become the new operator of 1st Class Care Services, Inc., an existing Licensed Home Care Services Agency. The proposed operator has been assisting the agency pursuant to a management agreement approved by the Department of Health on September 25, 2018.

This application does not propose any changes to the LHCSA's service area, branch offices, or licensed services.

The applicant will continue to serve the residents of the following counties from its main office located at 39-07 Prince Street, Suite #3E, Flushing, New York, 11354:

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

The applicant will continue to provide the following healthcare services:

- Audiology
- Home Health Aide
- Homemaker
- Housekeeper
- Medical Social Services
- Medical Supplies Equipment and Appliances
- Nursing
- Nutritional
- Personal Care
- Therapy – Occupational
- Therapy – Physical
- Therapy – Respiratory
- Therapy - Speech Language Pathology

Character and Competence

1st Class Home Care Services of NY, Inc. d/b/a 1st Class Care Services, Inc. will be comprised of the following individuals:

Jian Fan Chen, President – 60%

Employment

Administrator, 1st Class Care Services Inc. (March 2019 – Present)

Affiliations

Manager of 1st Class Home Care Services of NY Inc. (September 2018 – Present)

Steven Chiu-Man Chin, Secretary – 40%

Employment

CFO, 1st Class Care Services Inc. (March 2018 – Present)

Affiliations

Manager of 1st Class Home Care Services of NY Inc. (September 2018 – Present)

A review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a Licensed Home Care Services Agency.

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

Facility Compliance/Enforcement

The information provided by the Center of Home and Community Based Services has indicated that the applicant has provided sufficient supervision to prevent harm, maintain the health, safety, and welfare of residents, and prevent recurrent code violations.

Need Review

In accordance with 10 NYCRR §765-1.16(c)2, this application is exempt from Public Need review as the agency is actively serving over 25 patients, as attested to by the current operator.

Financial Review

In accordance with 10 NYCRR §765-1.2(b)3 the applicant has submitted financial documents prepared by a Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Workforce Review

The applicant's response regarding the recruitment and retention of the workforce was adequately addressed. Please refer to Attachment A.

Conclusion

The individual background review indicates the proposed members have met the standards for approval as set forth in Public Health Law §3605.

Attachments

Attachment A	Workforce Response
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RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish 1st Class Home Care Services of NY, Inc. as the new operator of a licensed home care services agency currently operated by 1st Class Care Services Inc., and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

231099 E

FACILITY/APPLICANT:

1st Class Home Care Services of NY INC

APPROVAL CONDITIONAL UPON:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



MEMORANDUM

To: Colleen Leonard, Executive Secretary
Public Health and Health Planning Council

From: Sarah Gold, Senior Attorney
Bureau of Program Counsel

Date: November 7, 2024

Subject: Approval for St. Charles Hospital to use the assumed names “Catholic Health Specialty Pharmacy” and “Catholic Health Home Infusion Pharmacy”

This is to request that the above matter be included on the agendas for the next Establishment and Project Review Committee and Public Health and Health Planning Council (PHHPC) meetings.

The attachments relating to this matter include the following:

- 1) Memorandum to the Public Health and Health Planning Council from Kathy Marks, General Counsel;
- 2) A photocopy of a letter from Senior Associate Counsel requesting consent to the proposed Certificates of Assumed Name for St. Charles Hospital dated September 16, 2024;
- 3) A photocopy of the Certificate of Assumed Name for Catholic Health Specialty Pharmacy.
- 4) A photocopy of the Certificate of Assumed Name for Catholic Health Home Infusion Pharmacy.
- 5) The Resolution by Unanimous Written Consent of the Executive Committee of the Board of Directors of Catholic Health and the Board of Trustees of St. Charles Hospital, dated September 17, 2024.
- 6) The Resolution of Approval of the corporate members of Catholic Health, dated September 18, 2024.
- 7) A photocopy of the Certificate of Incorporation of St. Charles Hospital, Port Jefferson, New York dated July 29, 1958 as well as various amendments to the Certificate of Incorporation and associated approvals.
- 8) A photocopy of the Operating Certificate of St. Charles Hospital effective May 6, 2024.



MEMORANDUM

To: Public Health and Health Planning Council

From: Kathy Marks *KSM*
General Counsel
Division of Legal Affairs

Date: November 7, 2024

Subject: Approval for St. Charles Hospital to use the assumed names “Catholic Health Specialty Pharmacy” and “Catholic Health Home Infusion Pharmacy”

St. Charles Hospital (“St. Charles”) requests approval to use the assumed names “Catholic Health Specialty Pharmacy” and “Catholic Health Home Infusion Pharmacy” for their specialty pharmacy services.

St. Charles Hospital is a non-profit corporation formed on July 29, 1958 to create a hospital in Port Jefferson, New York.

Attached is a letter from Stacey R.B. Aicher, Esq., senior associate counsel for the applicant, along with the Proposed Certificates of Assumed Name. Additionally attached are the Unanimous Consent of the members of St. Charles to utilize the d/b/a “Catholic Health Specialty Pharmacy” and “Catholic Health Home Infusion Pharmacy” for their specialty pharmacy services, a Resolution of Approval of the corporate members of Catholic Health, and the original Operating Certificate for St. Charles Hospital.

There is no legal objection to the proposed assumed names and corporate purposes, and they are in legally acceptable forms.

Attachments.



Office of General Counsel

Stacey R.B. Aicher, Esq.

Sr. Associate Counsel

(516) 705-1687

Stacey.Aicher@chsli.org

September 16, 2024

Via Email: Colleen.leonard@health.ny.gov

Ms. Colleen Leonard

Department of Health

Division of Legal Affairs

Corning Tower, Room 2482

Empire State Plaza

Albany, NY 12237

Re: Certificate of Assumed Name for St. Charles Hospital

Dear Ms. Leonard:

Please allow this letter to serve as a request for approval of the filing of the Certificate of Assumed Name for St. Charles Hospital. The proposed name is **Catholic Health Specialty Pharmacy**.

The proposed assumed name accurately reflects the specialty pharmacy services provided by St. Charles Hospital and its established co-operator, Catholic Health.

Enclosed is a copy of the proposed Certificate of Assumed Name. Please provide you approval for this request.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Stacey R.B. Aicher", with a long horizontal line extending to the right.

Stacey R.B. Aicher

Enclosure



**Division of Corporations,
State Records and
Uniform Commercial Code**

New York State
Department of State
Division of Corporations,
State Records and
Uniform Commercial Code
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231
www.dos.ny.gov

Certificate of Assumed Name

(Pursuant to General Business Law §130)

1. REAL NAME OF ENTITY:

St. Charles Hospital and Rehabilitation Center

1a. FICTITIOUS NAME, IF ANY, OF FOREIGN ENTITY (Not Assumed Name):

2. THE ENTITY WAS FORMED OR AUTHORIZED UNDER THE FOLLOWING NEW YORK LAW (Check one):

- ☐ Business Corporation Law ☐ Limited Liability Company Law ☐ Religious Corporations Law
☐ Education Law ☒ Not-for-Profit Corporation Law ☐ Revised Limited Partnership Act
☐ Other (specify law): _____

3. ASSUMED NAME OF ENTITY:

Catholic Health Specialty Pharmacy

4. PRINCIPAL PLACE OF BUSINESS IN NEW YORK STATE (MUST INCLUDE NUMBER AND STREET). IF NONE, CHECK THIS BOX ☐ AND PROVIDE OUT-OF- STATE ADDRESS:

200 Belle Terre Road, Port Jefferson, NY 11777

5. COUNTY(IES) IN WHICH ENTITY DOES OR INTENDS TO DO BUSINESS:

☐ ALL COUNTIES (or check applicable county(ies) below)

- | | | | | | | | |
|-----------------------------------|--------------------------------------|-------------------------------------|---------------------------------------|---|------------------------------------|--------------------------------------|--|
| <input type="checkbox"/> Albany | <input type="checkbox"/> Cattaraugus | <input type="checkbox"/> Chenango | <input type="checkbox"/> Delaware | <input type="checkbox"/> Franklin | <input type="checkbox"/> Hamilton | <input type="checkbox"/> Lewis | <input type="checkbox"/> Montgomery |
| <input type="checkbox"/> Allegany | <input type="checkbox"/> Cayuga | <input type="checkbox"/> Clinton | <input type="checkbox"/> Dutchess | <input type="checkbox"/> Fulton | <input type="checkbox"/> Herkimer | <input type="checkbox"/> Livingston | <input checked="" type="checkbox"/> Nassau |
| <input type="checkbox"/> Bronx | <input type="checkbox"/> Chautauqua | <input type="checkbox"/> Columbia | <input type="checkbox"/> Erie | <input type="checkbox"/> Genesee | <input type="checkbox"/> Jefferson | <input type="checkbox"/> Madison | <input type="checkbox"/> New York |
| <input type="checkbox"/> Broome | <input type="checkbox"/> Chemung | <input type="checkbox"/> Cortland | <input type="checkbox"/> Essex | <input type="checkbox"/> Greene | <input type="checkbox"/> Kings | <input type="checkbox"/> Monroe | <input type="checkbox"/> Niagara |
| <input type="checkbox"/> Oneida | <input type="checkbox"/> Orleans | <input type="checkbox"/> Queens | <input type="checkbox"/> St. Lawrence | <input type="checkbox"/> Schuyler | <input type="checkbox"/> Sullivan | <input type="checkbox"/> Warren | <input type="checkbox"/> Wyoming |
| <input type="checkbox"/> Onondaga | <input type="checkbox"/> Oswego | <input type="checkbox"/> Rensselaer | <input type="checkbox"/> Saratoga | <input type="checkbox"/> Seneca | <input type="checkbox"/> Tioga | <input type="checkbox"/> Washington | <input type="checkbox"/> Yates |
| <input type="checkbox"/> Ontario | <input type="checkbox"/> Otsego | <input type="checkbox"/> Richmond | <input type="checkbox"/> Schenectady | <input type="checkbox"/> Steuben | <input type="checkbox"/> Tompkins | <input type="checkbox"/> Wayne | |
| <input type="checkbox"/> Orange | <input type="checkbox"/> Putnam | <input type="checkbox"/> Rockland | <input type="checkbox"/> Schoharie | <input checked="" type="checkbox"/> Suffolk | <input type="checkbox"/> Ulster | <input type="checkbox"/> Westchester | |

6. ADDRESS OF EACH LOCATION, INCLUDING NUMBER AND STREET, IF ANY, OF EACH PLACE WHERE THE ENTITY CARRIES ON, CONDUCTS OR TRANSACTS BUSINESS IN NEW YORK STATE. (Use page 2 if needed. The address(es) must be a number and street, city, state and zip code. The address(es) must be within the county(ies) indicated in paragraph 5.) If none, check this box ☐: No New York State Business Location.

3279 Veterans Memorial Highway, Ronkonkoma, NY 11779

1895 Walt Whitman Road, Melville, NY 11747

Print or Type James O'Connor
Name of Signer: _____

Signature: _____

Capacity of Signer (Check one): ☐ Authorized Person ☒ Officer of the Corporation ☐ General Partner of the Limited Partnership
☐ Member of the Limited Liability Company ☐ Manager of the Limited Liability Company

Certificate of Assumed Name

6. ADDRESS OF EACH LOCATION, INCLUDING NUMBER AND STREET, IF ANY, OF EACH PLACE WHERE THE ENTITY CARRIES ON OR CONDUCTS OR TRANSACTS BUSINESS IN NEW YORK STATE: (Continued)

500 Commack Road, Commack, NY 11725

3 Technology Drive, East Setauket, NY 11733

77 Route 112, Patchogue, NY 11772

240 Middle Country Road, Smithtown, NY 11787

2100 Middle Country Road, Centereach, NY 11720

2112 Middle Country Road, P100, Centereach, NY 11720

501a Montauk Highway, West Babylon, NY 11704

761B Merrick Avenue, Westbury, NY 11590, and 70 Arkay Drive, Hauppauge, NY 11788

Filer's Name and Mailing Address:

Stacey R.B. Aicher, Esq.

Name:

Catholic Health

Company, if Applicable:

992 North Village Avenue

Mailing Address:

Rockville Centre, NY 11570

City, State and Zip Code:

NOTE: You are not required to use this form. This certificate should be prepared under the guidance of an attorney.

FEE: Limited Liability Companies and Limited Partnerships - \$25.

Corporations - \$25 plus the fee for each county indicated in paragraph 5. The additional fee for each county within New York City (Bronx, Kings, New York, Queens and Richmond) is \$100 additional. The fee for each county outside New York City is \$25. Checks over \$500 must be certified.

(For office use only)



**Division of Corporations,
State Records and
Uniform Commercial Code**

New York State
Department of State
Division of Corporations,
State Records and
Uniform Commercial Code
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231
www.dos.ny.gov

Certificate of Assumed Name

(Pursuant to General Business Law §130)

1. REAL NAME OF ENTITY:

St. Charles Hospital and Rehabilitation Center

1a. FICTITIOUS NAME, IF ANY, OF FOREIGN ENTITY (Not Assumed Name):

2. THE ENTITY WAS FORMED OR AUTHORIZED UNDER THE FOLLOWING NEW YORK LAW (Check one):

- ☐ Business Corporation Law ☐ Limited Liability Company Law ☐ Religious Corporations Law
☐ Education Law ☒ Not-for-Profit Corporation Law ☐ Revised Limited Partnership Act

☐ Other (specify law): _____

3. ASSUMED NAME OF ENTITY:

Catholic Health Home Infusion Pharmacy

4. PRINCIPAL PLACE OF BUSINESS IN NEW YORK STATE (MUST INCLUDE NUMBER AND STREET). IF NONE, CHECK THIS BOX ☐ AND PROVIDE OUT-OF- STATE ADDRESS:

200 Belle Terre Road, Port Jefferson, NY 11777

5. COUNTY(IES) IN WHICH ENTITY DOES OR INTENDS TO DO BUSINESS:

☐ ALL COUNTIES (or check applicable county(ies) below)

- | | | | | | | | |
|-----------------------------------|--------------------------------------|-------------------------------------|---------------------------------------|---|------------------------------------|--------------------------------------|--|
| <input type="checkbox"/> Albany | <input type="checkbox"/> Cattaraugus | <input type="checkbox"/> Chenango | <input type="checkbox"/> Delaware | <input type="checkbox"/> Franklin | <input type="checkbox"/> Hamilton | <input type="checkbox"/> Lewis | <input type="checkbox"/> Montgomery |
| <input type="checkbox"/> Allegany | <input type="checkbox"/> Cayuga | <input type="checkbox"/> Clinton | <input type="checkbox"/> Dutchess | <input type="checkbox"/> Fulton | <input type="checkbox"/> Herkimer | <input type="checkbox"/> Livingston | <input checked="" type="checkbox"/> Nassau |
| <input type="checkbox"/> Bronx | <input type="checkbox"/> Chautauqua | <input type="checkbox"/> Columbia | <input type="checkbox"/> Erie | <input type="checkbox"/> Genesee | <input type="checkbox"/> Jefferson | <input type="checkbox"/> Madison | <input type="checkbox"/> New York |
| <input type="checkbox"/> Broome | <input type="checkbox"/> Chemung | <input type="checkbox"/> Cortland | <input type="checkbox"/> Essex | <input type="checkbox"/> Greene | <input type="checkbox"/> Kings | <input type="checkbox"/> Monroe | <input type="checkbox"/> Niagara |
| <input type="checkbox"/> Oneida | <input type="checkbox"/> Orleans | <input type="checkbox"/> Queens | <input type="checkbox"/> St. Lawrence | <input type="checkbox"/> Schuylar | <input type="checkbox"/> Sullivan | <input type="checkbox"/> Warren | <input type="checkbox"/> Wyoming |
| <input type="checkbox"/> Onondaga | <input type="checkbox"/> Oswego | <input type="checkbox"/> Rensselaer | <input type="checkbox"/> Saratoga | <input type="checkbox"/> Seneca | <input type="checkbox"/> Tioga | <input type="checkbox"/> Washington | <input type="checkbox"/> Yates |
| <input type="checkbox"/> Ontario | <input type="checkbox"/> Otsego | <input type="checkbox"/> Richmond | <input type="checkbox"/> Schenectady | <input type="checkbox"/> Steuben | <input type="checkbox"/> Tompkins | <input type="checkbox"/> Wayne | |
| <input type="checkbox"/> Orange | <input type="checkbox"/> Putnam | <input type="checkbox"/> Rockland | <input type="checkbox"/> Schoharie | <input checked="" type="checkbox"/> Suffolk | <input type="checkbox"/> Ulster | <input type="checkbox"/> Westchester | |

6. ADDRESS OF EACH LOCATION, INCLUDING NUMBER AND STREET, IF ANY, OF EACH PLACE WHERE THE ENTITY CARRIES ON, CONDUCTS OR TRANSACTS BUSINESS IN NEW YORK STATE. (Use page 2 if needed. The address(es) must be a number and street, city, state and zip code. The address(es) must be within the county(ies) indicated in paragraph 5.) If none, check this box ☐: No New York State Business Location.

3279 Veterans Memorial Highway, Ronkonkoma, NY 11779

1895 Walt Whitman Road, Melville, NY 11747

Print or Type James O'Connor
Name of Signer: _____

Signature: 

Capacity of Signer (Check one): ☐ Authorized Person ☒ Officer of the Corporation ☐ General Partner of the Limited Partnership
☐ Member of the Limited Liability Company ☐ Manager of the Limited Liability Company

Certificate of Assumed Name

6. ADDRESS OF EACH LOCATION, INCLUDING NUMBER AND STREET, IF ANY, OF EACH PLACE WHERE THE ENTITY CARRIES ON OR CONDUCTS OR TRANSACTS BUSINESS IN NEW YORK STATE: (Continued)

500 Commack Road, Commack, NY 11725

3 Technology Drive, East Setauket, NY 11733

77 Route 112, Patchogue, NY 11772

240 Middle Country Road, Smithtown, NY 11787

2100 Middle Country Road, Centereach, NY 11720

2112 Middle Country Road, P100, Centereach, NY 11720

501a Montauk Highway, West Babylon, NY 11704

761B Merrick Avenue, Westbury, NY 11590, and 70 Arkay Drive, Hauppauge, NY 11788

Filer's Name and Mailing Address:

Stacey R.B. Aicher, Esq.

Name:

Catholic Health

Company, if Applicable:

992 North Village Avenue

Mailing Address:

Rockville Centre, NY 11570

City, State and Zip Code:

NOTE: You are not required to use this form. This certificate should be prepared under the guidance of an attorney.

FEE: Limited Liability Companies and Limited Partnerships - \$25.

Corporations - \$25 plus the fee for each county indicated in paragraph 5. The additional fee for each county within New York City (Bronx, Kings, New York, Queens and Richmond) is \$100 additional. The fee for each county outside New York City is \$25. Checks over \$500 must be certified.

(For office use only)

**Resolutions by Unanimous Written Consent of the Executive Committees
of the Board of Directors of Catholic Health
and the Board of Trustees of St. Charles Hospital**

As of September 17, 2024

WHEREAS, Catholic Health is in the process of transferring the pharmacy licenses held by My CHS Rx, Inc. at 2112 Middle Country Road, Centereach, NY and 70 Arkay Drive, Hauppauge, NY, respectively, to St. Charles Hospital ("St. Charles") for the expansion of the hospital's pharmacy services; and

WHEREAS, in connection with the transfer of the pharmacy licenses, St. Charles Hospital wishes to use the following assumed names:

- "Catholic Health Specialty Pharmacy" for the pharmacy location at 2112 Middle Country Road, Centereach, NY
- Catholic Health Home Infusion Pharmacy, for the pharmacy location at 70 Arkay Drive, Hauppauge, NY

and

WHEREAS, Catholic Health is the sole corporate member of St. Charles Hospital and, under the provisions of the Catholic Health and St. Charles Hospital corporate bylaws, Catholic Health exercises certain reserved powers over St. Charles Hospital, including as to the adoption of corporate documents, subject to the authority of the Corporate Members of Catholic Health as required by the Catholic Health Bylaws; and

WHEREAS, Catholic Health and St. Charles Hospital now seek approval to use the assumed names identified above in connection with expansion of the hospital's pharmacy services to the Centereach and Hauppauge pharmacy locations.

NOW, BE IT:

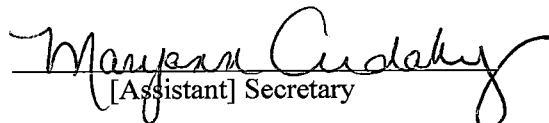
RESOLVED, that the members of the Executive Committee of the Board of Directors of Catholic Health and the Board of Trustees of St. Charles Hospital, hereby approve, by unanimous consent (via email), the use of the assumed names by St. Charles Hospital as listed herein, and be it further

RESOLVED, that the Executive Committee authorizes and directs the President of St. Charles Hospital, and/or his designee(s) (each, an "**Authorized Person**"), in the name and on behalf of St. Charles Hospital, to execute and deliver all such documents as may be necessary or appropriate to effectuate obtaining the assumed names as identified herein, and to do and perform such other acts and things and to take all such other steps as may be advisable, convenient or proper to carry out fully the intent and purpose of these Resolutions, and the determination of the necessity, appropriateness and desirability of such actions is hereby ratified, and be it further

RESOLVED, that, subject to approval of the Catholic Health Corporate Members, these Resolutions shall be effective immediately.

Certification by Board [Assistant] Secretary

I certify that the foregoing is a true and accurate copy of the Resolutions by Unanimous Consent provided (via email) by each member of the Executive Committee of the Board of Directors of Catholic Health and the Board of Trustees of St. Charles Hospital, to the actions above given on September 17, 2024.


[Assistant] Secretary

**RESOLUTION OF APPROVAL
OF THE
CORPORATE MEMBERS OF CATHOLIC HEALTH**

At a meeting held on September 18, 2024

WHEREAS, the Corporate Members of Catholic Health (the “**Members**”) have reviewed Catholic Health’s request to approve the following assumed names of St. Charles Hospital: “**Catholic Health Specialty Pharmacy**” and “**Catholic Health Home Infusion Pharmacy**” (the “Assumed Names”) in connection with the hospital’s pharmacy services; and

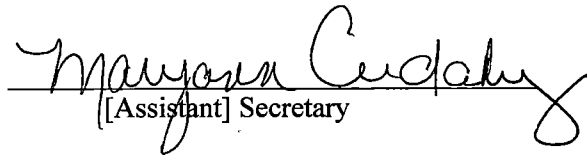
WHEREAS, the Catholic Health Board of Directors, by its Executive Committee, has approved and is recommending to the Catholic Health Corporate Members approval of the Assumed Names of St. Charles Hospital.

NOW, THEREFORE, the Catholic Health Corporate Members hereby approve the use of the Assumed Names by St. Charles Hospital in connection with the hospital’s pharmacy services.

These Resolutions shall be effective immediately.

Certification by Board [Assistant] Secretary

I certify that the foregoing is a true and accurate copy of the Resolution by the CH Corporate Members at their September 18, 2024 meeting.


[Assistant] Secretary

*State of New York }
Department of State } ss:*

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

July 07, 2006



A handwritten signature in black ink, appearing to be "N. J. ...", written over a horizontal line.

Special Deputy Secretary of State

CERTIFICATE OF INCORPORATION

-of-

ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK.

* * * * *

We, the undersigned for the purpose of forming a
Membership Corporation, pursuant to the Membership
Corporation Law of the State of New York, hereby certify:

FIRST; That the name of the proposed corporation
shall be ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK.

SECOND: The purposes for which this corporation
is to be formed are as follows:

As a nonprofit corporation none of the income of
which shall accrue to any member:

(a) To establish and maintain a home for mentally
retarded children.

(b) In conformity with the law to establish,
maintain, conduct and operate two hospitals with out-patient
departments thereof, for nursing, medical and surgical care
and treatment of this sick, invalid, blind, disabled, crippled,
diseased, convalescent, infirm or otherwise defective or
disabled or helpless persons regardless of age, race,
nationality or creed.

(c) To solicit and collect funds to carry out the purposes enumerated herein; to expend, contribute, disburse and otherwise carry out the purposes herein from the funds so collected.

(d) To receive grants and funds authorized by law to be made by any government agency to corporations or persons engaged in activities identical or similar to those engaged in by this membership corporation.

THIRD: The territory in which its operations are to be principally conducted is Nassau and Suffolk Counties in the State of New York.

FOURTH: The village, town and county in which the said office is to be located is Port Jefferson, Township of Brookhaven, Suffolk County, New York.

FIFTH: The number of its directors shall be not less than three (3) nor more than nineteen in number.

SIXTH: The names and residences of the directors of the corporation until the first annual meeting are:

<u>NAME</u>	<u>ADDRESS</u>
Most Reverend Walter P. Kellenberg, D.D.	29 Quealy Place, Rocville Centre, New York
Reverend Myron J. Purica	9 North Clinton Ave. Bay Shore, New York
Reverend Peter L. Nolan	40 Grove Place, Babylon, New York

Reverend Edward L. Melton

1000 North Village Ave.,
Rockville Centre,
New York

Mother Yvonne

c/o St. Charles Hospital
Port Jefferson,
New York

Mother Maurice

c/o St. Charles Hospital
Port Jefferson,
New York

Sister Celeste

c/o St. Charles Hospital
Port Jefferson
New York

John E. Baxter

3 South Clinton Avenue,
Bay Shore,
New York

Adam Muller

30 Liberty Avenue,
Lindenhurst,
New York

Richard J. Boylan

Locust Lane,
Huntington Bay,
Halesite,
New York

Robert B. Baxter

39 South Windsor Avenue,
Brightwaters,
New York

John J. Halleron, Jr.

49 Irish Lane,
East Islip,
New York

134 / 4

SEVENTH; All of the subscribers to this certificate are of full age; at least two thirds of them are citizens of the United States; at least one of them is a resident of the State of New York. Of the persons named as directors at least one is a citizen of the United States and a resident of the State of New York.

IN WITNESS WHEREOF we have made, subscribed and acknowledged this certificate this 4th day of July 1936.

Nathaniel P. Hellenberg

Myron J. Durick

John L. Dean

Edward L. Walton

Mother Florence

Mother Maurice

Sister Celeste

Sister Marie

James P. Dwyer

John J. Dwyer

Robert B. Bayler

STATE OF NEW YORK)

COUNTY OF NASSAU)

SS.:

On the 27th day of July, 1958, before me personally came WALTER P. ELLENBERG, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and he acknowledged to me that he executed the same.

MARION C. SLIK
NOTARY PUBLIC
No. 0-425
Qualified Nassau County
Term Expires March 30, 1959

Marion C. Slik
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

SS.:

On the 27th day of July, 1958, before me personally came IRON J. PULICK, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation, and he acknowledged to me that he executed the same.

MARION C. SLIK
NOTARY PUBLIC
No. 0-425
Qualified Nassau County
Term Expires March 30, 1959

Marion C. Slik
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

SS.:

On the 27th day of July, 1958, before me personally came PETER L. NOLAN, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and he acknowledged to me that he executed the same.

MARION C. SLIK
NOTARY PUBLIC
No. 0-425
Qualified Nassau County
Term Expires March 30, 1959

Marion C. Slik
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

SS.:

On the 9th day of July, 1958, before me personally came EDWARD L. MELTON, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and he acknowledged to me that he executed the same.

MARION C. ESNIK
NOTARY PUBLIC
No. 3,442
Qualified in Nassau County
Term 1-1-58 to 1-30-1959

Marion C. Esnik
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

SS.:

On the 29th day of July, 1958, before me personally came MOTHER YVONNE, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and she acknowledged to me that she executed the same.

MARION C. ESNIK
NOTARY PUBLIC
No. 3,442
Qualified in Nassau County
Term 1-1-58 to 1-30-1959

Marion C. Esnik
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

SS.:

On the 27th day of July, 1958, before me personally came MOTHER MAURICE, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and she acknowledged to me that she executed the same.

MARION C. ESNIK
NOTARY PUBLIC
No. 3,442
Qualified in Nassau County
Term 1-1-58 to 1-30-1959

Marion C. Esnik
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

On the 27th day of July, 1958, before me personally came SISTER CELESTE, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and she acknowledged to me that she executed the same.

MARION C. ESLEIGH
NOTARY PUBLIC, State of New York
No. 389,425
Comm. Exp. 12-31-1960
Nassau County
Term 1958

Marion C. Esleigh
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

On the 27th day of July, 1958, before me personally came JOHN E. BAXTER, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and he acknowledged to me that he executed the same.

MARION C. ESLEIGH
NOTARY PUBLIC, State of New York
No. 389,425
Comm. Exp. 12-31-1960
Nassau County
Term 1958

Marion C. Esleigh
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

On the 27th day of July, 1958, before me personally came ADAM MULLER, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and he acknowledged to me that he executed the same.

MARION C. ESLEIGH
NOTARY PUBLIC, State of New York
No. 389,425
Comm. Exp. 12-31-1960
Nassau County
Term 1958

Marion C. Esleigh
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

On the 27th day of July, 1958, before me personally came RICHARD J. BOYLAN, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and he acknowledged to me that he executed the same.

MARIC C. TESLIK
NOTARY PUBLIC
New York
25
County
1958

Maric C. Teslik
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

On the 29th day of July, 1958, before me personally came ROBERT B. BAXTER, to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and he acknowledged to me that he executed the same.

MARIC C. TESLIK
NOTARY PUBLIC
New York
25
County
1958

Maric C. Teslik
Notary Public

STATE OF NEW YORK)

COUNTY OF NASSAU)

On the 27th day of July, 1958, before me personally came JOHN J. MALLRON, JR., to me known and known to me to be one of the persons who executed the foregoing certificate of incorporation and he acknowledged to me that he executed the same.

MARIC C. TESLIK
NOTARY PUBLIC
New York
25
County
1958

Maric C. Teslik
Notary Public

72-7

STATE OF NEW YORK)

COUNTY OF NASSAU)

WALTER P. KELLERBERG, being duly sworn, deposes and says that he is one of the persons described in and who executed the foregoing Certificate of Incorporation and that he is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

27th day of July, 1958.

Walter P. Kellerberg

MARION C. YESLIK
NOTARY PUBLIC, State of New York
Qualification expires July 1, 1959
Term of Office Nassau County

Walter P. Kellerberg

STATE OF NEW YORK)

COUNTY OF NASSAU)

MYRON J. LURICK, being duly sworn, deposes and says that he is one of the persons described in and who executed the foregoing Certificate of Incorporation and that he is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

27th day of July, 1958.

Myron J. Lurick

MARION C. YESLIK
NOTARY PUBLIC, State of New York
Qualification expires July 1, 1959
Term of Office Nassau County

Myron J. Lurick

STATE OF NEW YORK)

COUNTY OF NASSAU)

WALTER L. POLAN, being duly sworn, deposes and says that he is one of the persons described in and who executed the foregoing Certificate of Incorporation and that he is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

29th day of July, 1958.

Walter L. Polan

MARION C. YESLIK
NOTARY PUBLIC, State of New York
Qualification expires July 1, 1959
Term of Office Nassau County

Walter L. Polan

15477 - 10

STATE OF NEW YORK)

COUNTY OF NASSAU)

EDWARD L. MELTON, being duly sworn, deposes and says that he is one of the persons described in and who executed the foregoing Certificate of Incorporation and that he is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

29th day of July, 1958.

Maurice C. Trank

MA
NOTARY

NEW YORK
Nassau

Edward L. Melton

STATE OF NEW YORK) NY 31-1549

: SS.:

COUNTY OF NASSAU)

MOTHER YVONNE, being duly sworn, deposes and says that she is one of the persons described in and who executed the foregoing Certificate of Incorporation and that she is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

29th day of July, 1958.

Maurice C. Trank

MA
NOTARY

Mother Yvonne

STATE OF NEW YORK) NY 31-1549

: SS.:

COUNTY OF NASSAU)

MOTHER MAURICE, being duly sworn, deposes and says that she is one of the persons described in and who executed the foregoing Certificate of Incorporation and that she is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

29th day of July, 1958.

Maurice C. Trank

MA
NOTARY

Mother Maurice

MA
NOTARY

STATE OF NEW YORK)

COUNTY OF NASSAU)

SISTER CELESTE, being duly sworn, deposes and says that she is one of the persons described in and who executed the foregoing Certificate of Incorporation and that she is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

27th day of July, 1958.

MARION C. TRILICK
NOTARY PUBLIC, State of New York

Sister Celeste

STATE OF NEW YORK)

COUNTY OF NASSAU)

JOHN E. BAXTER, being duly sworn, deposes and says that he is one of the persons described in and who executed the foregoing Certificate of Incorporation and that he is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

27th day of July, 1958.

MARION C. TRILICK
NOTARY PUBLIC, State of New York

John E. Baxter

STATE OF NEW YORK)

COUNTY OF NASSAU)

ADAM MULLER, being duly sworn, deposes and says that he is one of the persons described in and who executed the foregoing Certificate of Incorporation and that he is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

27th day of July, 1958.

MARION C. TRILICK
NOTARY PUBLIC, State of New York

Adam Muller

13417 12

STATE OF NEW YORK)

SS.

COUNTY OF NASSAU)

RICHARD J. BOYLAN, being duly sworn, deposes and says that he is one of the persons described in and who executed the foregoing Certificate of Incorporation and that he is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

7th day of July, 1938.

Marion C. Trunk

MARION C. TRUNK
NOTARY PUBLIC

SLIK
NEW YORK

STATE OF NEW YORK)

SS.

COUNTY OF NASSAU)

ROBERT B. BAXTER, being duly sworn, deposes and says that he is one of the persons described in and who executed the foregoing Certificate of Incorporation and that he is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

11th day of July, 1938.

Marion C. Trunk

MARION C. TRUNK
NOTARY PUBLIC

SLIK
NEW YORK

STATE OF NEW YORK)

SS.

COUNTY OF NASSAU)

JOHN J. HALLERON, JR., being duly sworn, deposes and says that he is one of the persons described in and who executed the foregoing Certificate of Incorporation and that he is of full age, a citizen of the United States and a resident of the State of New York.

Sworn to before me this

19th day of July, 1938.

Marion C. Trunk

MARION C. TRUNK
NOTARY PUBLIC

SLIK
NEW YORK

127754

13

I, HON. MARIO PITTONI, a Justice of the
Supreme Court of the Tenth Judicial District, hereby approve

the foregoing Certificate of Incorporation of St. Charles
Hospital, Port Jefferson, New York. *and consent that the same be filed.*

Dated: Mineola, New York

AUG 12 1958



Justice of the Supreme Court of
the State of New York

STATE OF NEW YORK)

COUNTY OF NASSAU)

ss.:

HENDERSON MORRISON, JR., being duly sworn, deposes
and says:

That he is the attorney for the subscribers to the
annexed Certificate of Incorporation and that no previous
application for the approval of said Certificate by any
Justice of the Supreme Court has ever been made.

Sworn to before me this

11 AUGUST

day of July, 1944.

Eugene L. Henderson Morrison

NOTARY PUBLIC, State of New York

My Comm. Expires 1945

124735

CERTIFICATE OF INCORPORATION

OF

424 W. 46th ST. REALTY CORP.

PURSUANT TO

ARTICLE II

OF

THE STOCK CORPORATION LAW.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED SEP 30 1958

TAX \$ 10 -
FILING FEE \$ 40 -

Carrie S. Delap

Secretary of State

BY

J. Gray

CONTINENT LAWYERS ALBANY SERVICE

30 BROADWAY, NEW YORK 7, N.Y.

124.195

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*State of New York } ss:
Department of State }*

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

July 07, 2006



A handwritten signature in black ink, appearing to read "Neil A. ...", written over a horizontal line.

Special Deputy Secretary of State

CERTIFICATE
OF
INCREASE IN NUMBER OF DIRECTORS
OF

ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK

Pursuant to Section Thirty of the
Membership Corporations Law

WE, the undersigned, RT. REV. MSGR. MYRON J. PURICK, Vice
President and VY. REV. MSGR. EDWARD L. MELTON, Secretary of St.
Charles Hospital, Port Jefferson, New York, a membership corporation,
for the purpose of increasing the number of directors, pursuant to
Section Thirty of the Membership Corporations Law, do hereby make,
sign, acknowledge and file this certificate as follows: 472052

FIRST: The name of the corporation is ST. CHARLES
HOSPITAL, PORT JEFFERSON, NEW YORK, and that is the name under
which it was originally incorporated.

SECOND: The original certificate of incorporation was
filed in the office of the Secretary of State on the 30th day of
September, 1958.

THIRD: The number of directors previously authorized is
not less than three (3) nor more than nineteen (19) in number and
the said number as increased is not less than nineteen (19) nor
more than twenty-five (25) in number.

)

IN WITNESS WHEREOF, we have subscribed and acknowledged
this certificate this 30th day of November, 1964.

Myron J. Purick
Vice President

Edward L. Melton
Secretary

STATE OF NEW YORK)
) SS.:
COUNTY OF SUFFOLK)

On the 30th day of November, 1964, before me personally
appeared RT. REV. MSGR. MYRON J. PURICK and VY. REV. MSGR. EDWARD
L. MELTON, to me known to be the individuals described in and who
executed the foregoing instrument, and duly acknowledged that they
executed the same.

MARION C. TEAGUE
NOTARY PUBLIC, Suffolk County, New York
No. 35454-1
Qualified in Suffolk County
Term Expires March 30, 1968

STATE OF NEW YORK)
) SS.:
COUNTY OF SUFFOLK)

VY. REV. MSGR. EDWARD L. MELTON, being duly sworn,
deposes and says:

That he is Secretary of ST. CHARLES HOSPITAL, PORT
JEFFERSON, NEW YORK, a membership corporation, and that he has
been authorized to execute and file the foregoing certificate
of increase in the number of directors pursuant to Section Thirty
of the Membership Corporations Law, by the concurring vote of a
majority of the members of the corporation present at a special
meeting thereof, duly called and held for the purpose upon ten
(10) days' notice, pursuant to Section Forty-three of the
Membership Corporations Law, on the 13th day of May, 1964.

Sworn to before me this

5th day of November, 1964

Edward L. Melton
Vy. Rev. Msgr. Edward L. Melton

Marion C. Trish

MARION C. TRISH
NOTARY PUBLIC, State of New York
No. 30 3975425
Qualified in Suffolk County
Term Expires March 30 1965

STATE OF NEW YORK)
) SS.:
COUNTY OF SUFFOLK)

RT. REV. MSGR. MYRON J. PURICK, being duly sworn,
deposes and says:

That he is Vice President of ST. CHARLES HOSPITAL,
PORT JEFFERSON, NEW YORK, a membership corporation, and that
he has been authorized to execute and file the foregoing
certificate of increase in the number of directors pur-
suant to Section Thirty of the Membership Corporations Law,
by the concurring vote of a majority of the members of
the corporation present at a special meeting thereof, duly
called and held for the purpose upon ten (10) days' notice,
pursuant to Section Forty-three of the Membership Corpora-
tions Law, on the 13th day of May, 1964.

Sworn to before me this

24th day of December, 1964.

JOHN J. HALL, Notary Public
Notary Public for the State of New York
Qualified in Suffolk County
Certificate filed in Kings County
Commission Expires March 31, 1965

Myron J. Purick
Rt. Rev. Msgr. Myron J. Purick

C E R T I F I C A T E

of

INCREASE IN NUMBER OF DIRECTORS

of

ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK
Pursuant to Section Thirty of the
Membership Corporations Law

Dated: November 30, 1964

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED DEC 30 1964

TAX none
FILING FILE 30

John F. Tompkins
Secretary of State

O. Bell

-5-

HALLERON & O'BRIEN
ATTORNEYS AND COUNSELORS AT LAW
189 MONTAGUE STREET
BROOKLYN 1, N.Y.

472952

a/3456
Got 1/1/65
3/1/65

*State of New York }
Department of State } ss:*

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

July 07, 2006



A handwritten signature in black ink, appearing to read "N. J. ...", written over the printed title.

Special Deputy Secretary of State

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF INCORPORATION

OF

ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK

(Under Section 803 of the Not-For-Profit Corporation Law)

WE, the undersigned, being the President and Secretary respectively, of St. Charles Hospital, Port Jefferson, New York, do hereby certify:

1. The name of the corporation is St. Charles Hospital, Port Jefferson, New York.
2. The certificate of incorporation was filed by the Department of State on the 30th day of September, 1958.
3. Subsequent to the filing of the certificate of incorporation the same, by certificate dated November 30th, 1964 and filed by the Department of State on December 30th, 1964, was amended by changing the provision for the number of directors to be not less than nineteen (19) nor more than twenty-five (25) in number.

RECEIVED BY

77 JUL 14 AM 10:27

NASSAU COUNTY CLERK'S OFFICE

A417186

4. The certificate of incorporation is hereby amended by changing the provision for the number of directors to read as follows...

"The number of directors constituting the entire Board shall be not less than three (3)."

5. The manner in which the amendment of the certificate of incorporation set forth in the preceding paragraph was authorized was by the unanimous written consent signed by all of the members of this corporation entitled to vote thereon dated April 27th, 1977.

6. The corporation is a corporation as defined in subparagraph (a) (5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law and it is a type B corporation under Section 201 of said Law. The corporate purposes as set forth in the aforesaid certificate of incorporation are not enlarged, limited or otherwise changed by this certificate of amendment.

7. The post office address of this corporation to which the Secretary of State shall mail a copy of any notice required by law is 200 Belle Terre Road, Port Jefferson, New York, 11777.

7

8. All approvals or consents required by law will be endorsed upon or annexed to this certificate of amendment prior to delivery of it to the Department of State of the State of New York for filing.

IN WITNESS WHEREOF, we have hereunto set our hands this 27th day of April, 1977.

+ John R. McGann
Most Rev. John R. McGann, President

Sav. Saverio C. Mattei
Rev. Saverio C. Mattei, Secretary

3

STATE OF NEW YORK)
COUNTY OF NASSAU) SS:.

MOST REVEREND JOHN R. MCGANN, being duly sworn, deposes and says: that deponent is President of St. Charles Hospital, Port Jefferson, New York; that deponent has read the foregoing certificate of amendment of certificate of incorporation of St. Charles Hospital, Port Jefferson, New York, and knows the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because St. Charles Hospital, Port Jefferson, New York, is a corporation. Deponent is an officer thereof, to wit, its President.

Sworn to before me this
27th day of April, 1977


Most Reverend John R. McGann

ROBERT E. SCHOLLY
NOTARY PUBLIC, State of New York
No. 30-6840300
Qualified in Nassau County
Term Expires March 30, 1978

STATE OF NEW YORK)
COUNTY OF NASSAU) SS:.

REVEREND SAVERIO C. MATTEI, being duly sworn, deposes and says: that deponent is Secretary of St. Charles Hospital, Port Jefferson, New York; that deponent has read the foregoing certificate of amendment of certificate of incorporation of St. Charles Hospital, Port Jefferson, New York, and knows the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because St. Charles Hospital, Port Jefferson, New York, is a corporation. Deponent is an officer thereof, to wit, its Secretary.

Sworn to before me this
27th day of April, 1977


Reverend Saverio C. Mattei

ROBERT E. SCHOLLY
NOTARY PUBLIC, State of New York
No. 30-6840300
Qualified in Nassau County
Term Expires March 30, 1978

I, **DOUGLAS F. YOUNG**, a Justice of the Supreme Court of the State of New York, Tenth Judicial District, hereby approve the foregoing certificate of amendment of certificate of incorporation of St. Charles Hospital, Port Jefferson, New York, and consent that the same be filed.

Dated: ~~May~~ ^{July} 14, 1977

D. Young
Justice of the Supreme Court
Tenth Judicial District
State of New York

DOUGLAS F. YOUNG

STATE OF NEW YORK)
COUNTY OF NASSAU) SS:.

ROBERT E. SCHOLLY, being duly sworn, deposes and says:
That he is a member of the firm of Bennett, Kaye & Scholly, attorneys for the subscribers to the annexed certificate of amendment of certificate of incorporation of St. Charles Hospital, Port Jefferson, New York, and that no previous application for the approval of said certificate by any Justice of the Supreme Court has ever been made.

Sworn to before me this
28th day of April, 1977.

Gloria Lickteig

GLORIA LICKTEIG
NOTARY PUBLIC, State of New York
No. 30-2455550
Qualified in Nassau County
Commission Expires March 30, 1979

Robert E. Scholly
Robert E. Scholly

WAIVERS OF NOTICE OF WITHIN APPLICATION.

THE UNDERSIGNED HAS NO
OBJECTION TO THE GRANTING
OF JUDICIAL APPROVAL
HEREON AND WAIVES
STATUTORY NOTICE

Dated New York, N.Y. June 29th, 1977

LOUIS J. LEEFKOWITZ
Attorney General
State of New York

BY *Irwin Leibowitz*
IRWIN LEIBOWITZ
ASSISTANT ATTORNEY GENERAL
STATE OF NEW YORK

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF INCORPORATION

A417186

OF

ST. CHARLES HOSPITAL,
PORT JEFFERSON, NEW
YORK

Under Section 803 of the Not-
For-Profit Corporation Law

H

BENNETT, KAYE & SCHOLLY

ATTORNEYS

255 Merrick Road

Rockville Centre

Nassau County, N. Y. 11570

766-0081

NFP

4/30/58

Suffolk Co

1240754

no Twp. no No. 111

STATE OF NEW YORK
DEPARTMENT OF STATE
TAX : *None*
FILING FEE : *32*

FILED JUL 25 1977

Instructions

Secretary of State

520000000

Type B

State of New York }
Department of State } ss:

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

July 07, 2006



A handwritten signature in black ink, appearing to read "N. J. ...", is written over the printed title.

Special Deputy Secretary of State

4196P/36P/706298

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF INCORPORATION

OF

ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK

(Under Section 803 of the Not-for-Profit Corporation Law)

We, the undersigned, the Chairman and Secretary respectively of ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK hereby certify:

1. The name of the corporation is ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK ("St. Charles Hospital" or the "Corporation").

2. The Certificate of Incorporation of St. Charles Hospital was filed by the Department of State on September 30, 1958 pursuant to the Membership Corporation Law of the State of New York.

3. St. Charles Hospital is a corporation as defined in subparagraph (a)(5) of section 102 of the Not-for-Profit Corporation Law of the State of New York and is a Type B corporation under section 201 of said law and shall remain a Type B corporation after this

4. The Certificate of Incorporation of the Corporation is hereby amended to effect a change in the corporate purposes pursuant to section 801 (b)(2) of the Not-for-Profit Corporation Law of the State of New York. The purposes of the Corporation, as set forth in Article SECOND of the Certificate of Incorporation, are hereby amended to read as follows:

The purposes for which this Corporation is to be formed are as follows:

As a nonprofit corporation none of the income of which shall accrue to any member:

- (a) To establish and maintain a home for mentally retarded children.
- (b) In conformity with the law to establish, maintain, conduct and operate two hospitals with out-patient departments thereof, for nursing, medical and surgical care and treatment of the sick, invalid, blind, disabled, crippled, diseased, convalescent, infirm or otherwise defective or disabled or helpless persons regardless of age, race, nationality or creed.
- (c) To solicit and collect funds to carry out the purposes enumerated herein; to expend, contribute, disburse and otherwise carry out the purposes herein from the funds so collected.
- (d) To receive grants and funds authorized by law to be made by any government agency to corporations or persons engaged in activities identical or similar to those engaged in by this membership corporation.
- (e) To receive and care for abandoned, destitute, neglected and dependent children as defined in the Social Services Law of the State of New York and to establish and operate a facility for such purpose.

PROVIDED, however, that no such facility shall be established or opened without approval of the New York State Department of Social Services, as required. The authority to establish or open such facility shall be limited to five years unless such period is extended or this limitation is waived by the Department of Social Services.

5. This amendment to the Certificate of Incorporation of St. Charles Hospital was authorized by the unanimous written consent signed by all of the members of the Corporation entitled to vote thereon.

6. The Secretary of State is hereby designated as agent of the Corporation upon whom process against it may be served. The post office address within the State of New York to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is P.O. Box 200 Belle Terre Road, Port Jefferson, New York 11777.

7. Nothing herein shall authorize this Corporation, directly or indirectly, to engage in or include among its purposes, any of the activities mentioned in Not-for-Profit Corporation Law Section 404 (c-n), (p-s) and (u).

IN WITNESS WHEREOF, the undersigned have executed and signed this certificate this 2nd day of September 1987.

John R. McGann
MOST. REV. JOHN R. MCGANN, Chairman

Mary Logan, C.S.J.
SR. MARY LOGAN, C.S.J., Secretary

VERIFICATION

STATE OF NEW YORK)
COUNTY OF SUFFOLK) SS.:

MOST REV. JOHN R. MCGANN being duly sworn, depose and say, that deponent is Chairman of ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK; that deponent has read the foregoing certificate of amendment of certificate of incorporation of ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK, and knows the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK, is a corporation. Deponent is an officer thereof, to wit, its Chairman.

John R. McGann
MOST REV. JOHN R. MCGANN, Chairman

Sworn to before me this
7th day of Sept., 1987

Joyce A. DeVita
Notary Public

-4-

JOYCE A. DEVITA
Notary Public, State of New York
No. 4720468
Term Expires September 30, 1988

0000 09 18

VERIFICATION

STATE OF NEW YORK)
COUNTY OF SUFFOLK) SS.:

SR. MARY LOGAN being duly sworn, depose and say, that deponent is Secretary of ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK; that deponent has read the foregoing certificate of amendment of certificate of incorporation of ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK, and knows the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK, is a corporation. Deponent is an officer thereof, to wit, its Secretary.

Mary Logan, C.S.J.
SR. MARY LOGAN, C.S.J., Secretary

Sworn to before me this
11th day of Sept., 1987

Joyce A. Devita
Notary Public

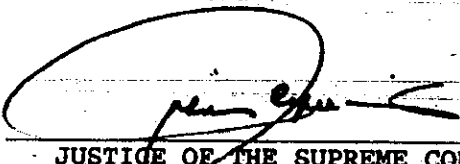
-5-

JOYCE A. DEVITA
Notary Public, State of New York
No. 4730438
Term Expires September 30, 1988

CONSENT TO CERTIFICATE OF AMENDMENT
TO CERTIFICATE OF INCORPORATION

The undersigned, a Justice of the Supreme Court
of the State of New York, Tenth Judicial District, wherein is
located the principal office of ST. CHARLES HOSPITAL, PORT
JEFFERSON, NEW YORK hereby approves the within Certificate of
Amendment of the Certificate of Incorporation of ST. CHARLES
HOSPITAL, PORT JEFFERSON, NEW YORK and the filing hereof.

Dated: September 6, 1938


JUSTICE OF THE SUPREME COURT
OF THE STATE OF NEW YORK,
TENTH JUDICIAL DISTRICT

The undersigned has no objection to the granting of judicial
approval hereon and waives statutory notice.

Attorney General
State of New York

Dated: _____

By: _____

September 3, 1938
THE UNDERSIGNED HAS NO OBJECTION
TO THE GRANTING OF JUDICIAL
APPROVAL HEREON AND WAIVES
STATUTORY NOTICE.

ROBERT ABRAMS, ATTORNEY GEN.
STATE OF NEW YORK


ROBERT R. MOLIC
Assistant Attorney General



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

Morton P. Hyman
Chairman

November 30, 1987

Richard A. Dennett, Esq.
c/o Garfunkel, Wild & Travis
175 Great Neck Road
Great Neck, New York 11021

Re: St. Charles Hospital, Port Jefferson, New York

Dear Mr. Dennett:

The certificate of amendment of the certificate of incorporation of the above referenced corporation does not require the approval of the Public Health Council for filing with the Department of State, since the certificate neither alters the corporation's purposes under Article 28 of the Public Health Law nor changes its name.

Sincerely,

Karen Westervelt

Karen Westervelt
Executive Secretary

0000 0921



NEW YORK STATE
OFFICE OF MENTAL HEALTH

44 Holland Avenue, Albany, New York 12226

RICHARD C. SURLES, Ph.D., Commissioner

QUALITY ASSURANCE DIVISION
ANNE O'SULLIVAN, Deputy Commissioner

March 17, 1988

Mr. Richard A. Dennett
Attorney at Law
Garfunkel, Wild, & Travis, P.C.
175 Great Neck Road
Great Neck, NY 11021

Dear Mr. Dennett:

RE: Certificate of Amendment of
Certificate of Incorporation
of Charles Hospital

The Office of Mental Health has reviewed the proposed Certificate of Amendment of the Certificate of Incorporation of St. Charles Hospital. St. Charles Hospital is an Article 28 facility which neither offers nor proposes to offer, mental health programs, therefore, this office is not affected by the proposed amendment and declines to comment on it.

If you have any questions regarding this matter, please feel free to contact me at (518) 474-5570.

Sincerely,

Larry Chase
Director
Bureau of Inspection and
Certification

LC:SR:ag

cc: John McMahon

STATE OF NEW YORK
DEPARTMENT OF SOCIAL SERVICES
ALBANY, NEW YORK

KNOW ALL MEN BY THESE PRESENTS:

Pursuant to the provisions of Section 460-a of the Social Services Law, and Section 404-b of the Not-for-Profit Corporation Law, due inquiry and investigation having been made, approval is hereby given to the filing of the annexed certificate of admendment of the certificate of incorporation of ST. CHARLES HOSPITAL.

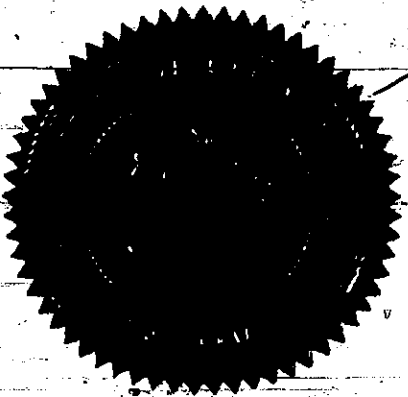
This approval gives the corporation authority to establish and operate a crisis-nursery facility to care for children for a five year period.

IN WITNESS WHEREOF, this document is executed and the seal of the New York State Department of Social Services is affixed this 16th day of August, 1988.

CESAR A. PERALES
Commissioner

BY:

Joseph Sami
Deputy Commissioner
Division of Services



9

State of New York }
Department of State } ss:

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

July 07, 2006



A handwritten signature in black ink, appearing to read "D. A. Z.", is written over the printed title.

Special Deputy Secretary of State

CERTIFICATE OF AMENDMENT

1-950811000332

OF THE

CERTIFICATE OF INCORPORATION

OF

ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK

(Under Section 803 of the Not-for-Profit Corporation Law)

The undersigned, being the President and Secretary of
St. Charles Hospital, Port Jefferson, New York, hereby certify:

1. The name of the corporation is ST. CHARLES HOSPITAL, PORT
JEFFERSON, NEW YORK (the "Corporation").

2. The Certificate of Incorporation of the Corporation was
filed by the Department of State on September 30, 1958 pursuant to
the Membership Corporation Law of the State of New York.

3. The Corporation is a corporation as defined in
subparagraph (a)(5) of Section 102 of the Not-for-Profit
Corporation Law of the State of New York and is a Type B
corporation under Section 201 of said law and shall remain a Type
B corporation after this Amendment.

4. The Certificate of Incorporation of the Corporation is
hereby amended to effect changes to the corporate purposes and
powers of the Corporation pursuant to section 801(b)(2)&(3) of the
Not-for-Profit Corporation Law necessary in order to qualify the

Corporation to secure the benefits of financing with the assistance of mortgage insurance under the provisions of the National Housing Act. The purposes and powers of the Corporation as set forth in Article SECOND of the Certificate of Incorporation are hereby amended and restated as follows:

1. The purposes for which this Corporation is formed are as follows:

- (a) To operate as a not-for-profit corporation, none of the income of which shall accrue to any member;
- (b) To establish and maintain a home for mentally retarded children;
- (c) To provide on a non-profit basis, hospital facilities and services for the care and treatment of persons who are acutely ill who otherwise require medical care and related services of the kind customarily furnished most effectively by hospitals, pursuant to Section 242 of the National Housing Act, as amended, including without limitation, to establish, maintain, conduct and operate two hospitals with out-patient departments thereof, for nursing, medical and surgical care and treatment of the sick, invalid, blind, disabled, crippled, diseased, convalescent, infirm or otherwise defective or disabled or helpless persons regardless of age, race, nationality or creed;
- (d) To solicit and collect funds to carry out the purposes enumerated herein; to expend, contribute, disburse and otherwise carry out the purposes herein from the funds so collected;
- (e) To receive grants and funds authorized by law to be made by any government agency to corporations or persons engaged in activities identical or similar to those engaged in by the Corporation; and
- (f) To receive and care for abandoned, destitute, neglected and dependent children as defined in the Social Services Law of the State of New York and to establish and operate a facility for such purpose, PROVIDED, however, that no such facility shall be established or opened without approval of the New York State Department of Social Services, as

required. The authority to establish or open such facility shall be limited to five years unless such period is extended or this limitation is waived by the Department of Social Services.

2. In furtherance of the foregoing purposes, the Corporation shall have all the general powers enumerated in Section 202 of the Not-for-Profit Corporation Law together with the power to do and perform all acts reasonably necessary to accomplish the purposes of the Corporation, including the execution of a Regulatory Agreement with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, and such other instruments and undertakings as may be necessary to enable the Corporation to secure the benefits of financing with the assistance of mortgage insurance under the provisions of the National Housing Act. Such Regulatory Agreement and other instruments and undertakings shall remain binding upon the Corporation, its successors and assigns, so long as a mortgage on the Corporation's property is insured or held by the Secretary of Housing and Urban Development.

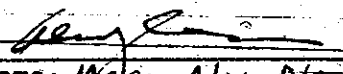
3. In the event of the dissolution of the Corporation or the winding up of its affairs, or other liquidation of its assets, the Corporation's property shall not be conveyed to any organization created or operated for profit or to any individual for less than the fair market value of such property, and all assets remaining after the payment of the Corporation's debts shall be conveyed or distributed to such organization or organizations organized and operated exclusively for charitable, educational or health care purposes as shall, at that time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, PROVIDED, however, that the Corporation shall at all times have the power to convey any or all of its property to the Secretary of Housing and Urban Development or his nominee, subject to the approval of a Justice of the Supreme Court of the State of New York in accordance with New York law.

5. This amendment to the Certificate of Incorporation of the Corporation was authorized by the unanimous vote of the membership of the Corporation at a meeting of the Corporation duly called and held in accordance with the Bylaws of the Corporation at which meeting a quorum was present and acting throughout.

6. The Secretary of State is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is: 200 Belle Terre Road, Port Jefferson, New York 11777, Attn: President.

IN WITNESS WHEREOF, the undersigned have executed this Certificate this 22nd day of May, 1995 and affirm under penalties of perjury that the statements set forth herein are true.


Barry T. Zeman
President

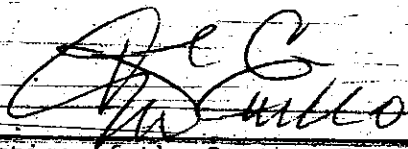

Name: Msgr. Alan Placa
Secretary

COI0001T.WP5/503169

CONSENT TO CERTIFICATE OF AMENDMENT
TO CERTIFICATE OF INCORPORATION

The undersigned, a Justice of the Supreme Court of the State of New York, Tenth Judicial District, wherein is located the principal office of St. Charles Hospital, Port Jefferson, New York hereby approves the within Certificate of Amendment of the Certificate of Incorporation of St. Charles Hospital, Port Jefferson, New York and the filing thereof.

Dated: RIVERHEAD, New York
7/21, 1995


Justice of the Supreme Court

HON. GERARD DEMILIO

(R.K.)

The undersigned has no objection to the granting of judicial approval hereon and waives statutory notice.

Attorney General
State of New York

By: _____

Dated: _____

THE UNDERSIGNED HAS NO OBJECTION
TO THE GRANTING OF JUDICIAL
APPROVAL HEREON AND WAIVES
STATUTORY NOTICE
DENNIS C. VANEK ATTORNEY GEN.
STATE OF NEW YORK

by Laura Weiner
June 6, 1995
Assistant Attorney General



NEW YORK STATE
OFFICE OF ALCOHOLISM
AND
SUBSTANCE ABUSE SERVICES
1450 Western Avenue
Albany, New York 12203-3526

June 7, 1995

Mr. Kevin P. Downes
Garfunkel, Wild & Travis
111 Great Neck Road
Great Neck, New York 11021

Dear Mr. Downes:

Subject: ~~Certificate of Amendment of the Certificate of Incorporation of St.~~
Charles Hospital, Port Jefferson, New York -- COI #9517

We have reviewed the above-referenced. In keeping with long-standing practice on New York State Department of Health certified acute care hospitals that operate alcoholism treatment programs, Office of Alcoholism and Substance Abuse consent is not required because the corporate authority to operate these types of programs is viewed as subsumed under the hospital's existing corporate purposes.

Sincerely,

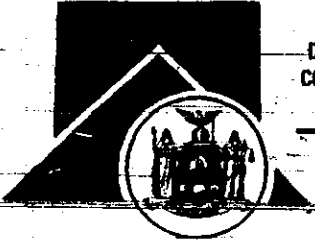
Elliott Lefkowitz

Elliott Lefkowitz
Assistant Director
Project Review Unit

Attachment

cc: A. Aquino
R. Ball
W. Lachanski
M. Nadell Penrose
C. Sansonia
J. Shipherd
B. Zeman

[c:\wpdocs\coi\9517\downes.1]



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

June 13, 1995

Kevin P. Downes, Esq.
Garfunkel, Wild & Travis, P.C.
111 Great Neck Road
P.O. Box 220602
Great Neck, New York 11021

Re: Certificate of Amendment of the Certificate of Incorporation
of St. Charles Hospital, Port Jefferson, New York

Dear Mr. Downes:

The certificate of amendment to the certificate of incorporation of the above, dated May 22, 1995, does not require the formal approval of the Council, since, pursuant to Section 804(a)(1) of the Not-for-Profit Corporation Law, the certificate neither adds, changes or eliminates a purpose, power or provision the inclusion of which requires the Council's approval, nor does it change the name of the corporation. The certificate merely expands the corporation's purposes in order to secure financial benefits pursuant to provisions of the National Housing Act.

Sincerely,

Karen Westervelt
Executive Secretary



NEW YORK STATE
OFFICE OF MENTAL HEALTH

44 Holland Avenue, Albany, New York 12229

RICHARD C. SURLES, Ph.D., Commissioner

QUALITY ASSURANCE DIVISION
SANDRA L. FORQUER, Ph.D., Deputy Commissioner

July 13, 1995

Kevin P. Downes, Esq.
Garfunkel, Wild & Travis, P.C.
Attorneys at Law
111 Great Neck Road
P.O. Box 220602
Great Neck, NY 11021

RE: Certificate of Amendment to Certificate of
Incorporation
St. Charles Hospital, Port Jefferson, NY

Dear Mr. Downes:

The Office of Mental Health (OMH) has reviewed the Certificate of Amendment to the Certificate of Incorporation for the above referenced organization which was received by us on May 25, 1995. The purposes for which the corporation has been formed do not constitute the operation of a facility for the mentally ill which requires an Operating Certificate under Article 31 of the Mental Hygiene Law. Therefore, approval of the Certificate of Amendment by the Office of Mental Health is not required.

This letter shall not be construed as an endorsement by the Office of Mental Health of any activity or purpose of this corporation.

Sincerely,

Larry Chas
Director
Bureau of Inspection
and Certification

LC:RB

cc: John McMahon
Richard Beer

f:\users\coqansb\wp51\data\certinc\stchas.ltr

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STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

44 HOLLAND AVENUE • ALBANY • NY • 12229-0001
518•473•1987 518•474•3694 TDD

THOMAS A. MAUL
Commissioner

(518) 474-7700
Fax: (518) 474-7382

ULISES THOMPSON
Executive Deputy Commissioner

August 9, 1995

Empire Corporate Services
4 Central Avenue
Albany, New York 12210

Re: St. Charles Hospital, Port Jefferson, New York

Dear Ms. Dooley:

This is in response to your note to Anthony Russo, Esq. of this office to whom you sent a copy of a proposed Certificate of Amendment relating to the above-indicated corporation.

Upon review of other corporate documents, it appears that the corporation was originally empowered to establish and maintain a home for mentally retarded children. The Certificate of Incorporation was filed with the Department of State in 1958 after approval by the Board of Social Welfare.

The proposed Certificate of Amendment does not effect any change with respect to the aforementioned purpose and, does not, therefore, require approval by the Office of Mental Retardation and Developmental Disabilities.

Very truly yours,

Nancy C. Roth
Nancy C. Roth
Assistant Counsel

NCR

cc: Anthony Russo, Esq.
Gretchen Booth

9

Right at home. Right in the neighborhood.



950811000332

FILED

E-12

CERTIFICATE OF AMENDMENT OF THE CERTIFICATE OF INCORPORATION OF ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK		Under Section 303 of the Not-For-Profit Corporation Law
BILLED		
GARFUNKEL, WILD & TRAVIS, P.C. ATTORNEYS AT LAW 175 GREAT NECK ROAD GREAT NECK, N.Y. 11021 (516) 466-3090		

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED AUG 11 1995

TAXES

BY

me

Suff

(10)

950811000332

E-12

*State of New York }
Department of State } ss:*

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

July 07, 2006



A handwritten signature in black ink, appearing to read "N. J. ...", written over the printed title.

Special Deputy Secretary of State

971024000754

CERTIFICATE OF AMENDMENT

OF THE

CERTIFICATE OF INCORPORATION

OF

ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK

Under Section 803 of the Not-For-Profit Corporation Law

We, the undersigned, the Board Chair and Secretary of St. Charles Corporation (the "Corporation"), hereby certify that:

1. The name of the Corporation is St. Charles Hospital, Port Jefferson, New York
2. The Corporation was formed under the name St. Charles Hospital, Port Jefferson, New York pursuant to the Membership Corporations Law of the State of New York and the Certificate of Incorporation of said Corporation was filed by the Department of State on September 30, 1958.
3. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law of the State of New York.
4. The Corporation is a Type B corporation under Section 201 of the Not-For-Profit Corporation Law of the State of New York, and it shall continue to be a Type B corporation.
5. The Certificate of Incorporation of the Corporation is hereby amended to change the name and define the membership of the Corporation. The corporate purposes and powers of the Corporation are not enlarged, limited or otherwise changed by this Certificate of Amendment.
6. The Certificate of Incorporation is amended as follows:
 - A. Paragraph "First" of the Certificate of Incorporation, concerning the name of the Corporation is hereby amended to read in its entirety as follows:

First. The name of the Corporation is Port Charles Hospital and Rehabilitation Center (the "Corporation").
 - B. Paragraph "Eighth" of the Certificate of Incorporation, concerning the membership of the Corporation is hereby added to read in its entirety as follows:

Eighth. Catholic Health System of Long Island, Inc., shall be the sole member of the Corporation.

K 971024000 *754*

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF

ST. CHARLES HOSPITAL, PORT JEFFERSON, NEW YORK

Under Section 803 of the Not-For-Profit Corporation Law

FILED

OCT 24 4 54 PM '97

Filed by:

ISEMAN, CUNNINGHAM, RIESTER & HYDE, LLP.
9 Thurlow Terrace
Albany, New York 12203
(518) 462-3000

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED OCT 24 1997

TAX \$

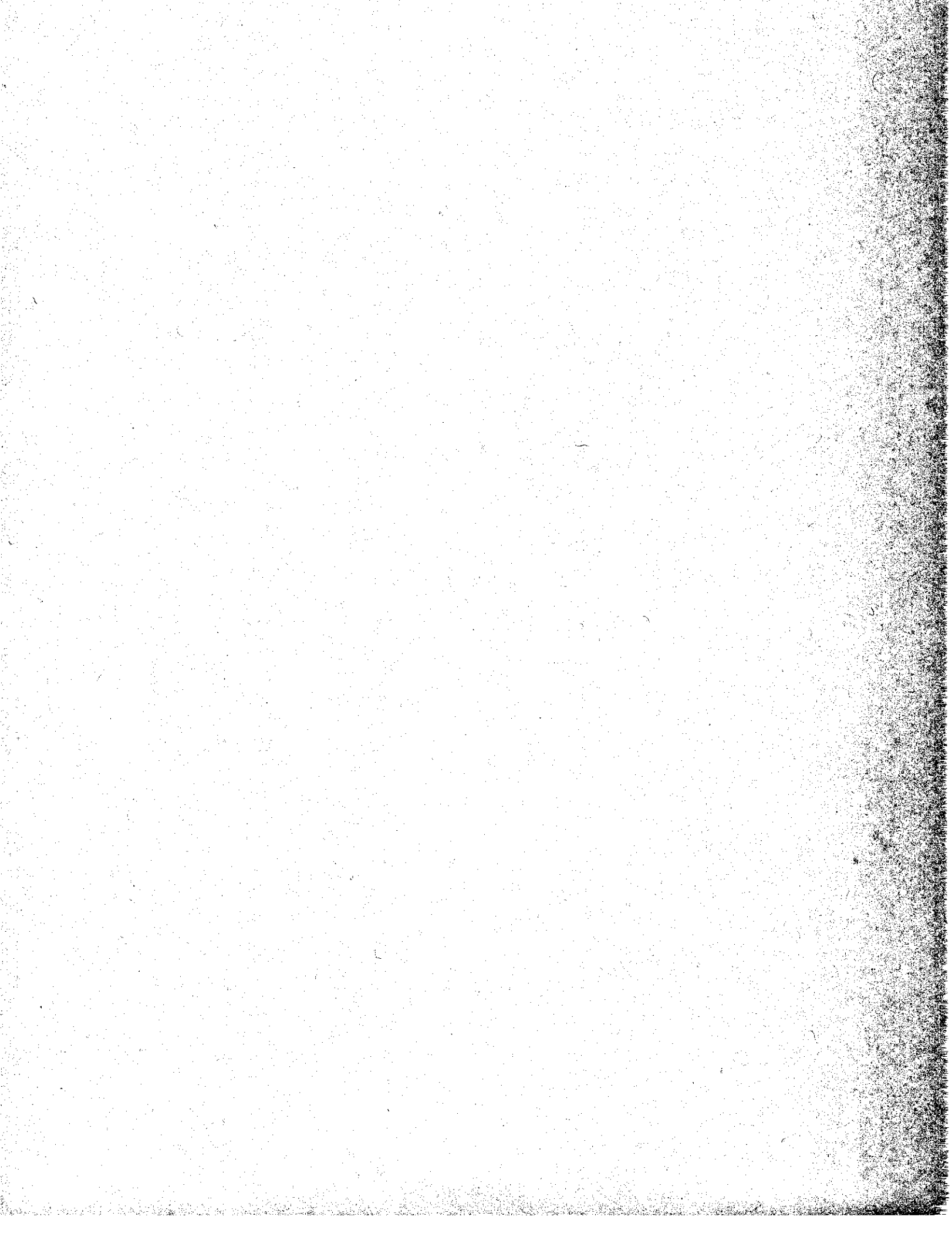
BY:

dja
cuttack

3

971024000 *793*

October 20, 1997



*State of New York } ss:
Department of State }*

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

July 07, 2006



A handwritten signature in black ink, appearing to be "D. A. [unclear]".

Special Deputy Secretary of State

1980923000555

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF

PORT CHARLES HOSPITAL AND REHABILITATION CENTER

Under Section 803 of the Not-For-Profit Corporation Law

We, the undersigned, the President and Secretary of Port Charles Hospital and Rehabilitation Center (the "Corporation"), hereby certify that:

1. The name of the Corporation is Port Charles Hospital and Rehabilitation Center.
2. The Corporation was formed under the name St. Charles Hospital, Port Jefferson, New York pursuant to the Membership Corporations Law of the State of New York and the Certificate of Incorporation of said Corporation was filed by the Department of State on September 30, 1958.
3. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law of the State of New York.
4. The Corporation is a Type B corporation under Section 201 of the Not-For-Profit Corporation Law of the State of New York, and it shall continue to be a Type B corporation.
5. The Certificate of Incorporation of the Corporation is hereby amended to amend the name of the Corporation. The corporate purposes and powers of the Corporation are not enlarged, limited or otherwise changed by this Certificate of Amendment.
6. The Certificate of Incorporation is amended as follows:

Paragraph "First" of the Certificate of Incorporation, concerning the name of the Corporation is hereby amended to read in its entirety as follows:

First. The name of the Corporation is St. Charles Hospital and Rehabilitation Center (the "Corporation").
7. The Secretary of State of New York is hereby designated as the agent of the Corporation upon whom any process against the Corporation may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation so served upon him is 200 Belle Terre Road, Port Jefferson, New York 11777.

8. The foregoing amendments to the Certificate of Incorporation were authorized by the unanimous consent of the members of the Corporation entitled to vote thereon pursuant to Section 614 of the Not-For-Profit Corporation Law of the State of New York.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Amendment and affirmed as true the statements made therein under penalties of perjury this 4th day of May, 1998.

Barry T. Zeman, President

Msgr. Alan J. Placa, Secretary

STATE OF NEW YORK)

) ss.:

COUNTY OF SUFFOLK)

On May 4th, 1998, before me personally appeared Barry T. Zeman and Msgr. Alan J. Placa, to me known, who, being by me duly sworn, did depose and say that they reside, respectively, at Belle Terre, NY and Deer Park, NY; that they are the President and Secretary of Port Charles Hospital and Rehabilitation Center, Port Jefferson, New York, the corporation described in and which executed the foregoing instrument; and that they signed their names thereto by order of the Board of Trustees of said corporation.

Martine Zebrowski
Notary Public

MARTINE ZEBROWSKI
NOTARY PUBLIC, State of New York
No. 4643419
Qualified in Nassau County
Commission Expires 10/31/99

JUN - 9 1998



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

June 3, 1998

RECEIVED

JUN 10 1998

D. KIRBY

Deborah A. Kirby, Esq.
Iseman, Cunningham, Riester & Hyde, LLP
Attorneys and Counselors at Law
9 Thurlow Terrace
Albany, New York 12203

Re: Certificate of Amendment of the Certificate of Incorporation of Port Charles Hospital and Rehabilitation Center

Dear Ms. Kirby:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 29th day of May, 1998, I hereby certify that the Certificate of Amendment to the Certificate of Incorporation of Port Charles Hospital and Rehabilitation Center hereafter to be known as St. Charles Hospital and Rehabilitation Center, Inc. dated May 4, 1998 is approved.

Sincerely,

Karen S. Westervelt
Executive Secretary

RESOLUTION

RESOLVED, that the Public Health Council, on this 29th day of May, 1998, approves the filing of the Certificate of Amendment to the Certificate of Incorporation of Port Charles Hospital, hereafter to be known as St. Charles Hospital and Rehabilitation Center, dated May 4, 1998.

980923000555

CERTIFICATE OF AMENDMENT

OF

THE CERTIFICATE OF INCORPORATION

OF

PORT CHARLES HOSPITAL AND REHABILITATION CENTER

Under Section 803 of the Not for Profit Corporation Law

Suff N. L. S. 27

FILER:

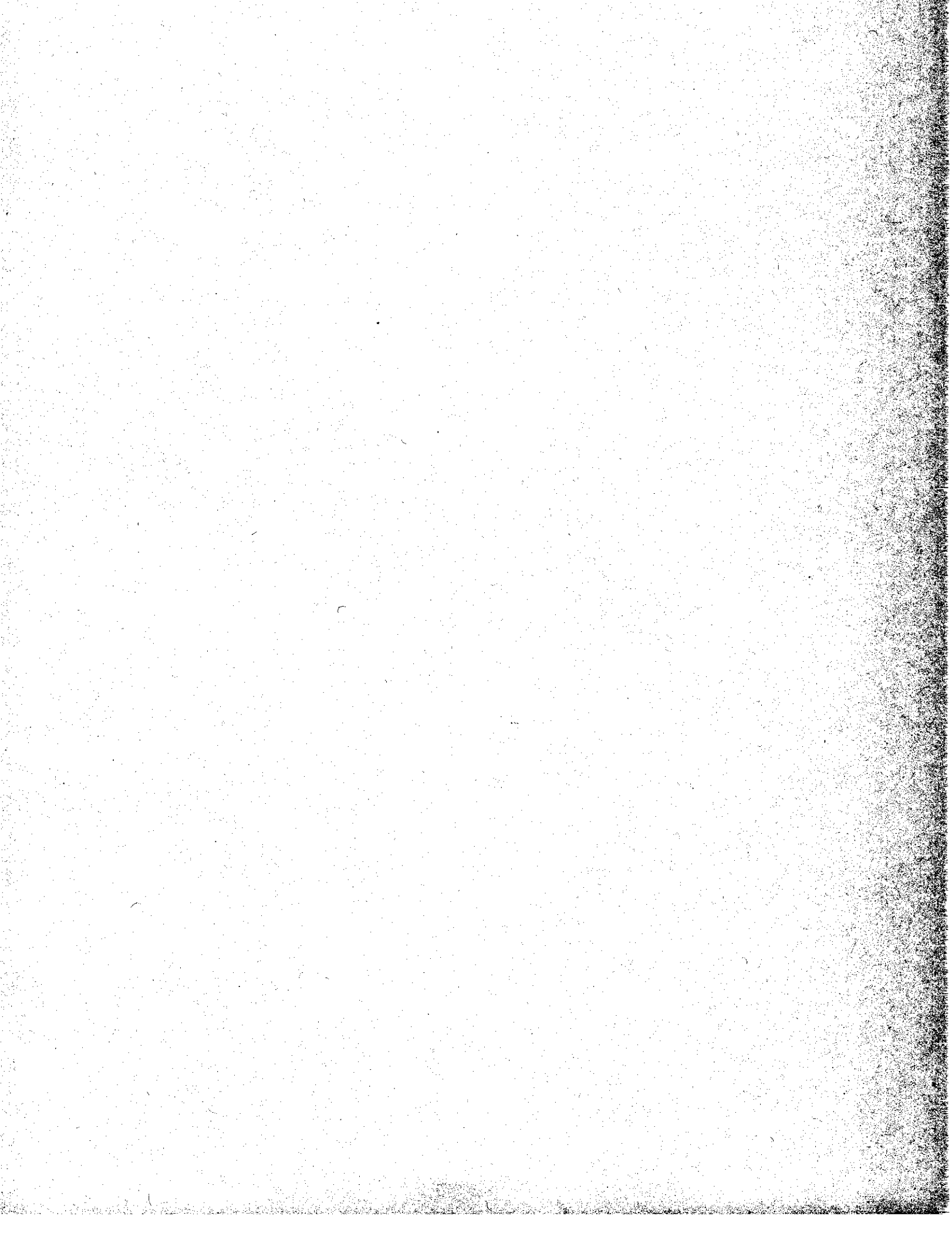
ISEMAN, CUNNINGHAM, REKISTER & HYDE LLP
37 EAST GIBSON STREET
CANANDAIGUA, NY-14424

LC
STATE OF NEW YORK
JUL 23 1998
DUE
Suff

SEP 12 5 34 PM

5

980923000562



State of New York }
Department of State } ss:

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

July 07, 2006



A handwritten signature in black ink, appearing to read "D. J. Aze".

Special Deputy Secretary of State

F-99091700066P

Certificate of Amendment
of the
Certificate of Incorporation
of

St. Charles Hospital and Rehabilitation Center

Under Section 803 of the Not-For-Profit Corporation Law

We, the undersigned, the President and Secretary of St. Charles Hospital and Rehabilitation Center (the "Corporation"), hereby certify that:

1. The name of the Corporation is St. Charles Hospital and Rehabilitation Center.
2. The Corporation was formed under the name St. Charles Hospital, Port Jefferson, New York pursuant to the Membership Corporations Law of the State of New York and the Certificate of Incorporation of said Corporation was filed by the Department of State on September 30, 1958.
3. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law of the State of New York.
4. The Corporation is a Type B corporation under Section 201 of the Not-For-Profit Corporation Law of the State of New York, and it shall continue to be a Type B corporation.
5. The Certificate of Incorporation of the Corporation is hereby amended to add a new paragraph "Ninth" wherein the Corporation (i) is specifically authorized to enter into a master trust indenture or other similar instrument with other members of an obligated group; (ii) specifically delegates to Catholic Health System of Long Island, Inc. certain financial responsibilities with respect to the operation of the Corporation; and (iii) generally delegates to Catholic Health System of Long Island, Inc. other responsibilities with respect to the operation of the Corporation.
6. To effectuate the amendments described in paragraph 5 of this Certificate of Amendment, paragraph "Ninth" of the Certificate of Incorporation is hereby added to read in its entirety as follows:

Certificate of Amendment of the Certificate of Incorporation of
ST. CHARLES HOSPITAL AND REHABILITATION CENTER
Page 2

Ninth. The Corporation shall have the power to enter into a master trust indenture or similar instrument as a member of a group wherein each member is jointly and severally liable for the debts and obligations of the group and each member thereof pursuant to the terms of such indenture or instrument, for the purpose of securing capital and other financing on favorable terms, and to exercise and comply with all terms and conditions of such indenture or other instrument. In order to effectuate such power and purpose, the Corporation (i) delegates to Catholic Health System of Long Island, Inc., pursuant to Section 701 of the Not-For-Profit Corporation Law, authority on behalf of the Corporation to accept, utilize, transfer and share in the assets, revenues and income of the Corporation as necessary to carry out the obligations of the Corporation pursuant to such master trust indenture or similar instrument. The Corporation further delegates to Catholic Health System of Long Island, Inc. pursuant to Section 701 of the Not-For-Profit Corporation Law, the following exclusive authority: approve strategic plans; approve capital budgets; approve operating budgets; approve debt; maintain a single, consolidated set of books and financial records; implement a joint quality assessment program; implement joint medical staff credentialing; combine and centralize administrative and support functions and authority to approve the submission of CON applications; and such additional decision making authority as is permitted to be exercised by a corporation with authority to operate a hospital, the activation or rescission by the Corporation of the delegation of such additional decision making authority to occur by resolution of the Board of Trustees of the Corporation setting forth the matters in respect of which the delegation of such additional decision making authority is being activated or rescinded, provided, however, that a certified copy of any such resolution shall have been provided to the Department of Health prior review of any such activation or rescission, and further provided, that any amendment to this Certificate of Incorporation to rescind or limit the delegation of such additional decision making authority shall require the prior approval of the Public Health Council.

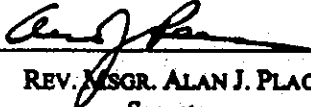
7. The Secretary of State of New York is hereby designated as the agent of the Corporation upon whom any process against the Corporation may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation so served upon him is 100 Port Washington Boulevard, Roslyn, New York 11576.

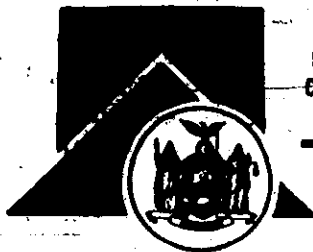
8. The foregoing amendments to the Certificate of Incorporation were authorized by vote of the sole member of the Corporation entitled to vote thereon pursuant to Section 802 of the Not-For-Profit Corporation Law of the State of New York.

Certificate of Amendment of the Certificate of Incorporation of
ST. CHARLES HOSPITAL AND REHABILITATION CENTER
Page 3

In Witness Whereof the undersigned have executed this Certificate of Amendment
and affirmed as true the statements made therein under penalties of perjury this 13th day of
August, 1999.


BARRY T. ZEMAN
President


REV. MSGR. ALAN J. PLACA
Secretary



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

September 3, 1999

Ms. Deborah Kirby
Attorney-at-Law
Iseman, Cunningham, Ricster & Hyde
P.O. Box 179, 37 East Gibson Street
Canandaigua, New York 11424

Re: Certificate of Amendment of the Certificate of Incorporation of St. Charles Hospital and Rehabilitation Center

Dear Ms. Kirby:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 19th day of March, 1999, I hereby certify that the Public Health Council consents to the filing of the Certificate of Amendment to the Certificate of Incorporation of St. Charles Hospital and Rehabilitation Center, dated August 13, 1999.

Sincerely,

Karen S. Westervelt
Executive Secretary

At a Special Term of the Supreme Court of the State of New York, held in the County of Nassau, Tenth Judicial District, at the Courthouse thereof located at the Supreme Court Building, Mineola, New York, on the 16th day of September, 1999.

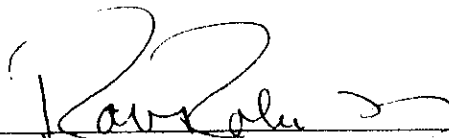
PRESENT: HON. ROBERT ROBERTO, JR. Justice

In the Matter of the Application of ST. CHARLES HOSPITAL AND REHABILITATION CENTER for an Order approving the Certificate of Amendment to its Certificate of Incorporation under Section 803 of the Not-for-Profit Corporation Law

ORDER

I, ROBERT ROBERTO, JR., a Justice of the Supreme Court of the State of New York, Nassau County, for the Tenth Judicial District do hereby approve the within Certificate of Amendment to the Certificate of Incorporation of St. Charles Hospital and Rehabilitation Center, pursuant to section 804 of the Not-For-Profit Corporation Law and consent that the same be filed.

Dated: September 16, 1999.



Justice of the Supreme Court
Nassau County
Tenth Judicial District

**DRAWDOWN
NIS
27**

99091700068

**Certificate of Amendment
of the
Certificate of Incorporation
of**

St. Charles Hospital and Rehabilitation Center

Under Section 803 of the Not-For-Profit Corporation Law

Filed by:

DEBORAH A. KIRBY, ESQ.
ISEMAN, CUNNINGHAM, RIESTER & HYDE, LLP
37 East Gibson Street
Canandaigua, New York 14424

2.11
STATE OF NEW YORK
DEPARTMENT OF STATE
FILED SEP 17 1999

Suff

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990917000687

State of New York }
Department of State } ss:

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

July 07, 2006



A handwritten signature in black ink, appearing to read "N. J. ...", is written over the printed title.

Special Deputy Secretary of State

1-060606000645

New York State
Department of State
Division of Corporations, State Records
and Uniform Commercial Code
41 State Street
Albany, NY 12231
www.dos.state.ny.us

CERTIFICATE OF CHANGE
OF
ST. CHARLES HOSPITAL AND REHABILITATION CENTER

Under Section 803-A of the Not-for-Profit Corporation Law

FIRST: The original name of the corporation is: St. Charles Hospital, Port Jefferson, New York.
The present name of the corporation is: St. Charles Hospital and Rehabilitation Center.

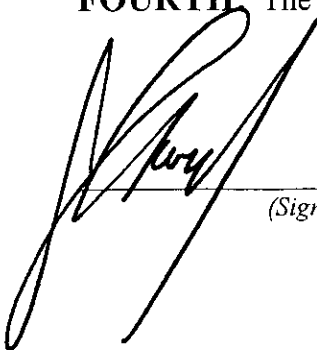
SECOND: The certificate of incorporation was filed by the Department of State on:
September 30, 1958.

THIRD: The change effected hereby is:

The address to which the Secretary of State shall forward copies of process accepted on
behalf of the corporation is changed to read in its entirety as follows:

St. Charles Hospital and Rehabilitation Center
200 Belle Terre Rd.
Port Jefferson, NY 11777

FOURTH: The board of directors authorized the change.



(Signature)

Joseph Tantillo, Jr., Chairman of the Board, SCH
(Name and Title of Signer)

/

136 05 050 00645

CERTIFICATE OF CHANGE
OF
ST. CHARLES HOSPITAL AND REHABILITATION CENTER

Under Section 803-A of the Not-for-Profit Corporation Law

Suff

Filed by: Catholic Health Services of Long Island
992 North Village Avenue
Rockville Centre, N.Y. 11570

For Office Use Only

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED JUN 08 2008
TAX \$
BY: Suff

Suff

2

136 05 050 00714

FILING RECEIPT

=====

ENTITY NAME: ST. CHARLES HOSPITAL AND REHABILITATION CENTER

DOCUMENT TYPE: CHANGE (DOM. NFP)
PROCESS

COUNTY: SUFF

SERVICE COMPANY: ** NO SERVICE COMPANY **

SERVICE CODE: 00

=====

FILED:06/06/2006 DURATION:***** CASH#:060606000714 FILM #:060606000645

ADDRESS FOR PROCESS

THE CORPORATION
200 BELLE TERRE RD.
PORT JEFFERSON, NY 11777

REGISTERED AGENT

=====

FILER	FEES	20.00	PAYMENTS	20.00
-----	----		-----	
	FILING	20.00	CASH	0.00
	TAX	0.00	CHECK	20.00
CATHOLIC HEALTH SERVICES OF LONG	CERT	0.00	CHARGE	0.00
LAND	COPIES	0.00	DRAWDOWN	0.00
2 NORTH VILLAGE AVENUE	HANDLING	0.00	OPAL	0.00
ROCKVILLE CENTRE, NY 11570			REFUND	0.00

Facility Id. 896
Certificate No. 5149001H

State of New York Department of Health



Effective Date: 05/06/2024
Expiration Date: NONE

Office of Primary Care and Health Systems Management

OPERATING CERTIFICATE

Hospital

St. Charles Hospital

200 Belle Terre Road

Port Jefferson, New York 11777

Certified Beds - Total	243
Chemical Dependence -	40
Chemical Dependence -	20
Coronary Care	8
Intensive Care	8
Maternity	22
Medical / Surgical	55
Neonatal Continuing Care	3
Neonatal Intermediate Care	3
Pediatric	8
Physical Medicine and	66
Traumatic Brain Injury	10

Operator: Catholic Health System of Long Island, Inc.
Co-Operator: St Charles Hosp and Rehab Ctr Inc
Operator Class: Voluntary Not for Profit Corporation

Has been granted this Operating Certificate pursuant to Article 28 of the Public Health Law for the service(s) specified.

Ambulatory Surgery - Multi Specialty	Audiology O/P	Burns Care	Chemical Dependence - Detoxification	Chemical Dependence - Rehabilitation
Chemical Dependence - Rehabilitation O/P	Chemical Dependence - Withdrawal O/P	Clinic Part Time Services	Clinical Laboratory Service	Coronary Care
Dental O/P	Emergency Department	Intensive Care	Level II Perinatal Care	Lithotripsy
Maternity	Medical Services - Other Medical Specialties	Medical Services - Primary Care	Medical Social Services	Medical/Surgical
Neonatal Continuing Care	Neonatal Intermediate Care	Nuclear Medicine - Diagnostic	Pediatric	Physical Medical Rehabilitation
Primary Stroke Center	Radiology - Diagnostic	Renal Dialysis - Acute	Respiratory Care	Therapy - Occupational O/P
Therapy - Physical O/P	Therapy - Speech Language Pathology	Therapy - Vocational Rehabilitation O/P	Traumatic Brain Injury Program	

Other Authorized Locations

Hospital Extension Clinic

Catholic Health Physical Therapy and Rehabilitation
Facility ID 15396
761 Merrick Avenue
Westbury, New York 11590

St. Charles Rehabilitation
Facility ID 5770
240 Middle Country Road
Smithtown, New York 11787

St Charles Rehabilitation
Facility ID 7755
3279 Veterans Memorial Highway
Ronkonkoma, New York 11779

St. Charles Rehabilitation
Facility ID 7762
77 Route 112
Patchogue, New York 11772

St Charles Rehabilitation
Facility ID 7106
1895 Walt Whitman Road
Melville, New York 11747

St. Charles Rehabilitation
Facility ID 5769
3 Technology Drive
East Setauket, New York 11733

St. Charles Hospital Rehabilitation
Facility ID 10084
500 Commack Road
Commack, New York 11725

St. Charles Rehabilitation - West Babylon
Facility ID 10410
501A Montauk Highway
West Babylon, New York 11704

Douglas M. Dior

Michael J. Dior

20240513

Acting Deputy Commissioner, Office of
Primary Care and Health Systems

This certificate must be conspicuously displayed on the premises.

Commissioner

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 5th day of December 2024, approves the filing of the Certificate of Assumed Name of Catholic Health Specialty Pharmacy, as attached.

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 5th day of December 2024, approves the filing of the Certificate of Assumed Name of Catholic Health Home Infusion Pharmacy, as attached.

MEMORANDUM

TO: Michael Stelluti
Division of Health Facility Planning and Development

Colleen Leonard, Executive Secretary
Public Health and Health Planning Council

FROM: Vincent DiCocco, Senior Attorney
Bureau of Program Counsel
Division of Legal Affairs

DATE: November 7, 2024

SUBJECT: Approval of Certificate of Assumed Name of Suffolk Primary Health, LLC – d/b/a “A Better Way NY” and “Summer Hill Behavioral Services”

This is to request that the above matter be included on the agendas for the next Establishment and Project Review Committee and Public Health and Health Planning Council meetings.

The attachments relating to this matter include the following:

- 1) Memorandum to the Public Health and Health Planning Council from Kathy Marks, General Counsel;
- 2) A letter from Leanne Kontogiannis, Esq. of Hinman Straub, counsel for the applicant,
- 3) The Articles of Organization of Suffolk Primary Health, LLC,
- 4) The Operating Agreement of Suffolk Primary Health, LLC
- 5) The Unanimous Consent of the members of Suffolk Primary Health, LLC to utilize the d/b/a “A Better Way NY” for the applied behavioral services; and
- 6) The Unanimous Consent of the members of Suffolk Primary Health, LLC to utilize the d/b/a “Summer Hill Behavioral Services” for the Home and Community based services.

Attachments

cc: J. Corvino



MEMORANDUM

To: Public Health and Health Planning Council

From: Kathy Marks *KSM*
General Counsel
Division of Legal Affairs

Date: November 7, 2024

Subject: Approval of Certificate of Assumed Name of Suffolk Primary Health, LLC – d/b/a “A Better Way NY” and “Summer Hill Behavioral Services”

Suffolk Primary Health, LLC (“SPH”) request approval to use the assumed name “A Better Way NY” for SPH’s applied behavioral services and to use “Summer Hill Behavioral Services” for SPH’s home and community-based services.

SPH was formed on April 17, 2012, and operates an Article 28 diagnostic and treatment center at 170 Old Country Road, Riverhead, New York 11901. The applicant’s prior assumed name was previously approved by the Public Health and Health Planning Council (“PHHPC”). Therefore, PHHPC approval of the assumed name is required pursuant to 10 NYCRR § 600.11(a)(3) and 10 NYCRR § 401.3(b).

Attached is a letter from Leanne Kontogiannis, Esq. of Hinman Straub, counsel for the applicant, the Articles of Organization of Suffolk Primary Health, LLC, the Operating Agreement of Suffolk Primary Health, LLC. Additionally, the Unanimous Consent of the members of Suffolk Primary Health, LLC to utilize the d/b/a “A Better Way NY” for the applied behavioral services; and the Unanimous Consent of the members of Suffolk Primary Health, LLC to utilize the d/b/a “Summer Hill Behavioral Services” for the Home and Community based services are also provided.

There is no legal objection to the proposed assumed names and the documents submitted are all legally acceptable.

Attachments.

From: [Leanne Kontogiannis](#)
To: [doh.sm.DLAHouse](#)
Cc: [DiCocco, Vincent \(HEALTH\)](#)
Subject: SUFFOLK PRIMARY HEALTH, LLC D/B/A REQUEST
Date: Friday, August 2, 2024 10:25:23 AM
Attachments: [ARTICLES OF ORGANIZATION OF SUFFOLK PRIMARY HEALTH, LLC.pdf](#)
[OPERATING AGREEMENT OF SUFFOLK PRIMARY HEALTH LLC.pdf](#)
[SUFFOLK PRIMARY HEALTH LLC UNANIMOUS CONSENT DBA HCBS SERVICES.pdf](#)

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Suffolk Primary Health, LLC requests Department of Health approval of the d/b/a “Summer Hill Behavioral Services” for the HCBS services provided by its Article 28 urgent care center.

Attached please find a copy of the Articles of Organization and Operating Agreement of Suffolk Primary Health, LLC along with a copy of the unanimous consent to obtain approval to utilize the D/B/A.

Please let me know if any additional information is needed.

Thank you.

LEANNE R. KONTOGIANNIS, ESQ.
PRINCIPAL
HINMAN STRAUB P.C.
121 STATE STREET
ALBANY, NEW YORK 12207
OFFICE: (518) 436-0751
FAX: (518) 436-4751



Attention:

This e-mail is privileged and confidential. If you are not the intended recipient please delete the message and notify the sender. Any views or opinions presented are solely those of the author.



**Division of Corporations,
State Records and
Uniform Commercial Code**

New York State
Department of State
**Division of Corporations,
State Records and
Uniform Commercial Code**
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231
www.dos.ny.gov

Certificate of Assumed Name

(Pursuant to General Business Law §130)

1. REAL NAME OF ENTITY:

Suffolk Primary Health, LLC

1a. FICTITIOUS NAME, IF ANY, OF FOREIGN ENTITY (Not Assumed Name):

2. THE ENTITY WAS FORMED OR AUTHORIZED UNDER THE FOLLOWING NEW YORK LAW (Check one):

- ☐ Business Corporation Law ☒ Limited Liability Company Law ☐ Religious Corporations Law
☐ Education Law ☐ Not-for-Profit Corporation Law ☐ Revised Limited Partnership Act

☐ Other (specify law): _____

3. ASSUMED NAME OF ENTITY:

A Better Way NY

4. PRINCIPAL PLACE OF BUSINESS IN NEW YORK STATE (MUST INCLUDE NUMBER AND STREET). IF NONE, CHECK THIS BOX ☐ AND PROVIDE OUT-OF- STATE ADDRESS:

170 Old Country Road, Riverhead, New York 11901

5. COUNTY(IES) IN WHICH ENTITY DOES OR INTENDS TO DO BUSINESS:

☐ ALL COUNTIES (or check applicable county(ies) below)

- | | | | | | | | |
|-----------------------------------|--------------------------------------|-------------------------------------|---------------------------------------|---|------------------------------------|--------------------------------------|-------------------------------------|
| <input type="checkbox"/> Albany | <input type="checkbox"/> Cattaraugus | <input type="checkbox"/> Chenango | <input type="checkbox"/> Delaware | <input type="checkbox"/> Franklin | <input type="checkbox"/> Hamilton | <input type="checkbox"/> Lewis | <input type="checkbox"/> Montgomery |
| <input type="checkbox"/> Allegany | <input type="checkbox"/> Cayuga | <input type="checkbox"/> Clinton | <input type="checkbox"/> Dutchess | <input type="checkbox"/> Fulton | <input type="checkbox"/> Herkimer | <input type="checkbox"/> Livingston | <input type="checkbox"/> Nassau |
| <input type="checkbox"/> Bronx | <input type="checkbox"/> Chautauqua | <input type="checkbox"/> Columbia | <input type="checkbox"/> Erie | <input type="checkbox"/> Genesee | <input type="checkbox"/> Jefferson | <input type="checkbox"/> Madison | <input type="checkbox"/> New York |
| <input type="checkbox"/> Broome | <input type="checkbox"/> Chemung | <input type="checkbox"/> Cortland | <input type="checkbox"/> Essex | <input type="checkbox"/> Greene | <input type="checkbox"/> Kings | <input type="checkbox"/> Monroe | <input type="checkbox"/> Niagara |
| <input type="checkbox"/> Oneida | <input type="checkbox"/> Orleans | <input type="checkbox"/> Queens | <input type="checkbox"/> St. Lawrence | <input type="checkbox"/> Schuyler | <input type="checkbox"/> Sullivan | <input type="checkbox"/> Warren | <input type="checkbox"/> Wyoming |
| <input type="checkbox"/> Onondaga | <input type="checkbox"/> Oswego | <input type="checkbox"/> Rensselaer | <input type="checkbox"/> Saratoga | <input type="checkbox"/> Seneca | <input type="checkbox"/> Tioga | <input type="checkbox"/> Washington | <input type="checkbox"/> Yates |
| <input type="checkbox"/> Ontario | <input type="checkbox"/> Otsego | <input type="checkbox"/> Richmond | <input type="checkbox"/> Schenectady | <input type="checkbox"/> Steuben | <input type="checkbox"/> Tompkins | <input type="checkbox"/> Wayne | |
| <input type="checkbox"/> Orange | <input type="checkbox"/> Putnam | <input type="checkbox"/> Rockland | <input type="checkbox"/> Schoharie | <input checked="" type="checkbox"/> Suffolk | <input type="checkbox"/> Ulster | <input type="checkbox"/> Westchester | |

6. ADDRESS OF EACH LOCATION, INCLUDING NUMBER AND STREET, IF ANY, OF EACH PLACE WHERE THE ENTITY CARRIES ON, CONDUCTS OR TRANSACTS BUSINESS IN NEW YORK STATE. (Use page 2 if needed. The address(es) must be a number and street, city, state and zip code. The address(es) must be within the county(ies) indicated in paragraph 5.) If none, check this box ☐: No New York State Business Location.

170 Old Country Road, Riverhead, New York 11901

Print or Type Name of Signer: Leanne R. Kontogiannis

Signature: 

Capacity of Signer (Check one): ☒ Authorized Person ☐ Officer of the Corporation ☐ General Partner of the Limited Partnership
☐ Member of the Limited Liability Company ☐ Manager of the Limited Liability Company

Certificate of Assumed Name

[illegible]

Leanne R. Kontogiannis, Esq.

Hinman Straub P.C.

121 State Street

Albany, New York 12207

FEE: Limited Liability Companies and Limited Partnerships - \$25.
Corporations - \$25 plus the fee for each county indicated in paragraph 5. The additional fee for each county within New York City (Bronx, Kings, New York, Queens and Richmond) is \$100 additional. The fee for each county outside New York City is \$25. Checks over \$500 must be certified.

(For office use only)



**Division of Corporations,
State Records and
Uniform Commercial Code**

New York State
Department of State
**Division of Corporations,
State Records and
Uniform Commercial Code**
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231
www.dos.ny.gov

Certificate of Assumed Name

(Pursuant to General Business Law §130)

1. REAL NAME OF ENTITY:

Suffolk Primary Health, LLC

1a. FICTITIOUS NAME, IF ANY, OF FOREIGN ENTITY (Not Assumed Name):

2. THE ENTITY WAS FORMED OR AUTHORIZED UNDER THE FOLLOWING NEW YORK LAW (Check one):

- ☐ Business Corporation Law ☒ Limited Liability Company Law ☐ Religious Corporations Law
☐ Education Law ☐ Not-for-Profit Corporation Law ☐ Revised Limited Partnership Act
☐ Other (specify law): _____

3. ASSUMED NAME OF ENTITY:

Summer Hill Behavioral Services

4. PRINCIPAL PLACE OF BUSINESS IN NEW YORK STATE (MUST INCLUDE NUMBER AND STREET). IF NONE, CHECK THIS BOX ☐ AND PROVIDE OUT-OF- STATE ADDRESS:

170 Old Country Road, Riverhead, New York 11901

5. COUNTY(IES) IN WHICH ENTITY DOES OR INTENDS TO DO BUSINESS:

☐ ALL COUNTIES (or check applicable county(ies) below)

- | | | | | | | | |
|-----------------------------------|--------------------------------------|-------------------------------------|---------------------------------------|---|------------------------------------|--------------------------------------|-------------------------------------|
| <input type="checkbox"/> Albany | <input type="checkbox"/> Cattaraugus | <input type="checkbox"/> Chenango | <input type="checkbox"/> Delaware | <input type="checkbox"/> Franklin | <input type="checkbox"/> Hamilton | <input type="checkbox"/> Lewis | <input type="checkbox"/> Montgomery |
| <input type="checkbox"/> Allegany | <input type="checkbox"/> Cayuga | <input type="checkbox"/> Clinton | <input type="checkbox"/> Dutchess | <input type="checkbox"/> Fulton | <input type="checkbox"/> Herkimer | <input type="checkbox"/> Livingston | <input type="checkbox"/> Nassau |
| <input type="checkbox"/> Bronx | <input type="checkbox"/> Chautauqua | <input type="checkbox"/> Columbia | <input type="checkbox"/> Erie | <input type="checkbox"/> Genesee | <input type="checkbox"/> Jefferson | <input type="checkbox"/> Madison | <input type="checkbox"/> New York |
| <input type="checkbox"/> Broome | <input type="checkbox"/> Chemung | <input type="checkbox"/> Cortland | <input type="checkbox"/> Essex | <input type="checkbox"/> Greene | <input type="checkbox"/> Kings | <input type="checkbox"/> Monroe | <input type="checkbox"/> Niagara |
| <input type="checkbox"/> Oneida | <input type="checkbox"/> Orleans | <input type="checkbox"/> Queens | <input type="checkbox"/> St. Lawrence | <input type="checkbox"/> Schuyler | <input type="checkbox"/> Sullivan | <input type="checkbox"/> Warren | <input type="checkbox"/> Wyoming |
| <input type="checkbox"/> Onondaga | <input type="checkbox"/> Oswego | <input type="checkbox"/> Rensselaer | <input type="checkbox"/> Saratoga | <input type="checkbox"/> Seneca | <input type="checkbox"/> Tioga | <input type="checkbox"/> Washington | <input type="checkbox"/> Yates |
| <input type="checkbox"/> Ontario | <input type="checkbox"/> Otsego | <input type="checkbox"/> Richmond | <input type="checkbox"/> Schenectady | <input type="checkbox"/> Steuben | <input type="checkbox"/> Tompkins | <input type="checkbox"/> Wayne | |
| <input type="checkbox"/> Orange | <input type="checkbox"/> Putnam | <input type="checkbox"/> Rockland | <input type="checkbox"/> Schoharie | <input checked="" type="checkbox"/> Suffolk | <input type="checkbox"/> Ulster | <input type="checkbox"/> Westchester | |

6. ADDRESS OF EACH LOCATION, INCLUDING NUMBER AND STREET, IF ANY, OF EACH PLACE WHERE THE ENTITY CARRIES ON, CONDUCTS OR TRANSACTS BUSINESS IN NEW YORK STATE. (Use page 2 if needed. The address(es) must be a number and street, city, state and zip code. The address(es) must be within the county(ies) indicated in paragraph 5.) If none, check this box ☐: No New York State Business Location.

170 Old Country Road, Riverhead, New York 11901

Print or Type Leanne R. Kontogiannis
Name of Signer: _____

Signature: 

Capacity of Signer (Check one): ☒ Authorized Person ☐ Officer of the Corporation ☐ General Partner of the Limited Partnership
☐ Member of the Limited Liability Company ☐ Manager of the Limited Liability Company

Certificate of Assumed Name

6. ADDRESS OF EACH LOCATION, INCLUDING NUMBER AND STREET, IF ANY, OF EACH PLACE WHERE THE ENTITY CARRIES ON OR CONDUCTS OR TRANSACTS BUSINESS IN NEW YORK STATE: (Continued)

Filer's Name and Mailing Address:

Leanne R. Kontogiannis, Esq.

Name:

Hinman Straub P.C.

Company, if Applicable:

121 State Street

Mailing Address:

Albany, New York 12207

City, State and Zip Code:

NOTE: You are not required to use this form. This certificate should be prepared under the guidance of an attorney.

FEE: Limited Liability Companies and Limited Partnerships - \$25.

Corporations - \$25 plus the fee for each county indicated in paragraph 5. The additional fee for each county within New York City (Bronx, Kings, New York, Queens and Richmond) is \$100 additional. The fee for each county outside New York City is \$25. Checks over \$500 must be certified.

(For office use only)

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**ARTICLES OF ORGANIZATION
OF
SUFFOLK PRIMARY HEALTH, LLC**

Under Section 203 of the Limited Liability Company Law.

FIRST: The name of the limited liability company is **SUFFOLK PRIMARY HEALTH, LLC.**

SECOND: The county within the state in which the office of the limited liability company is to be located is Suffolk.

THIRD: The latest date on which the limited liability company is to dissolve is December 31, 2099.

FOURTH: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is:

1360 Route 112
Port Jefferson Station, New York 11776

FIFTH: The effective date of the Articles of Organization shall be the date of filing with the Secretary of State.

SIXTH: The limited liability company is to be managed by 1 or more members.

IN WITNESS WHEREOF, this certificate has been subscribed to this 16th day of April, 2012 by the undersigned who affirms that the statements made herein are true under the penalties of perjury.

Lawrence A. Kirsch

Lawrence A. Kirsch, Organizer

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ARTICLES OF ORGANIZATION
OF
SUFFOLK PRIMARY HEALTH, LLC

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STATE OF NEW YORK
DEPARTMENT OF STATE

FILED APR 17 2012

TAX \$

BY: ICB

Filed by:

Cartier, Bernstein, Auerbach
& Dazzo, P.C.
100 Austin Street
Building 2
Patchogue, New York 11772

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FILED

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**CERTIFICATE OF AMENDMENT
OF
ARTICLES OF ORGANIZATION
OF
SUFFOLK PRIMARY HEALTH, LLC**

(Under Section 211 of the Limited Liability Company Law)

FIRST: The name of the limited liability company is SUFFOLK PRIMARY HEALTH, LLC.

SECOND: The date of filing of the articles of organization is April 17, 2012.

THIRD: The amendment effected by this Certificate of Amendment of the Certificate of Formation of the limited liability company are as follows:

Paragraph Seventh relating to the business address and paragraph Eighth relating to restrictions on transfers are to be added to the Articles of Organization:

SEVENTH: The location of the principal office of the limited liability company is 170 Old Country Road, Riverhead, New York 11901

EIGHTH: Notwithstanding anything to the contrary in the Articles of Organization or the Operating Agreement, transfers, assignments or other dispositions of membership interests or voting rights of the limited liability company must be effectuated in accordance with Public Health Law § 2801-a(4)(b).

IN WITNESS HEREOF, I have executed this document on the date set forth below.

Executed as of the 23rd day of June, 2016.

X /s/ Kathleen Carver Cheney
Authorized Person

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CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF FORMATION
OF
SUFFOLK PRIMARY HEALTH, LLC

Under Section 211 of the Limited Liability Company Law

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2016 AUG 29 PM 4:05

Filed by:
Novack Burnbaum Crystal, LLP
675 Third Avenue, Flr 8
New York, NY 10017

1CC
STATE OF NEW YORK
DEPARTMENT OF STATE
FILED AUG 30 2016
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BY: n

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OPERATING AGREEMENT

OF

SUFFOLK PRIMARY HEALTH, LLC

(A New York Limited Liability Company)

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OPERATING AGREEMENT

OF

SUFFOLK PRIMARY HEALTH, LLC

(A New York Limited Liability Company)

THIS OPERATING AGREEMENT (the “Agreement”), dated as of September 23, 2022, (the “Signing Date”) and effective as of the Effective Date, for Suffolk Primary Health, LLC, a New York limited liability company (the “Company”), is by and among those parties indicated as Members on Schedule A (each a “Member” and collectively the “Members”).

RECITALS

A. The Company was duly formed under the laws of the State of New York on April 17, 2012 and is duly licensed and authorized to operate a diagnostic and treatment center under the laws of the State of New York.

B. Pursuant to that certain Membership Interest Purchase Agreement, dated September 23, 2022, by and among the Members and the Company (the “Purchase Agreement”), Kenneth Gaul (“Gaul”) agrees to sell 8% Membership Interests to Matisyahu Yitzchok Swerdloff (“Matt”) and 8% Membership Interests to Chaim Benzion Folger (“Ben”), unless otherwise agreed to among the Members in accordance with this Agreement, as of the Effective Date, the Members own those interests in the Company as are set forth on Schedule A attached hereto and made a part hereof.

C. In accordance with the Limited Liability Company Law of the State of New York, the Members have agreed to enter into this Agreement to govern the operations of the Company.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree that this Agreement shall constitute the Operating Agreement of the Company, and the parties further agree as follows:

1. Business and Purposes.

1.1 “Business Purpose” The Company shall have the power to conduct any and all lawful business of operating a licensed diagnostic and treatment center called “Suffolk Primary Health” (the “Center”) with a location currently located in Riverhead, New York and such other locations as determined by the Board of Managers, subject to approval of DOH and the PHHPC in accordance with Articles 28 of the New York State Public Health

Law. The purposes and powers of the Company shall be limited to ownership and operation of the Center. The Members may, subject to the terms hereof, do all things incidental or necessary to achieve such purposes, as permitted by applicable law.

2. Definitions.

2.1 “90 Day Notice Period” shall mean the ninety (90) day notice period mandated by Section 2801-a(4)(b) of the New York State Public Health Law.

2.2 “Accountants” means the firm of independent certified public accountants then engaged by the Company to prepare the Company’s tax returns and financial statements.

2.3 “Act” means the New York Limited Liability Company Law, as the same may be amended from time to time.

2.4 “Agreement” means this Operating Agreement, as originally executed and as amended from time to time, and the terms “hereof,” “hereto,” “hereby” and “hereunder,” when used with reference to this Agreement, refer to this Agreement as a whole, unless the context otherwise requires.

2.5 “Bankruptcy” means, and a Member shall be deemed a “Bankrupt Member”, upon the occurrence of any of the following (a) the Member’s voluntary commencement of any case or proceeding under any applicable bankruptcy, insolvency or other similar law, in which the Member seeks protection from its, his or her creditors; (b) the filing of an involuntary petition in bankruptcy against the Member if such petition is not dismissed within one hundred twenty (120) days of the date of filing; (c) the Member executes an assignment for the benefit of creditors; (d) the Member seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the Member or of all or substantially all of that Member’s properties; (e) the Member fails, within one hundred twenty (120) days after the appointment, without the Member’s consent or acquiescence, of a trustee, receiver or liquidator of the Member or of all or substantially all of that Member’s properties, to have the appointment vacated or stayed; (f) the adjudication of the Member as a bankrupt or insolvent, or entry against the Member of an order for relief, in any bankruptcy or insolvency proceeding; (g) the ordering of the winding up or liquidation of the Member; or (h) the Member admits in writing that the Member is unable to satisfy the Member’s liabilities as they become due.

2.6 “Board of Managers” or “Board” means the Members to whom are delegated the management duties of the Company’s business as provided in **Article 6** hereof.

2.7 “Capital Account” means the account established and maintained for each Member on the books of the Company, which is initially equal to the capital contribution of the Member to the Company and, thereafter, is increased by (a) additional cash contributions, if any, made by the Member to the Company, (b) the fair market value to the

Member of any property contributed by the Member to the Company (net of any liability assumed by the Company and any liability to which such property is subject pursuant to Section 752 of the Code), (c) the amount of any Profits allocated to the Member for federal income tax purposes, and (d) allocations to the Member of income or gain as provided for herein or otherwise by Regulation Section 1.704-1(b)(2)(iv); and decreased by (w) the amount of any distributions of money made to the Member, (x) the fair market value to the Company of any distributions of property made to the Member (net of any liability assumed by the Member and any liability to which such property is subject pursuant to Section 752 of the Code), (y) the amount of any Losses allocated to the Member for federal income tax purposes, all in accordance with federal tax accounting principles, and (z) allocations to the Member of deduction or expense as provided for herein or otherwise by Regulation Section 1.704-1(b)(2)(iv). It is intended that the Capital Accounts of all Members shall be maintained in compliance with the provisions of Section 704(b) of the Code, the Regulations promulgated thereunder, and all provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent therewith.

2.8 “Capital Transaction” means any transaction not in the ordinary course of business which results in the Company’s receipt of cash or other consideration other than Capital Contributions, (as such term is hereinafter defined) including, without limitation, proceeds of sales or exchanges or other dispositions of property (including, without limitation, a sale of all or substantially all of the assets of the Company, or a merger or consolidation of the Company with another entity), reorganizations, financings, re-financings, condemnations, and insurance proceeds for the destruction of assets used in the trade or business of the Company.

2.9 “Cash Flow” means, as reasonably determined by the Board of Managers at a given time, the gross cash revenues of the Company from all sources (excluding collections from operations on or prior to the Post-Effective Date (as defined in the Purchase Agreement), less (a) the Company’s debt service, (b) all patient and payor refunds and discounts, (c) all life, disability, casualty, general liability, and property insurance proceeds, (d) the Company’s overhead and operational expenditures as reasonably determined by the Company’s Board of Managers as being necessary to operate the Company, (e) all proceeds from a Capital Transaction, and (f) any amounts determined by the Board of Managers to be necessary to provide a reasonable reserve for development and working capital needs or any other contingencies of the Company. Cash Flow shall be determined in accordance with the cash receipts and disbursements method of accounting and otherwise in accordance with generally accepted accounting principles, consistently applied. Cash Flow shall not be reduced by depreciation, cost recovery deductions, depletions, similar allowances, or other non-cash items, but shall be increased by any reduction of reserves previously established.

2.10 “Cause” means with respect to any Manager or Officer of the Company: (a) the Manager’s or Officer’s willful neglect of the material duties of his or her position or

office that are required by this Agreement; (c) the Manager's or Officer's willful misconduct in the performance of his or her duties required by this Agreement; and (d) the Manager's or Officer's involuntary withdrawal or voluntary withdrawal as a Member of the Company.

2.11 "Center" shall have the meaning ascribed to it in **Article 1** herein.

2.12 "Code" means the Internal Revenue Code of 1986, as amended. All references herein to sections of the Code shall include any corresponding provision or provisions of succeeding law, as interpreted or as otherwise modified by the Regulations issued thereunder, in each case as in effect from time to time.

2.13 "Company" means Suffolk Primary Health, LLC, or such other name as the Members determine, from time to time, in accordance with this Agreement.

2.14 "DOH" means the New York State Department of Health.

2.15 "Effective Date" means, with respect to the Notice of Transfer of Ownership submitted by Company in connection with admission of Matt and Ben as a Member of the Company (the "90 Day Application"): (a) the expiration of the 90 Day Notice Period without receipt of notice of objection or tolling of the 90 Day Notice Period from the New York State Department of Health; or (b) the receipt by Seller of the written final, non-contingent approval of the 90 Day Application.

2.16 "Interest" or "Company Interest" means with respect to any Member the total number of Units owned by the respective Member, the Member's right to share in the Company's Profits, Losses and distributions of the Company's assets pursuant to this Agreement and the Act, and the right to participate in the management of the Company's business and affairs to the extent granted pursuant to this Agreement.

2.17 "Manager" or "Managers" means the Members to whom are delegated the management duties of the Company's business as provided in **Article 6** hereof.

2.18 "Member" or "Members" is defined in the first paragraph of this Agreement.

2.19 "Officer" or "Officers" means one or more Members selected by the Board of Managers to whom are delegated all of the day-to-day operational functions associated with the operation and conduct of the Company's business.

2.20 "Percentage Interest" means, as to each Member, a fraction expressed as a percentage, the numerator of which is the total Units owned by such Member, as modified or adjusted from time to time on the books and records of the Company, and the denominator of which is the total Units owned by all of the Members, as similarly adjusted from time to time.

2.21 "Person" means an individual, association, corporation, general partnership,

limited partnership, limited liability company, limited liability partnership, joint stock association, joint venture, firm, trust, business trust, cooperative, or foreign associations of like structure.

2.22 “PHHPC” means the New York State Public Health and Health Planning Council.

2.23 “Profits” and “Losses” means, for each fiscal year or other period, an amount equal to the Company’s taxable income or loss for such year or period, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, credit, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss), adjusted in accordance with the Regulations.

2.24 “Regulation” or “Regulations” means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

2.25 “Super-majority” means eighty five percent (85%) of the votes of the applicable voting body.

2.26 “Transfer” means any sale, assignment, transfer, conveyance, redemption, pledge, hypothecation, encumbrance or other disposition, voluntarily or involuntarily, by operation of law, with or without consideration, or otherwise (including, without limitation, by way of intestacy, will, gift, bankruptcy, receivership, levy, execution, charging order or other similar sale or seizure by legal process) of all or any portion of any asset. The terms “Transferred”, “Transferring”, “Transferee” and similar terms shall have correlative meanings.

2.27 “Units” means, collectively, the Units issued to the Members, and represents the basis on which interests in the Company are denominated and the basis on which the Members’ relative rights, privileges, preferences and obligations are determined under this Agreement and the Act.

3. **Ownership; Members; Capital Accounts.**

3.1 **Member Qualifications and Obligations.**

(a) **All Members.** Each Member represents and warrants that he (i) has not been convicted of a criminal offense (A) related to the delivery of an item or service under the Medicare or Medicaid programs, (B) related to neglect or abuse of patients in connection with the delivery of a health care item or service, (C) in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program operated by or financed in whole or in part by any federal, state, or local governmental agency, which consisted of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct, or (D) under federal or

state law, consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance; and (ii) is not currently debarred, excluded, suspended or otherwise ineligible to participate in federally funded health care programs or federal procurement or non-procurement programs.

(b) Notice. Each of the Members agrees it shall notify the Company immediately if it fails to meet any of the qualifications described in this **Section 3.1** that are applicable to such Member.

3.2 Capital Contributions.

(a) Capital Contributions.

(i) Each of the Members has made a contribution to the capital of the Company in the amount stated in the Company's books and records (the "Initial Capital Contributions," which, together with any additional contribution made by a Member to the capital of the Company, shall be referred to as each Member's "Capital Contribution"). No interest shall be paid on the Capital Contributions of the Members.

(ii) In addition to the Initial Capital Contributions, the Members will make additional Capital Contributions as required from time to time to fund the expenses of the Center and assure its efficient operation. Notwithstanding the foregoing, this subsection (ii) shall not apply to Gaul who shall have no obligation to provide additional capital contributions.

(b) Enforcement of Obligations. In the event a Member fails to make a Capital Contribution when due (a "Defaulting Member"), the Board of Managers shall give the Defaulting Member notice of the failure to meet the obligations contained in **Section 3.2(a)**. Notwithstanding any provision of this Agreement to the contrary, if the Defaulting Member fails to contribute his/her/its required Capital Contributions within thirty (30) days of receipt of such notice of the failure to pay, the Board may, in its discretion permit the Company or another Member(s) to make the Capital Contribution on behalf of the Defaulting Member in accordance with this Agreement.

(c) Dilution of Defaulting Member. In the event the Board determines, in its sole discretion, to permit another Member(s) to make a Capital Contribution on behalf of a Defaulting Member, then the Board shall cause the Company to either (i) redeem such number of Units from the Defaulting Member equal to the sum of the Defaulting Member's total Units multiplied by his, her or its Percentage Interest, which Units shall be used by the Company to admit additional Member(s) in accordance with the terms and conditions of this Agreement; or (ii) issue such number of additional Units to all Members other than the Defaulting Member such that the Defaulting Member's Percentage Interest will be decreased by the sum of the Defaulting Member's total Units multiplied by his, her or its Percentage Interest.

(d) Title to Property. All Company property shall be owned by the Company as an entity. The Members shall have no ownership interest in Company property. Each Member's Company Interest shall be personal property for all purposes.

3.3 Impermissible Distributions. Each Member hereby represents, warrants and covenants that the Member will not transfer or share, directly or indirectly, any part of the distributions received from the Company to or with any third party (including, without limitation, to other Members of such Member's private medical practice), by any means including offsetting against any obligations to such Member, for the purpose of inducing or rewarding such other third party's referrals for health care services in violations of 42 U.S.C. 1320a-7b(b) and in violation of the terms and provisions of the Centers for Medicare and Medicaid Services, Advisory Opinion 03-05.

4. Allocations and Distributions.

4.1 Allocations of Profits and Losses. Profits and Losses for any fiscal year shall be allocated to the Members in accordance with their respective Percentage Interests, after giving effect to the special allocations set forth in **Section 4.2**; provided, however, Gaul's allocations of profits shall not exceed his actual cash distributions in any year. Notwithstanding the foregoing, allocations of loss to Gaul shall not exceed (i) Gaul's Capital Contributions on and after the Signing Date hereof or (ii) income allocated to Gaul after the Signing Date hereof for which the Company didn't distribute the appropriate amount pursuant to Section 4.3(b) below.

4.2 Special Allocations. The following Regulations are hereby incorporated by reference and shall apply, according to any reasonable method selected by the Board of Managers upon consultation with the Company's Accountants, notwithstanding any provision of this Agreement to the contrary: Section 1.704-1(b)(2)(ii)(d)(qualified income offset), Section 1.704-2 (allocations attributable to nonrecourse liabilities, Section 1.704-2(d)(minimum gain), and Section 1.704-3 (allocations regarding contributed property of Capital Account adjustments under Section 1.704-1(b)(2)(iv)(g) of the Regulations). In addition, the requirements of the Code and Regulations (including, but not limited to, Sections 706(d) and 752 and the Regulations promulgated there under) shall be applied in any reasonably method selected by the Board of Managers upon consultation with the Company's regular outside Accountants. It is the express intent of the Members that Section 1.704-1(b)(2)(ii)(b) (deficit make up obligation) of the Regulations shall not apply to this Agreement.

4.3 Distributions.

(a) Distribution of Cash Flow. Except to the extent set forth in **Sections 4.3(b) (c), and (d)** below, the Company may make distributions of Cash Flow on a periodic basis in accordance with the Members' Percentage Interests at such times as the Board of Managers determines in its sole discretion, and subject to any Company contractual obligations or liabilities to any Person regarding distributions to Members. Distributions of

Cash Flow will be made at the same time to all Members.

(b) Mandatory Distributions for Taxes. The Company shall make mandatory distributions each quarter to all Members, regardless of their actual tax liability, equal to the product of (i) the taxable income allocated to the Member during such fiscal year and (ii) the highest combined federal and New York State and City marginal tax rates for individuals applicable to such fiscal year (taking into account the character of the income so allocated). Notwithstanding anything in this Agreement to the contrary, distributions made pursuant to this **Section 4.3(b)** shall reduce distributions otherwise to be made under this Agreement. In the event that the Company does not have sufficient funds or otherwise fails to make distributions to Gaul for his actual tax liability as required above, the other Members shall pay Gaul the amounts not distributed and indemnify Gaul for any losses suffered by Gaul for such amounts not distributed by the Company to Gaul. The obligation to provide Gaul, to the extent he is allocated taxes, shall survive his termination\withdrawal\buyout as a member, to the extent he was entitled to such distribution while he was a member.

(c) Distributions of Cash from Capital Transactions. The Company may make distributions of cash from Capital Transactions at such times as the Board of Managers determines in its sole discretion, and subject to any Company contractual obligations or liabilities to any Person regarding distributions to Members, as follows:

(i) First, all outstanding loans from Members shall be repaid in the same proportion which the outstanding loans from any Member shall bear to the outstanding loans of all Members;

(ii) Second, the Members shall to the extent of and in proportion to their positive Capital Account balances, determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs; and

(iii) Third, the Members shall receive the balance of the proceeds pro rata in accordance with their respective Percentage Interests.

(d) Distributions Upon Liquidation. Liquidation proceeds will be paid within sixty (60) days of the end of the taxable year (or, if later, within one hundred twenty (120) days after the date of the liquidation). The Company may offset damages for breach

of this Agreement by a Member whose interest is liquidated (either upon the withdrawal of a Member or the liquidation of the Company) against the amount otherwise distributable to the Member. Upon the Company's liquidation, the Company's assets shall be distributed in the following order of priority:

(i) First, the claims of creditors, other than Members, shall be satisfied and adequate reserves established (as determined by the Board of Managers);

(ii) Second, all outstanding loans from Members shall be repaid in the same proportion which the outstanding loans from any Member shall bear to the outstanding loans of all Members;

(iii) Third, the Members shall to the extent of and in proportion to their positive Capital Account balances, determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs; and

(iv) Fourth, the Members shall receive the balance of the proceeds pro rata in accordance with their respective Percentage Interests.

(e) Pre-Purchase Agreement Collections. Notwithstanding anything herein to the contrary, Gaul shall be entitled to monthly distributions in an amount equal to any collections received by the Company for services performed by the Company or its agents or employees on or prior to the Post-Effective Date as defined in the Purchase Agreement.

4.4 Capital Account Adjustments. Unless the Board of Managers shall determine otherwise, the gross asset values of all the Company's assets shall be adjusted to reflect unrealized appreciation or depreciation, as determined by the Accountant, and the Capital Accounts of Members shall be adjusted accordingly, upon the occurrence of the following events: (a) the acquisition of an additional Company Interest by any new or existing Member; (b) the withdrawal of a Member, and (c) the liquidation of the Company; provided, however, that adjustments pursuant to clauses (a) and (b) above shall be made only if the Board of Managers reasonably determines that adjustments are necessary or appropriate to reflect the relative economic interests of Members.

4.5 Negative Balance. No Member with a negative balance in his/her/its Capital Account shall be obligated to the Company to restore all or any portion of the amount of such negative balance.

4.6 Covenant of Members. Each Member agrees to file federal, state and local income tax returns on a basis consistent with the content of each Member's Form K-1 from the Company and the terms and provisions of this Agreement, and each Member agrees not to take a position inconsistent therewith before any federal, state or local taxing authority without first obtaining the prior consent of the Board of Managers.

5. Rights and Liabilities of Members.

5.1 Meetings of the Members; Quorum. Regular meetings of the Members shall be held at least annually for the purpose of notifying the Members of the Company's business results and developments. A quorum shall be present at a meeting of the Members if the holders of One Hundred percent (100%) of the Membership Interests are represented at the meeting in person or by proxy. Except as otherwise set forth in this Agreement, the affirmative vote of all of the Membership Interests represented at a meeting in which a quorum is present shall be the act of the Members. Each Member shall have one (1) vote for each Unit held by such Member on any matter requiring a vote of the Members.

5.2 Special Meetings. Special meetings of the Members, for any purpose or purposes, may be called by the President, any Vice President, any Manager, or two (2) or more Members representing in the aggregate of at least fifteen percent (15%) of the Company Interests, unless otherwise prescribed by the Act.

5.3 Place of Meeting. The Board of Managers shall designate any place, within or outside the State of New York, as the place for any meeting of the Members. If no designation is made, the place of the meeting shall be the principal place of business of the Company in the State of New York. Any or all Members may participate in any Members' meeting by, or through the use of, any means of communication by which all Members participating may simultaneously hear each other during the meeting. A Member so participating is deemed to be present in person at the meeting.

5.4 Notice of Meetings. The Company shall serve personally, or by mail, e-mail, facsimile or commercial overnight courier, a written notice thereof, addressed to each Member at his or her address as it appears on the Company records, (i) not less than ten (10) days before said annual meeting, and (ii) (A) by giving notice to such Members in person or by telephone at least five (5) days in advance of the special meeting, or (B) by sending a telegram, telex, facsimile, e-mail, or delivering written notice by hand or recognized overnight courier to each Member's principal office at least five (5) days in advance of the special meeting, and shall include a description of the purposes for which the meeting is called, to each Member of record at the meeting, at such address as appears in the records of the Company. At any meeting at which all Members shall be present, or of which all Members not present have waived notice in writing, the giving of notice as above required may be dispensed with.

5.5 Record Date. The Record Date for the purpose of determining the Members entitled to notice of a Members' meeting (not special), for demanding a meeting, for voting, or for taking any other action shall be the first (1st) day of the month that precedes the month during which the meeting is scheduled or to be held.

5.6 Action. The Members understand and agree that (a) the Managers shall solely manage the Company and conduct the Company's business and affairs, (b) the Members in their capacities as Members have no right, authority or entitlement to participate in any decision-making regarding the Company or the conduct of the Company's business and affairs, unless required by applicable law or as specifically set forth in this Agreement; (c) in no respect shall the vote of the Members be required to approve, confirm or ratify any decision or conduct of the Managers, unless required by applicable law or as specifically set forth in this Agreement, and (d) to the extent that the vote of the Members is requested by the Managers, the Managers are not bound by or obligated to take any action approved or authorized by the Members, unless otherwise required by applicable law or as specifically set forth in this Agreement.

5.7 Action by Members Without a Meeting. Subject to the provisions of the Act and this Agreement, any action required or permitted to be taken at a Members' meeting by the vote of the Members may be taken without a meeting if the action is approved through the consent of Members owning the Percentage Interest of the Company Interests required to approve such action at a meeting of the Members, provided such action does not require approval by greater than a majority of the Members. If the action requires approval by greater than a majority of the Members, then any action may be taken without a meeting if unanimously approved by the Members. The written consents shall be filed with the minutes of proceedings of the Members. The Record Date for determining Members entitled to take action without a meeting is the first date a Member signs the consent to such action. Any Member who does not sign a written consent for approval of an act that requires the majority vote of the Members shall receive a copy of such written consent within five (5) business days following receipt by the Company of the signatures of at least a majority of the Members.

5.8 Advances by the Members. A Member may from time to time, with the consent of the Board of Managers, advance additional monies to or for the Company's benefit, and each such advance shall be treated as a Capital Contribution to the Company or as a loan to the Company, as determined by the Board of Managers. Any advance which is treated as a loan shall be evidenced by a promissory note executed and delivered by the Company to the Member.

5.9 Transactions Between Member and/or Managers and the Company. Except as may otherwise be provided in **this Agreement**, a Member or Manager may lend money to, borrow money from, act as a surety, guarantor or endorser for, guarantee or assume one or more specific obligations of, provide collateral for, and transact other business with the

Company and, subject to other applicable law, has the same rights and obligations with respect to any such matter as a Person who is not a Member or Manager.

5.10 Pledge or Mortgage. No Member shall pledge, encumber, hypothecate or grant a security interest in or mortgage his or her Company Interest to any Person, without the consent of the Board of Managers, which consent may be withheld for any reason or no reason.

5.11 Member Liability.

(a) Except as may be explicitly and specifically set forth in this Agreement, no Member shall have any liability for the obligations of the Company, either directly or indirectly.

(b) Except as otherwise required by law, no Member shall be liable, responsible, or accountable in damages or otherwise to the Company, any other Member or any third party for any and all claims and demands whatsoever incurred in such Member's capacity as a Member.

(c) No indemnification may be made to or on behalf of any Member if a judgment or other final adjudication adverse to such Member establishes (i) that his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated; or (ii) that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled. Any amount paid by the Company to indemnify a Member hereunder shall be taken into account (according to the Company's normal accounting method) in computing profit or loss and, notwithstanding this **Section 5.11(c)**, a Member receiving such indemnification payment shall bear a portion of the cost thereof to the extent that his/her/its share of such profit or loss is thereby affected.

(d) Each Member hereby agrees to indemnify and hold the Company and each other Member wholly and completely harmless from and against any liability, cost, damage, or expense that any such indemnified party may incur (including reasonable legal and accounting fees and other expenses incurred in defending against such liability, cost, damage, or expense) as a result of a judgment or other final adjudication that is directly or indirectly related to this Agreement or the Company and that is adverse to such Member that establishes (i) that his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated; or (ii) that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled. No amount paid hereunder shall be treated as a Capital Contribution by the Member making such payment.

5.12 No Obligation to Refer. No Member shall have any obligation to refer patients to the Company for services.

5.13 Compliance With Law. The transfer of any voting rights or written proxy otherwise permitted by this **Article 5** must be made in accordance with the provisions of § 2801-a(4) of the Public Health Law of the State of New York.

5.14 Member Health Insurance. The Members agree that for so long as Gaul is a Member of the Company, the Company shall provide Gaul with individual and family health insurance coverage at Gaul's sole cost and expense for premiums, in such materially similar amounts and coverage as Gaul maintained just prior to the Effective Date.

6. Management of the Company.

6.1 Board of Managers. The business and affairs of the Company shall be managed by a Board of Managers. The Board of Managers shall take any and all actions necessary, desirable, convenient or incidental for the furtherance of the objects and purpose of the Company and this Agreement. A Manager shall be removed at any time for Cause upon the Super-majority Vote of the Members. The Board shall be comprised of two (2) Managers, unless otherwise expanded by a unanimous vote of the Managers. Each Manager shall possess one (1) vote on matters coming before the Board of Managers. Except as set forth in **Sections 6.2** below, all decisions of the Company will require approval of a majority of the Board. The initial Managers shall be Matt and Ben. Each Member of the Board of Managers shall serve as a Manager until his or her earlier death, resignation, or removal in accordance with this Agreement. In such event, successor Managers shall be appointed by the remaining Manager.

6.2 Extraordinary Decisions. The following acts shall require unanimous approval from all of the holders of the issued and outstanding Membership Units:

- (a) Amending this Agreement or the Company's articles of organization.
- (b) A Sale of all or substantially all of the assets of the Company.
- (c) The dissolution of the Company.

6.3 Resignation/Removal. A Manager may resign upon providing no less than sixty (60) days' notice to the Board. A Manager may be removed at any time for Cause, upon the affirmative vote of a Super-majority of the Members.

6.4 Meetings of the Board of Managers. Meetings of the Board of Managers shall occur, and notice thereof shall be given as follows:

- (a) Meetings of the Board of Managers shall be held at the principal place of business of the Company or at any place, within or outside the State of New York, as may be determined from time to time by the agreement of the Board of Managers. Notice of meetings shall be given to all Managers at least three (3) calendar days before the anticipated meeting date. Notice shall be given by phone, e-mail, other written notice or in-person. Managers may participate in meetings by means of conference telephone or

other similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting. Written minutes of the business transacted at meetings shall be made by a person designated by the Managers, and such minutes shall be retained at the principal office of the Company and be available for inspection by any Member during regular business hours.

(b) The Board shall meet as often as it deems necessary, but no less often than quarterly per year.

(c) A written waiver of notice of any meeting of the Board of Managers signed by a Manager then in office, either before or after the time of the meeting, shall be deemed equivalent to notice to such Manager of such meeting. Attendance by any Manager at a meeting of the Board of Managers shall constitute a waiver of notice of such meeting, except when the Manager attends the meeting specifically to object to the transaction of any business or certain specified types of business because proper notice of the meeting has not been given in accordance with these procedures.

(d) Action Without a Meeting. Whenever the Managers are required or permitted to take any action by vote that requires approval by a majority of the Board, such action may be taken without a meeting if the action is approved through the written consent of a majority of Managers, which may be executed in counterparts. Any action requiring approval by a Super-majority of the Board shall only be permitted to be taken without a meeting if such action is approved by the unanimous written consent of the Board. Every written consent shall be delivered to the Company at its principal office by personal delivery, first-class mail, facsimile, or electronic mail. Every written consent shall bear the date of the signature of each Manager who signs the consent. A Manager's written consent to an action or decision may be evidenced by his or her signature on a counterpart of the proposed matter or by a separate writing, including telegram, telex, telecopy, or other electronic facsimile which clearly identifies the matter being considered and the Manager's consent thereto. A written consent signed and delivered in accordance with the provisions of this Section shall have the effect of vote at a meeting and may be described as such in any document. Any Manager who does not execute a written consent which requires majority approval shall receive a copy of the consent within five (5) business days following receipt by the Company of the signatures of at least a majority of the Managers.

6.5 Committees. The Board may establish such committees with such membership and responsibilities as the Board shall determine from time to time (in all cases, the "Committees"). Except as may otherwise be determined by the Board, the members of any Committee need not be Managers. Unless otherwise stated herein or determined by the Board, the provisions of this **Section 6.5** shall apply to all Committees. No Committee that includes voting members who are not Managers may bind the Company or authorize Company action.

(a) Subject to the preceding sentence and limitations as required by

Article 28 of the Public Health Law or other applicable statutes and regulations, the Board of Managers may delegate to any Committee any of the powers of the Board, but such delegation shall not reduce or eliminate any requirement to obtain super-majority or other special approvals that would otherwise apply to Member or Board action.

(b) Except as may otherwise be determined by the Board: (i) each Committee may fix rules of procedure for its business; and (ii) a majority of the members of a Committee present at any meeting shall constitute a quorum for the transaction of business and the act of a majority of those present at a meeting at which a quorum is present shall be the act of the Committee. Any action required or permitted to be taken at a meeting of a Committee may be taken without a meeting, if a unanimous written consent which sets forth the action is signed by each member of the Committee and filed with the minutes of the Committee.

6.6 Medical Director.

(a) Appointment. The Managers shall appoint up to two (2) physicians who will be responsible for the overall administration of the clinical aspects of the Center (the “Medical Director”). The Medical Director shall be responsible for developing, implementing, and reviewing written medical policies and standards. The Medical Director shall perform all of the duties incident to this position, and such other duties as may be assigned by the Board of Managers.

6.7 Limitations. Unless authorized to do so by this Agreement or the Board of Managers, no Member shall have any authority to act for, or to undertake or assume, any obligation, debt, duty or responsibility on behalf of the Company, or to bind the Company in any way, or to pledge its credit or to render it liable monetarily for any purpose. No Member shall have, under this Agreement, any authority to act for or to bind any other Member, except for such proxies as may be given and exercised in accordance with this Agreement.

6.8 Liability for Certain Acts.

(a) No Manager or Officer shall be liable, responsible, or accountable in damages or otherwise to the Company or any Member, Manager or Officer for any and all claims and demands whatsoever; provided, however, that no indemnification may be made to or on behalf of any Manager or Officer if a judgment or other final adjudication adverse to such Manager or Officer establishes (i) that his or her acts or were the result of active, deliberate and intentional dishonesty and were material to the cause of action so adjudicated; or (ii) that he or she committed an intentional act where he/she personally gained a financial profit or other advantage to which he or she was not legally entitled.

(b) Each Manager and Officer hereby agrees to indemnify and hold the Company and each Member, Manager and Officer wholly and completely harmless from and against any liability, cost, damage, or expense that any such indemnified party may

incur (including reasonable legal and accounting fees and other expenses incurred in defending against such liability, cost, damage, or expense) as a result of a judgment or other final adjudication adverse to such Manager or Officer that establishes (i) that his or her acts were the result of active, intentional and deliberate dishonesty and were material to the cause of action so adjudicated; or (ii) that he or she committed an intentional act where he/she personally gained a financial profit or other advantage to which he or she was not legally entitled.

(c) Company hereby agrees to indemnify and hold each Member, Manager and Officer to the fullest extent permitted by the laws of the State of New York in effect on the date of an occurrence requiring such indemnification, wholly and completely harmless from and against any liability, cost, damage, or expense that any such indemnified party may incur (including reasonable legal and accounting fees and other expenses incurred in defending against such liability, cost, damage, or expense) unless such loss results from such indemnified party's actions that were the result of active, deliberate and dishonesty and were material to the cause of action so adjudicated.

6.9 No Guaranty of Company Performance. The Board of Managers and the Company's Officers do not, in any way, guarantee the return of the Members' Capital Contributions, a profit for the Members from the Company's operations, or the increase of the Company's value.

6.10 Signatory Authority for Checks. Except as determined by the Board of Managers, all checks, notes, drafts or other orders for the payment of money of the Company shall (a) in the case of checks up to Ten Thousand Dollars (\$10,000.00) be signed, endorsed or accepted in the name of the Company by any one (1) Officer or Manager of the Company, or by a Designated Person approved by the Board of Managers), and (b) in the case of checks in excess of Ten Thousand Dollars (\$10,000.00) be signed, endorsed or accepted in the name of the Company by any two (2) Officers or Managers of the Company. Notwithstanding the foregoing, the limits set forth in this **Section 6.10** shall not apply with respect to payments for malpractice insurance or employee payroll.

7. Disposition of a Member's Interest.

7.1 Prohibition Against Transfer of Units. Except as set forth in **Section 7.2**, no Member shall Transfer its Company Interest without the prior written consent of a Super-majority of the remaining Members which consent shall not be unreasonably withheld conditioned or delayed, and in accordance with the other provisions of this Agreement and applicable law. Any Transfer in violation of this Agreement shall be null and void and without any force or effect. Further, any transferee of a Company Interest in accordance herewith must expressly agree in writing to be bound by the terms of this Agreement. The Company shall not issue any Units in the Company to any other Person unless such Person expressly agrees in writing to be bound by the terms of this Agreement by executing a Joinder Agreement in the form annexed hereto as **Exhibit A**. In addition to the foregoing,

any Transfer, assignment or other disposition of Company Interests or voting rights in the Company must be effectuated in accordance with Public Health Law Section 2801-a(4).

7.2 Put/Call Rights.

(a) Gaul hereby grants to Matt and Ben (the “Call Members”), a call option (the “Call Option”) to purchase all of Gaul’s Units in equal portions then held by Gaul (the “Call Interests”). The Call Option is exercisable at any time on and after six (6) months from the Effective Date. The right of the Call Members to purchase the Call Interests under this Section shall be exercisable by delivering written notice of the exercise thereof to Gaul (the “Call Notice”). The parties acknowledge and agree that consideration for the Call Option, and if exercised, the Call Interests, shall be Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000) (the “Call Price”). The Call Price shall be earned, due and payable upon exercise of the Call Option. The Call Price shall be paid by wire transfer of immediately available funds upon exercise of the Call Option. The Call Price shall not be refundable nor contingent upon the closing of the purchase of the Call Interests.

(b) The Call Members hereby grant to Gaul, a put option (the “Put Option”) to sell all Units then held by Gaul (the “Put Interests”) to Buyers. The Put Option is exercisable at any time on and after nine (9) months after the Effective Date. The right of Gaul to sell the Put Interests under this Section shall be exercisable by delivering written notice of the exercise thereof to the Members (the “Put Notice”). In the event Gaul exercises the Put Option, the Call Members shall pay Gaul Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000) (the “Put Price”) within five (5) business days of Gaul’s exercising the Put Option. The Put Price shall be paid by wire transfer of immediately available funds within five (5) business days of Gaul’s exercising the Put Option. The Put Price shall not be refundable nor contingent upon the closing of the purchase of the Put Interests.

(c) The Members (if the Call Option is exercised) or Gaul (if the Put Option is exercised) shall provide the DOH with a notice pursuant to PHL 2801-a(4)(iii) (“DOH Notice”) – transfers to existing partners or Members of LLCs that result in the withdrawal of the transferor from the partnership or LLC with ninety (90) days’ notice after the receipt of the Put Notice and/or Call Notice. Within five (5) business days after the receipt of the Put Notice or the Call Notice, the Company, Gaul, Matt and Ben, individually or collectively in accordance with the DOH requirements shall submit the DOH Notice. The Call Notice or the Put Notice shall not be effective until the DOH Notice (including any periods where the 90 days’ notice period is tolled) has either expired without objection from DOH or DOH has approved the transfer of the membership interests.

7.3 If required by DOH, the Members shall provide such information and execute such documentation as required in connection with the submission of the DOH Notice. The closing of the purchase of such Put Interests or Call Interests shall occur on or before the date that is five (5) business days following the earlier of (i) the expiration of the 90 Day Notice Period without receipt of notice of objection or tolling of the 90 Day Notice Period from the New York State Department of Health; or (ii) the receipt by Gaul or the

Members of the written final, non-contingent approval of the 90 Day Application (the “Put/Call Closing”). At the Put/Call Closing, Gaul shall deliver to each of the Members/Call Members, as applicable, the Membership Interest Powers substantially in the form attached hereto as **Exhibit B** to effectuate the transfer of the Put Interests or Call Interests to each applicable party. The Members/Call Members shall use best efforts to cause the Company to diligently pursue the approval of DOH or the PHHPC, as applicable, including substitution of Call Members if such substitution is necessary and appropriate to secure DOH/PHHC approval. Any such substitution shall be approved by unanimous vote of the Board of Managers.

7.4 Effect of Transfer Permitted by Article 7.

(a) Agreement Binding Upon Transferees. Subject to the provisions of **Section 7**, in the event that, at any time or from time to time, any Units are Transferred pursuant to the terms of this Agreement, the Transferee shall take such Units pursuant to all provisions, conditions, and covenants of this Agreement, and, as a condition precedent to the Transfer of such Units, the Transferee shall agree in writing to be bound by all provisions of this Agreement as a party hereto and shall join in, execute and deliver a copy of this Agreement as a result of which it shall become an additional party hereto.

(b) Capital Account and Allocations. The Capital Account of a Transferor shall become the Capital Account of the Transferee, to the extent it relates to the portion of the Units Transferred, and the Transferee shall be entitled to receive distributions and allocations from the Company with respect to such Units only after the effective date of such Transfer.

(c) Financial Adjustments. At the time of a Transfer of a Member’s Units or another Member is admitted, at any time other than at the end of a Company accounting period, the distributive shares (in respect of the Units so Transferred) of the various items of Company profit, loss, deduction, credit, allowance or tax preference, as computed for federal and state income tax purposes, shall be allocated between the transferor and transferee pursuant to a preliminary closing of the Company’s books, unless otherwise agreed by the transferor, transferee and the Managers, that the allocation shall be based upon the ratio of the number of days in the taxable year before and after the Transfer.

(d) Basis Adjustments. In the event of a Transfer of a Units, the Company, upon the request of a Transferee, will elect on behalf of the Company under Section 754 of the Code to cause the basis of the Company’s property to be adjusted, for federal income tax purposes, in the manner provided in Section 734 or 743 of the Code.

8. Banking, Accounting, and Tax Matters.

8.1 All revenues of the Company shall be deposited regularly in savings, checking, or other accounts of the Company at such banks or other entities as shall be selected by the Board of Managers. Checks or other withdrawals from any bank account

of the Company shall be issued or made in accordance with Section 6.10 herein.

8.2 The Company shall maintain books of account, in which shall be entered fully and accurately each transaction of the Company.

8.3 The Company shall prepare, or cause to be prepared, un-audited quarterly financial statements for the Company, including income statements, balance sheets, and statements of cash flow. Each set of quarterly statements shall be prepared and furnished to each Member within 30 days of the end of the quarter.

8.4 Each year, the Company shall cause to be prepared financial statements for the Company in accordance with generally accepted accounting principles, consisting of the Company's balance sheet as of year-end, profit and loss statement, statement of changes in financial position, and the accompanying notes and comments. Such financial statements shall be prepared by the Company's accountant and furnished to each Member within ninety (90) days of the end of the Company's fiscal year.

8.5 The Company shall prepare, or cause to be prepared, all necessary federal, state, and local income tax returns of the Company, and shall provide each Member with copies of all such returns. In addition, the Company shall prepare or cause to be prepared, as soon as practicable after the end of each fiscal year, such tax information relating to the Company (including **Schedule K-1**) as shall be necessary for the preparation of the Members' own federal and State income tax returns.

8.6 The fiscal year of the Company shall begin on January 1, unless the Board of Managers otherwise determines.

8.7 Notwithstanding any provision set forth in this Agreement to the contrary, for purposes of Section 6231(a)(7) of the Code or any corresponding provision of any future law of the same or similar import, the "Tax Matters Representative" of the Company shall be Ben, or such other Member selected by the Board of Managers from time to time. The Tax Matters Member shall be authorized to carry out, on the Company's behalf and at the Company's expense, all acts appropriate to such designation.

9. Dissolution of the Company.

9.1 The Company shall be dissolved upon the occurrence of any of the following events:

(a) The determination to dissolve the Company by the holders of at least a Super-majority of the issued and outstanding Membership Interests of the Company.

(b) The occurrence of any other event causing the dissolution of the Company pursuant to the Act.

9.2 Upon any dissolution of the Company, the assets of the Company shall be

liquidated, and the Company's accountant shall prepare a statement setting forth the assets and liabilities of the Company as of the date of dissolution.

9.3 Profits and losses resulting from such liquidation shall be allocated to the Members in accordance with **Section 4.1** hereof.

9.4 The proceeds of the liquidation shall be applied in accordance with **Section 4.3(c)** hereof.

9.5 Upon dissolution of the Company, the Company shall establish any reserves which the Company's accountant deems reasonably necessary to cover any contingent or unknown liabilities or obligations of the Company. The Company is authorized to fund such reserves from the amounts distributable to the Members under **Section 4.3(d)(iii)**, in proportion to their respective Percentage Interests. Such reserves shall be held in escrow by any attorney or any federally insured bank, savings and loan institution, or trust company doing business in the State for the purpose of disbursing such reserves in payment of any liabilities that may become fixed and certain. The escrow agent may deposit the escrow fund in interest-bearing time deposit accounts in commercial or savings banks, trust companies, or savings and loan institutions. Eighteen (18) months after the termination of the Company's business or before, in the discretion of the escrow agent, any balance remaining in the escrow fund which is not required to meet then known or reasonably certain liabilities shall be distributed to the Members in the same proportion as the reserve was established.

10. Modification for Prospective Legal Events.

10.1 If, in the good faith opinion of any Member, as supported by the written opinion of counsel to such Member, any federal or state laws or regulations now existing or hereafter promulgated or enacted, including Medicare and laws relating to tax-exempt entities, are interpreted by judicial decision, a regulatory agency, or legal counsel in any manner as to indicate that the structure of this Agreement (including the Exhibits hereto and other documents referred to herein), or any portion thereof, or the Company, may be in violation of such laws or regulations, or may subject a Member to sanctions or excise taxes (which shall not include unrelated business income tax), such Member may require the Members to use their respective commercially reasonable best efforts to amend this Agreement or other documents to the extent necessary to avoid further violation. If the Members do not agree that the structure of this Agreement and related documents, or any portion thereof, may be in violation of such laws or regulations, or may subject a Member to sanctions or excise taxes (which shall not include unrelated business income tax) the issue as to whether there is such a violation shall be submitted to binding arbitration in accordance with the alternative dispute resolution process established by the American Health Lawyers Association ("AHLA"). The arbitrator's decision will be final. Unless otherwise required by the arbitration rules or process, all arbitration sessions shall be conducted in the State of New York. Each party will bear its own costs and expenses

associated with the arbitration proceedings, including costs of witnesses, travel, attorneys, and other representatives. The general costs and expenses of the proceedings, such as the fees of the arbitrators and the charges of the AHLA, will be divided equally among the parties to the dispute.

10.2 To the maximum extent possible, any such amendment shall preserve the underlying economic and financial arrangements set forth herein. A Member requesting such an amendment shall give written notice thereof to the other Members which shall set out in sufficient detail the basis for the amendment request and specifically identify the specific provisions of this Agreement for which renegotiation is sought. Within thirty (30) days of its receipt of such notice, the other Members shall give notice of any additional provisions of this Agreement as to which they request renegotiation and the reasons thereof. No provisions of this Agreement other than those specifically designated by the Members for renegotiation shall be affected by the renegotiations.

11. Miscellaneous.

11.1 **Notice.** Whenever any notice is required or permitted to be given under any provisions of this Agreement, such notice shall be in writing, signed by or on behalf of the party giving the notice, and shall be deemed to have been given when delivered by personal delivery or five (5) days after being mailed by certified mail, postage prepaid, return receipt requested, addressed to the person or persons at the address for such person contained in the books and records of the Company, or at such other address as either Member shall provide to the other Member in accordance with the terms of this Agreement.

11.2 **Binding Effect.** Except as otherwise provided herein, this Agreement shall be binding upon and shall inure to the parties hereto and their permitted successors and assigns.

11.3 **No Waiver.** No waiver of any breach or condition of this Agreement shall be deemed to be a waiver of any other condition or subsequent breach, whether of like or different nature.

11.4 **Entire Agreement.** This Agreement constitutes the entire Agreement between the Members pertaining to the Company and the subject matter contained herein and supersedes all prior agreements and understandings with respect to the subject matter hereof.

11.5 **Governing Law.** This Agreement and the obligations of each Member shall be governed by the laws of the State of New York, without giving effect to the principles of conflict of laws.

11.6 **Further Documents; Termination.** Each Member hereby agrees that they will execute and/or deliver such further instruments, including but not limited to personal

financial statements, and such further acts and things as may be necessary or desirable to carry out the purposes of this Agreement and of the Company.

11.7 Invalidity. In the event any provision of this Agreement shall be held to be invalid, the validity of the remaining provisions of this Agreement shall not in any way be affected thereby.

11.8 Amendments. Except for updates to **Schedule A** in accordance with **Section 7** hereof, this Agreement may not be amended, modified or otherwise changed or varied, except by an instrument in writing executed by all of the Members.

11.9 Captions. Captions are inserted herein for convenience only, and are not a part of this Agreement, and shall not be used in the interpretation of this Agreement or any provision hereof.

11.10 Execution; Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single instrument. Delivery of a copy of this Agreement bearing an original signature by facsimile transmission, by electronic mail in “portable document format” (“.pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.

11.11 Partnership. It is the intent of the Members that the Company be treated as a partnership for all tax purposes, and no Member shall take an inconsistent position on any tax return.

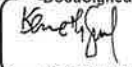
11.12 Specific Performance. The parties to this Agreement shall be entitled to specific performance by all parties of their obligations contained in this Agreement.

11.13 Representation. THIS AGREEMENT HAS BEEN PREPARED FOR AND ON BEHALF OF THE COMPANY. BY EXECUTING THIS AGREEMENT, EACH MEMBER REPRESENTS AND WARRANTS THAT HE/SHE/IT HAS ENTERED INTO THIS AGREEMENT BASED UPON THEIR INDEPENDENT JUDGMENT, KNOWLEDGE AND EXPERTISE, AS WELL AS ON THE ADVICE OF SUCH OTHER PROFESSIONAL PERSONS, LEGAL COUNSEL OR FIRMS CONSULTED BY THEM, AND NOT IN RELIANCE UPON ADVICE OF THE COMPANY, OR PROFESSIONAL PERSONS, LEGAL COUNSEL OR FIRMS RETAINED BY THE COMPANY.

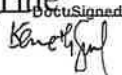
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IN WITNESS WHEREOF, the Members have caused this Operating Agreement to be executed as of the date first above written.

SUFFOLK PRIMARY HEALTH, LLC

By: 
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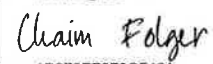
Name: Kenneth Gaul

Title: 
DB5001177E5A427...

KENNETH GAUL


389F7844814047D...

MATISYAHU YITZCHOK SWERDLOFF


1D879EF6F36F45A...

CHAIM BENZION FOLGER

SCHEDULE A

MEMBERS

<u>MEMBER</u>	<u>UNITS</u>	<u>PERCENTAGE INTEREST</u>
KENNETH GAUL	84	84%
MATTHEW YITZCHOK SWERDLOFF	8	8%
CHAIM BENZION FOLGER	8	8%

EXHIBIT A

JOINDER TO OPERATING AGREEMENT

SUFFOLK PRIMARY HEALTH LLC

The undersigned has read and hereby joins in and agrees to be bound by all of the terms and provisions of that certain Operating Agreement of SUFFOLK PRIMARY HEALTH, LLC (the “Company”) dated [_____], 202__ by and among the Members of the Company (as, or as the same may be, amended, modified, supplemented or restated, the “Agreement”), and shall for all purposes be deemed to be a Member (as such term is contemplated by the Agreement) of the Company, and shall be entitled to all of the rights and entitlements, and subject to and liable for all of the obligations, liabilities and undertakings, of a Member as set forth in or contemplated by the Agreement.

PURCHASER\MEMBER:

Signature

Date

Print Name

EXHIBIT B
FORM OF MEMBERSHIP INTEREST POWER

Irrevocable Membership Interest Power

FOR VALUE RECEIVED, the undersigned, Kenneth Gaul (the "Transferor"), (i) hereby assigns, transfers, and conveys to [] (the "Transferee") membership interests of Suffolk Primary Health, LLC, a New York limited liability company (the "Company") representing Forty-Two (42) units of membership interests of the Company (the "Transferred Interest"), and (ii) does hereby irrevocably constitute and appoint the Company's officers or other duly appointed representatives of the Company as its Attorney in Fact to transfer said Transferred Interest on the books of the Company with full power of substitution in the premises.

Dated: _____

Kenneth Gaul

**UNANIMOUS CONSENT
OF
THE MEMBERS
OF
SUFFOLK PRIMARY HEALTH, LLC**

The undersigned, being all of the members of Suffolk Primary Health, LLC, a New York Limited Liability Company (“Company”), do hereby consent to the adoption of the following resolution as a duly authorized valid corporate action pursuant to the provisions of the Operating Agreement of Suffolk Primary Health, LLC.

WHEREAS, the Company seeks to utilize the d/b/a “A Better Way NY” for the applied behavioral services provided by Suffolk Primary Health, LLC.

NOW THEREFORE, BE IT RESOLVED, that the Company is hereby authorized to make application to the New York State Department of Health (“Department”) to obtain approval to utilize the d/b/a referenced above.

This Resolution is adopted by unanimous consent as of the date set forth below.

Dated: August 1, 2024

DocuSigned by:

Kenneth Gaul

Kenneth Gaul, Member

DocuSigned by:

Matisyahu Swerdloff

Matisyahu Yitzchok Swerdloff, Member

Signed by:

Ben Folger

Chaim Benzion Folger, Member

**UNANIMOUS CONSENT
OF
THE MEMBERS
OF
SUFFOLK PRIMARY HEALTH, LLC**

The undersigned, being all of the members of Suffolk Primary Health, LLC, a New York Limited Liability Company (“Company”), do hereby consent to the adoption of the following resolution as a duly authorized valid corporate action pursuant to the provisions of the Operating Agreement of Suffolk Primary Health, LLC.

WHEREAS, the Company seeks to utilize the d/b/a “Summer Hill Behavioral Services” for Home and Community Based (HCBS) services provided by Suffolk Primary Health, LLC.

NOW THEREFORE, BE IT RESOLVED, that the Company is hereby authorized to make application to the New York State Department of Health (“Department”) to obtain approval to utilize the d/b/a referenced above.

This Resolution is adopted by unanimous consent as of the date set forth below.

Dated: August 1, 2024

DocuSigned by:

Kenneth Gaul

Kenneth Gaul, Member

DocuSigned by:

Matisyahu Swerdloff

Matisyahu Yitzchok Swerdloff, Member

Signed by:

Ben Folger

Chaim Ben Zion Folger, Member

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 5th day of December 2024, approves the filing of the Certificate of Assumed Name of A Better Way NY, as attached.

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 5th day of December 2024, approves the filing of the Certificate of Assumed Name of Summer Hill Behavioral Services, as attached.



MEMORANDUM

TO: Michael Stelluti
Division of Health Facility Planning and Development

Colleen Leonard, Executive Secretary
Public Health and Health Planning Council

FROM: Vincent DiCocco, Senior Attorney
Bureau of Program Counsel
Division of Legal Affairs

DATE: November 7, 2024

SUBJECT: Approval of the Proposed Amended Certificate of Incorporation of START Treatment & Recovery Centers, Inc. to change its name to StartCare, Inc. and expand its corporate purposes

This is to request that the above matter be included on the agendas for the next Establishment and Project Review Committee and Public Health and Health Planning Council meetings.

The attachments relating to this matter include the following:

- 1) Memorandum to the Public Health and Health Planning Council from Kathy Marks, General Counsel;
- 2) A request letter from Marissa A. Wong, Esq, counsel for the applicant, to the Public Health and Health Planning Council;
- 3) The Executed copy of the Restated Certificate of Incorporation of START Treatment & Recovery Centers, Inc.;
- 4) The Proposed Amended Certificate of Incorporation of START Treatment & Recovery Centers, Inc.;
- 5) The Unanimous Consent of the members of START Treatment & Recovery Centers, Inc. to change its name to "StartCare, Inc."; and
- 6) The Unanimous Consent of the members of START Treatment & Recovery Centers, Inc. to modify the corporate purposes to include the authority to develop, operate, and promote supportive and affordable housing, and economic development and revitalization programs.

Attachments



MEMORANDUM

To: Public Health and Health Planning Council

From: Kathy Marks *KSM*
General Counsel
Division of Legal Affairs

Date: November 7, 2024

Subject: Approval of Proposed Amended Certificate of Incorporation of START Treatment & Recovery Centers, Inc. to change its name to StartCare, Inc. and expand its corporate purposes

START Treatment & Recovery Centers, Inc. ("START") requests to amend its corporate purposes to identify new housing services and seeks approval to change its name to "StartCare, Inc."

START is a 501(c)(3) not-for-profit New York corporation that is a community-based provider of addiction treatment and mental health services. START was founded in 1969 and also conducts biomedical research. START serves patients throughout the New York City Metropolitan area and operates six facilities in Manhattan and Brooklyn, including a diagnostic and treatment center (Facility ID 1335) located at 500 West 180th Street, New York to 2406 Amsterdam Avenue, New York.

START is seeking to amend its Certificate of Incorporation to enlarge the purposes for which the corporation has been formed to allow the Corporation to develop, operate, and promote supportive housing, affordable housing, and economic development and revitalization programs. It is also seeking to change its corporate name to StartCare, Inc.

Attached is a letter from Marissa A. Wong, Esq., counsel for the applicant; the Restated Certificate of Incorporation of START; and the Proposed Amended Certificate of Incorporation of START. Additionally attached are the Unanimous Consent of the members of START to utilize the assumed name "StartCare, Inc." for the applied behavioral services and approving the new corporate purposes.

There is no legal objection to the proposed assumed name or the change in corporate purposes. The required documents are attached.

Attachments.



August 29, 2024

Public Health and Health Planning Council
New York State Department of Health
Center for Health Care Facility Planning, Licensure and Finance
Corning Tower, Room 1805
Albany, NY 12237
Via Email: PHHPC@health.ny.gov

Re: Request for corporate name change and amended corporate purposes

I am writing to request the consent of the Public Health and Health Planning Council ("PHHC") to change the name of our organization from START Treatment & Recovery Centers, Inc. ("START") to StartCare, Inc. In addition, I am requesting consent of the PHHC to amend the START corporate purposes to include housing services.

See attached restated certificate of incorporation for details of the above.

START is a 501(c)(3) not-for-profit New York corporation that is a community-based organization, and one of the nation's largest and oldest minority-led provider of addiction treatment and mental health services, also conducting biomedical research, founded by the renowned national authority on drug addiction, Dr. Beny J. Primm, in 1969. START serves patients throughout the New York City Metropolitan area and operates from six (6) facilities in Manhattan and Brooklyn, New York.

START is licensed at each of its facilities as a diagnostic and treatment center under Article 28 of the New York Public Health Law – Facility ID 1335.

Please let us know if you have any questions or require any additional information.

Thank you.

Sincerely,

Marissa A. Wong
Associate Counsel
937 Fulton Street
Brooklyn, NY 11238
Email: mwong@startny.org
Office: (718) 260-2985
Cell: (929) 675-5314

**RESTATED CERTIFICATE OF INCORPORATION
OF THE
START TREATMENT & RECOVERY CENTERS INC.
UNDER SECTION 805 OF THE NOT-FOR-PROFIT
CORPORATION LAW**

We the undersigned, Jean T. Stennett and Jennifer Norman, being respectively the Chair and Secretary of the Board of START Treatment & Recovery Centers Inc., hereby certify:

1. The name of the corporation (hereinafter referred to as the "Corporation") is START TREATMENT & RECOVERY CENTERS, INC.
2. The certificate of incorporation was filed by the Department of State on the 3rd day of October, 1969.
3. The certificate of incorporation for the Corporation are hereby amended as follows:
 - a. Article "First" of the Corporation's certificate of incorporation, which sets forth the proposed name of the Corporation, is hereby amended to state that the name of the proposed corporation is StartCare, Inc.
 - b. Article "Second" of the Corporation's certificate of incorporation, which sets forth the purposes of the Corporation, whereby subparagraph (6)(a) and 6(b) are removed and the following paragraph is added:

(6) To operate chemical dependence, alcoholism and/or substance abuse services, within the meaning of Articles 19 and 32 of the Mental Hygiene Law and the Rules and Regulations adopted pursuant thereto as each may be amended from time to time, which shall require as a condition precedent before engaging in the conduct of any such services an Operating Certificate from the New York State Office of Addiction Services and Supports
 - c. Article "Second" of the Corporation's certificate of incorporation, which sets forth the purposes of the Corporation, whereby subparagraph (15) is amended to read as follows:

(15) To operate programs for the mentally disabled pursuant to Article 31 of the Mental Hygiene Law and the rules and regulations adopted pursuant thereto, as each may be amended from time to time, which shall require as a condition precedent before engaging in the conduct of such services, an Operating Certificate from the New York State Office of Mental Health and the corporation may not establish any facility or program without first obtaining such Operating Certificate.
 - d. Article "Second" of the Corporation's certificate of incorporation, which sets forth the purposes of the Corporation, whereby a new subparagraph (16) is added as follows:

(16) to develop, operate, and promote supportive housing, affordable housing, and economic development and revitalization programs, including programs that require and subject to the issuance of an Operating Certificate by the New York State Department of Health.

- e. Article "Sixth" of the Corporation's certificate of incorporation, which sets forth the name and places of residences of its directors is hereby omitted.
 - f. Article "Eighth" of the Corporation's certificate of incorporation, which sets forth the subscribers to the certificate is hereby omitted.
- 4. The text of the restated certificate of incorporation, which consolidated the foregoing amendments and all previous amendments to the certificate of incorporation in a single document, is as follows:

<the remainder of this page is intentionally left blank>

Restated Certificate of Incorporation
Of
STARTCARE, INC.
Pursuant to Section 805 of the Not-for-Profit Corporation Law
of the State of New York

WE, THE UNDERSIGNED, for the purpose of forming a not-for-profit corporation pursuant to the Not-For-Profit Corporation law of the State of New York, do hereby certify as follows:

FIRST: The name of the proposed corporation is: STARTCARE, INC.

SECOND: The purposes of which the corporation is to be formed are:

- (1) to establish, maintain and operate outpatient facilities for the prevention, study, care, treatment, rehabilitation and after-care of narcotics addicts, provided, however, that before each such facility is established and opened the written approval of the State Board of Social Welfare shall be obtained;
- (2) to promote, develop and administer programs for prevention, study, care, treatment, cure, rehabilitation and control of narcotic addiction with emphasis on a research program for treatment of narcotic addiction through the administration, under medical supervision and control, of maintenance or other dosages of any drug useful in the treatment of narcotic addicts;
- (3) to establish and maintain facilities for dispensing, under medical supervision and control, maintenance or other dosages of any drug useful in the treatment of narcotic addicts;
- (4) to provide psychological and psychiatric counseling, treatment and medical services to narcotic addicts under its care and supervision or to refer such addicts for other appropriate care;
- (5) to provide after-care and continuing counseling services to persons who have been under its care and supervision;
- (6) to operate chemical dependence, alcoholism and/or substance abuse services, within the meaning of Articles 19 and 32 of the Mental Hygiene Law and the Rules and Regulations adopted pursuant thereto as each may be amended from time to time, which shall require as a condition precedent before engaging in the conduct of any such services an Operating Certificate from the New York State Office of Addiction Services and Supports;
- (7) to acquire any property, real, personal or mixed, or interests therein by grant, gift, purchase, lease, devise, bequest or otherwise, and to own, hold, use, enjoy, manage, sell, deal with, lease, pledge, mortgage, donate and dispose of the same in such manner, on such terms and for such considerations as the board of directors may determine subject to the provisions of the Not-For-Profit Corporation Law;
- (8) to invest and reinvest its funds in such mortgages, bonds, debentures, shares of preferred and common stock, and in such other securities and properties as its board

of directors shall deem advisable, subject to the limitations and conditions contained in any gift, devise, or bequest;

- (9) to borrow money and contract debts in connection with the acquisition of property or otherwise in aid of any of the purposes of the corporation; and to issue or dispose of its obligations for any amount so borrowed, and to mortgage or pledge its property to secure the payment of such obligations, or of any debt contracted for such purposes;
- (10) to solicit funds for the use of the corporation from individuals, foundations, governmental agencies or others, subject to, and in accordance with, provisions of law;
- (11) in general, to exercise such powers which now are or may hereafter be conferred by law upon a corporation organized for the purposes hereinabove set forth or necessary or incidental to the powers so conferred, or conducive to the attainment of the purposes of the corporation, subject to such limitations as are or may be prescribed by law; provided, however, that, the corporation may not exercise any power which would cause the corporation to lose its tax exempt status;
- (12) the corporation is not organized for pecuniary profit, and no part of its income shall inure to the benefit of any member, director, officer or employee of the corporation, or any other private individual, except, as reimbursement, for expenditures or as reasonable compensation for services rendered in effecting, or as a proper beneficiary of its strictly charitable and scientific purposes;
- (13) upon the liquidation, dissolution, or winding up of the corporation, whether voluntary, involuntary or by operation of the law, its assets shall be distributed exclusively to such organizations as shall have similar charitable or scientific purposes as the directors of the corporation may determine; provided that any such recipient organization shall be qualified as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1954, or any comparable section then in effect, and that any such distribution shall be subject to the approval of a Justice of the Supreme Court of the State of New York;
- (14) no substantial part of the activities of the corporation shall consist, of carrying on propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office;
- (15) to operate programs for the mentally disabled pursuant to Article 31 of the Mental Hygiene Law and the rules and regulations adopted pursuant thereto, as each may be amended from time to time, which shall require as a condition precedent before engaging in the conduct of such services, an Operating Certificate from the New York State Office of Mental Health and the corporation may not establish any such facility or program without first obtaining such Operating Certificate; and
- (16) to develop, operate, and promote supportive housing, affordable housing, and economic development and revitalization programs including programs that require and subject to the issuance of an Operating Certificate by the New York State Department of Health.

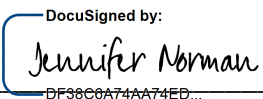
- THIRD:** The territory in which the operations of the corporation are principally to be conducted is the United States of America, but the operations of the corporation shall not be restricted to such territory.
- FOURTH:** The principal office of the corporation is to be located in the county of Kings, New York.
- FIFTH:** The number of the directors of the corporation shall be not less than three (3).
- SIXTH:** Omitted.
- SEVENTH:** The duration of the corporation shall be perpetual.
- EIGHTH:** Omitted.
- NINTH:** The corporation shall be a Type B corporation pursuant to Section 201 of the Not-For-Profit Corporation law.
- TENTH:** The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State is 937 Fulton Street, Brooklyn, New York 11238. The corporation hereby designates C T Corporation System as its registered agent upon whom process against the corporation may be served. The street address of the registered agent is 28 Liberty Street, New York, NY 10005.

4. The foregoing amendments and restated certificate of incorporation were duly authorized by the Board of Trustees for the Corporation, at a duly convened meeting of the Corporation's Board of Trustees, pursuant to Section 708 of the New York Not-For-Profit Corporation Law.

IN WITNESS WHEREOF, the undersigned have signed and attested to these Restated Certificate of Incorporation as of the date written below.

Signed by:
By: 
7C6437C99D1D4B4...
Jean T. Stennett, Chair

8/29/2024
Date

DocuSigned by:
By: 
DF38C6A74AA74ED...
Jennifer Norman, Secretary

8/29/2024
Date

**RESTATED CERTIFICATE OF INCORPORATION
OF THE
START TREATMENT & RECOVERY CENTERS INC.**

**UNDER SECTION 805 OF THE NOT-FOR-PROFIT
CORPORATION LAW**

Filed by:

START Treatment & Recovery Centers Inc.
937 Fulton Street
Brooklyn, NY 11238
Attn: Legal Department

**STATE OF NEW YORK
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for START TREATMENT & RECOVERY CENTERS, INC., File Number 231017000970 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on October 17, 2023.

Brendan C. Hughes

Brendan C. Hughes
Executive Deputy Secretary of State

DocuSign Envelope ID: F235C579-7209-40C1-BFB6-F7F715C416ED

**Division of Corporations,
State Records and
Uniform Commercial Code**

New York State
Department of State
**DIVISION OF CORPORATIONS,
STATE RECORDS AND
UNIFORM COMMERCIAL CODE**
One Commerce Plaza
99 Washington Ave.
Albany, NY 12231-0001
<https://dos.ny.gov>

**CERTIFICATE OF CHANGE
OF****START Treatment & Recovery Centers, Inc.***(Insert Name of Domestic Corporation)*

Under Section 805-A of the Business Corporation Law

FIRST: The name of the corporation is:**START Treatment & Recovery Centers, Inc.**

If the name of the corporation has been changed, the name under which it was formed is:

Addiction Research and Treatment Corporation**SECOND:** The certificate of incorporation was filed by the Department of State on:**10/3/1969****THIRD:** The change(s) effected hereby are: *(Check appropriate statement(s))*

- ☐ The county location, within this state, in which the office of the corporation is located, is changed to: _____
- ☒ The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by ~~personal~~ delivery is changed to read in its entirety as follows:
937 Fulton Street, Brooklyn, New York 11238
- ☐ The email address to which the Secretary of State shall email a notice of the fact that process against the corporation has been served electronically upon the Secretary of State is: _____
- ☐ The email address to which the Secretary of State shall email a notice of the fact that process against the corporation has been served electronically upon the Secretary of State is changed to read as follows: _____
- ☐ The email address to which the Secretary of State shall email a notice of the fact that process against the corporation has been served electronically upon the Secretary of State is deleted.
- ☒ The corporation hereby designates
C T Corporation System
its registered agent upon whom process against the corporation may be served.
The street address of the registered agent is:
28 Liberty Street, New York, NY 10005

DocuSign Envelope ID: F235C579-7209-40C1-BFB6-F7F715C416ED

☐ The corporation hereby changes the designation of its registered agent to:

The street address of the registered agent is:

☐ The corporation hereby changes the address of its registered agent to:

☐ The corporation hereby revokes the designation of its registered agent.

FOURTH: The change was authorized by the board of directors.

RECEIVED
2023 OCT 16 PM 4:00

DocuSigned by:
Jannel Doris
210681995387499
(Signature)

Jannel Doris

(Name of Signer)

CEO

(Title of Signer)

CERTIFICATE OF CHANGE

OF

START Treatment & Recovery Centers, Inc.

(Insert Name of Domestic Corporation)

Under Section 805-A of the Business Corporation Law

Filer's Name and Mailing Address:

Marissa Wong, Esq.

Name

START Treatment and Recovery Center

Company, if Applicable

937 Fulton Street

Mailing Address

Brooklyn, NY 11238

City, State and Zip Code

NOTES:

1. The name of the corporation and its date of incorporation provided on this certificate must exactly match the records of the Department of State. This information should be verified on the Department of State's website at <https://dos.ny.gov>.
2. This form was prepared by the New York State Department of State. You are not required to use this form. You may draft your own form or use forms available at legal stationery stores.
3. The Department of State recommends that all documents be prepared under the guidance of an attorney.
4. The certificate must be submitted with a \$30 filing fee.

For Office Use Only

START TREATMENT & RECOVERY CENTERS, INC
ATTN: BEN LIPSCHITZ, GENERAL COUNSEL
937 FULTON STREET
BROOKLYN NY 11238

Enclosed is the information you requested. Your payment of
\$35.00 is hereby acknowledged.

If the name on the enclosed document(s) does not match exactly
with the name of the entity you requested, this office does not
have a record of the exact name you requested. The document(s)
provided appear(s) to be of sufficient similarity to be the
entity requested.

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
March 25, 2021.

Brendan C. Hughes

Brendan C. Hughes
Executive Deputy Secretary of State

210304000

New York State
Department of State
DIVISION OF CORPORATIONS,
STATE RECORDS AND
UNIFORM COMMERCIAL CODE
One Commerce Plaza
99 Washington Ave.
Albany, NY 12231-0001
www.dos.ny.gov



**Division of Corporations,
State Records and
Uniform Commercial Code**

**CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF**

START Treatment & Recovery Centers, Inc.

(Name of Domestic Corporation)

Under Section 803 of the Not-for-Profit Corporation Law

FIRST: The name of the corporation is:

START Treatment & Recovery Centers, Inc.

If the name of the corporation has been changed, the name under which it was formed is:

Addiction Research and Treatment Corporation

SECOND: The certificate of incorporation was filed by the Department of State on:

October 3, 1969

THIRD: The corporation was formed under the following law: *(Choose one)*

☒ NOT-FOR-PROFIT Corporation Law

☐ Specify other law: _____

FOURTH: The corporation is a corporation as defined in subparagraph (5) of paragraph (a) of Section 102 of the Not-for-Profit Corporation Law.

FIFTH: The certificate of incorporation is amended as follows:

Paragraph Five of the Certificate of Incorporation is hereby: *(check appropriate box)*

☐ added ☒ amended ☐ deleted

The subject matter of the amendment is: *(Provide a brief description of the subject matter of this amendment e.g., the purposes of the corporation are being amended)*

remove the maximum number of directors of the corporation.

The full text of the amended or added paragraph is: *(Provide the entire text of the paragraph added or amended, including the paragraph number)*

FIFTH: The number of the directors of the corporation shall be not less than three (3).


Use additional pages, if necessary, describing each amendment to the certificate of incorporation and providing the entire text of each paragraph added or amended.

SIXTH: The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the corporation is:
22 Chapel Street, Brooklyn, NY 11201

SEVENTH: The certificate of amendment was authorized by: *(Check the appropriate box)*

- ☐ a vote of a majority of the members at a meeting.
- ☐ the unanimous written consent of the members entitled to vote thereon.
- ☒ a vote of a majority of the entire board of directors. The corporation has no members.

X

()
(Signature)

Benjamin Lipschitz, Esq.

(Print or Type Signer's Name)

Capacity of Signer *(Check appropriate box):*

- ☐ Officer
- ☐ Director
- ☒ Authorized Person

100

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF

START Treatment & Recovery Centers, Inc.

(Name of Domestic Corporation)

Under Section 803 of the Not-for-Profit Corporation Law

Filer's Name Benjamin Lipschitz, Esq.

Address 937 Fulton Street

City, State and Zip Code Brooklyn, NY 11201

NOTES:

1. The name of the corporation and its date of incorporation provided on this certificate must exactly match the records of the Department of State. This information should be verified on the Department of State's website at www.dos.ny.gov.
2. The certificate must be submitted with a \$30 filing fee.
3. This form was prepared by the New York State Department of State. It does not contain all optional provisions under the law. You are not required to use this form. You may draft your own form or use forms available at legal stationery stores.
4. The Department of State recommends that all documents be prepared under the guidance of an attorney.
5. Please be sure to review Section 804 and Section 404 of the Not-for-Profit Corporation Law to determine if any consents or approvals are required to be attached to this certificate of amendment.

For Office Use Only

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2021 MAR -4 PM 4:41

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED MAR 04 2021

TAX \$

BY: 


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Division of Corporations,
State Records and
Uniform Commercial Code

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New York State
Department of State
DIVISION OF CORPORATIONS,
STATE RECORDS AND
UNIFORM COMMERCIAL CODE
One Commerce Plaza
89 Washington Ave.
Albany, NY 12231-0001
www.dos.ny.gov

CERTIFICATE OF CHANGE
OF

START Treatment & Recovery Centers, Inc.

(Insert Name of Domestic Corporation)

Under Section 803-A of the Not-for-Profit Corporation Law

FIRST: The name of the corporation is:

START Treatment & Recovery Centers, Inc.

If the name of the corporation has been changed, the name under which it was formed is:

Addiction Research and Treatment Corporation

SECOND: The certificate of incorporation was filed by the Department of State on:

October 3, 1969

THIRD: The change(s) effected hereby are: (Check appropriate statement(s))

☐ The county location, within this state, in which the office of the corporation is located, is changed to: _____

☒ The address to which the Secretary of State shall forward copies of process accepted on behalf of the corporation is changed to read in its entirety as follows:

c/o The Corporation
22 Chapel Street
Brooklyn, New York 11201

☒ The corporation hereby: (Check One)

☐ Designates _____
as its registered agent upon whom process against the corporation may be served.
The street address of the registered agent is: _____

☐ Changes the designation of its registered agent to: _____
The street address of the registered agent is: _____

☐ Changes the address of its registered agent to: _____

☒ Revokes the authority of its registered agent.

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FOURTH: The change was authorized by the Board of Trustees as there are no directors or members of the corporation.

X *Linden E. Thomas*
(Signature)
Authorized Person

LINDEN E. THOMAS, ESQ
(Name of Signer)

LEGAL COUNSEL & COMPLIANCE OFFICER
(Title of Signer)

CERTIFICATE OF CHANGE
OF

START Treatment & Recovery Centers, Inc.

(Insert Name of Domestic Corporation)

Under Section 803-A of the Not-for-Profit Corporation Law

Filer's Name: Linden E. Thomas, Esq., Legal Counsel & Compliance Officer

Address: 22 Chapel Street

City, State and Zip Code: Brooklyn, New York 11201

NOTES:

1. The name of the corporation and its date of incorporation provided on this certificate must exactly match the records of the Department of State. This information should be verified on the Department of State's website at www.dos.ny.gov.
2. This form was prepared by the New York State Department of State. You are not required to use this form. You may draft your own form or use forms available at legal stationery stores.
3. The Department of State recommends that all documents be prepared under the guidance of an attorney.
3. The certificate must be submitted with a \$20 filing fee.

For Office Use Only

RECEIVED
JUL 9 9:07
EST. Ref # 74627
DRAWDOWN

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED MAY 09 2019

TAXS

BY: *[Signature]*

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**CERTIFICATE OF AMENDMENT OF THE
CERTIFICATE OF INCORPORATION OF
START TREATMENT & RECOVERY CENTERS, INC.
UNDER SECTION 803 OF THE
NOT-FOR-PROFIT CORPORATION LAW**

01-47-75

410A

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updated

I THE UNDERSIGNED, being the Chairperson of START TREATMENT & RECOVERY CENTERS, INC. (the "Corporation,") do hereby certify as follows:

1. The name of the Corporation is START TREATMENT & RECOVERY CENTERS, INC.

2. The Certificate of Incorporation of the Corporation was filed by the Department of State on October 3, 1969 and the law under which it was formed was the Not-For-Profit Corporation Law. The said Certificate of Incorporation was restated, pursuant to Section 803 of the Not-For-Profit Corporation Law on February 4, 1986, and amended on October 15, 1992, and on November 19, 2013.

3. The Corporation is a corporation as defined in sub-paragraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law and is a type B Corporation as defined by Section 201 of that law.

4. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The post office address within the State to which the Secretary of State shall mail a copy of any process against the Corporation that is served upon the Secretary of State is START Treatment & Recovery Centers, Inc., 22 Chapel Street, Brooklyn, New York 11201.

5. The Certificate of Incorporation is hereby amended to enlarge the purposes for which the Corporation is formed so as to allow the Corporation to provide

services to persons with mental disabilities pursuant to Article 31 of the Mental Hygiene Law.

6. To effect the foregoing, Article Second of the Corporation's Certificate of Incorporation, which sets forth the purposes of the Corporation, is hereby amended to include the following additional purpose:

(i) To operate outpatient programs for the mentally disabled pursuant to Article 31 of the Mental Hygiene Law, subject to the issuance of an operating certificate by the New York State Office of Mental Health. The Corporation may not establish any facility or program without first obtaining such operating certificate.

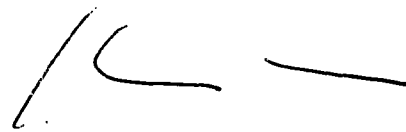
7. This foregoing amendment was authorized by the Board of Trustees of START Treatment & Recovery Centers, Inc., at a duly convened meeting of the Corporation's Board of Trustees, pursuant to Section 708 of the New York Not-For-Profit Corporation Law.

8. That prior to the delivery to the Department of State for filing, all approvals, consents or waivers required by the Not-For-Profit Corporation Law or any other statute will be endorsed upon or annexed to this Certificate of Amendment of the Certificate of Incorporation.

(The remainder of the page intentionally left blank)

I have signed this Certificate as of the date indicated below.

Dated: As of August 24, 2017

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line and a short vertical stroke.

Shaun E. Smith, Esq.
Chairperson

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
June 21, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

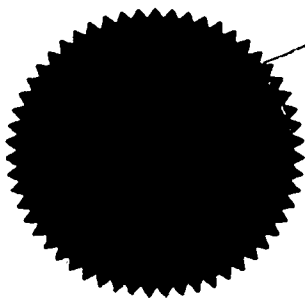


State of New York — Department of Social Services
State Board of Social Welfare
Albany

Know all Men by These Presents:

At a meeting of the State Board of Social Welfare, held on
the sixteenth day of September, 1969, due inquiry and investiga-
tion having been made, the Board approved the application of ADDICTION
RESEARCH AND TREATMENT CORPORATION, No. 6-125, a membership corporation, for
approval pursuant to subdivision 3 of Section 35 of the Social Services Law,
empowering it to establish, maintain and operate a research and treatment
center for narcotic addicts in the Borough of Brooklyn, New York, New York.

786271



In Witness Whereof, the State Board of
Social Welfare has caused these presents to be
signed in accordance with the provisions of the
statutes and its by-laws, and the official seal of
the Board and of the Department to be here-
unto affixed, this seventeenth day of
September, in the year one thousand
nine hundred and sixty-nine.

Secretary

CERTIFICATE OF INCORPORATION

of

ADDICTION RESEARCH AND TREATMENT CORPORATION

Pursuant to the Membership Corporations Law
of the State of New York

WE, THE UNDERSIGNED, for the purpose of forming
a membership corporation pursuant to the Membership Corpora-
tions Law of the State of New York, DO HEREBY CERTIFY as
follows:

FIRST: The name of the proposed corporation is:

ADDICTION RESEARCH AND TREATMENT CORPORATION

SECOND: The purposes for which the corporation
is to be formed are:

- (1) to establish, maintain and operate out-patient facilities for the prevention, study, care, treatment, rehabilitation and after-care of narcotics addicts, provided, however, that before each such facility is established and opened the written approval of the State Board of Social Welfare shall be obtained; and
- (2) to promote, develop and administer programs for prevention, study, care, treatment, cure, rehabilitation and control of narcotic addiction with emphasis on a research program for treatment of narcotic addiction through the administration, under medical supervision and control, of maintenance or other dosages of any drug useful in the treatment of narcotic addicts.

As a means of accomplishing the foregoing purposes the corporation shall have the following powers;

To acquire any property, real, personal or mixed, or interests therein by grant, gift, purchase, lease, devise, bequest or otherwise, and to own, hold use, enjoy, manage, sell, deal with, lease, pledge, mortgage, donate and dispose of the same in such manner, on such terms and for such considerations as the board of directors may determine subject to the provisions of the Membership Corporations Law; and

To invest and reinvest its funds in such mortgages, bonds, debentures, shares of preferred and common stock, and in such other securities and properties as its board of directors shall deem advisable, subject to the limitations and conditions contained in any gift, devise or bequest; and

To borrow money and contract debts in connection with the acquisition of property or otherwise in aid of any of the purposes of the corporation; and to issue or dispose of its obligations for any amount so borrowed, and to mortgage or pledge its property to secure the payment of such obligations, or of any debt contracted for such purposes;

To solicit funds for the use of the corporation from individuals, foundations, governmental agencies or others, subject to, and in accordance with, provisions of law;

To establish and maintain facilities for dispensing, under medical supervision and control, maintenance or other dosages of any drug useful in the treatment of narcotic addicts;

To provide to narcotic addicts under its care and supervision such vocational counseling, including job training and placement, as shall be deemed advisable, notwithstanding the fact that such services may also be available through other agencies, public or private;

To provide psychological and psychiatric counseling, treatment and medical services to narcotic addicts under its care and supervision or to refer such addicts for other appropriate care;

To provide after-care and continuing counseling to persons who have been under its care and supervision; and

In general, to exercise such powers which now are or may hereafter be conferred by law upon a corporation organized for the purposes hereinabove set forth, or necessary or incidental to the powers so conferred, or conducive to the attainment of the purposes of the corporation, subject to such limitations as are or may be prescribed by law; provided, however, that the corporation may not exercise any power which would cause the corporation to lose its tax exempt status.

The corporation is not organized for pecuniary profit, and no part of its income shall inure to the benefit of any member, director, officer or employee of the corporation, or any other private individual, except as reimbursement for expenditures or as reasonable compensation for services rendered in effecting, or as a proper beneficiary of, its strictly charitable and scientific purposes.

Upon the liquidation, dissolution, or winding up of the corporation, whether voluntary, involuntary or by operation of law, its assets shall be distributed exclusively to such organizations as shall have similar charitable or scientific purposes, as the directors of the corporation may determine; provided that any such recipient organization shall be qualified as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1954, or any comparable section then in effect, and that any such distribution shall be sub-

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ject to the approval of a Justice of the Supreme Court of the State of New York.

No substantial part of the activities of the corporation shall consist of carrying on propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

THIRD: The territory in which the operations of the corporation are principally to be conducted is the United States of America, but the operations of the corporation shall not be restricted to such territory.

FOURTH: The principal office of the corporation is to be located in the City of New York, County of Kings, New York.

FIFTH: The number of the directors of the corporation shall be not less than three (3) nor more than twelve (12).

SIXTH: The names and places of residence of its directors until the first annual meeting are:

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

On this day of 1969 before me
personally came to me known and known
to me to be a person mentioned and described in, and who
executed, the foregoing instrument, and he duly acknowledged
to me that he executed the same.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

On this day of 1969 before me
personally came to me
known and known to me to be persons mentioned and described
in, and who executed, the foregoing instrument, and they duly
and severally acknowledged to me that they executed the same.

DANIEL D. O'ROURKE
NOTARY PUBLIC, STATE OF NEW YORK
(No. 41-121080)
Qualified in Queens County
Term Expires March 30, 1971

9

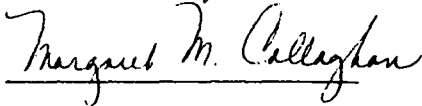
STATE OF NEW YORK)
: SS.:
COUNTY OF New York)

R. Palmer Baker, Jr., being duly sworn,
deposes and says that he is an attorney and counsellor at
law and a member of the firm of Lord, Day & Lord,
attorneys for the subscribers of the annexed Certificate
of Incorporation, and that no previous application for the
approval of said Certificate by any Justice of the Supreme
Court has ever been made.



Sworn to before me this

8th day of September, 1969



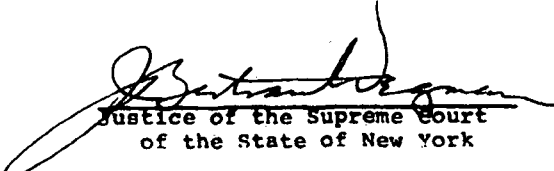
MARGARET M. CALLAGHAN
Notary Public, State of New York
No. 24-1510550
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1971

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I, J. BERTRAM WEGMAN

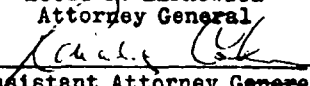
Justice of the Supreme Court of the State of New York for
the SECOND Judicial District, hereby approve the
foregoing Certificate of Incorporation of ADDICTION RESEARCH
AND TREATMENT CORPORATION.

Dated: Brooklyn, New York
Sept. 29, 1969.


Justice of the Supreme Court
of the State of New York

Notice of Application Waived
(This is not to be deemed an
approval on behalf of any
Department or Agency of the
State of New York, nor an
authorization of activities
otherwise limited by law.)

Dated: September 26, 1969
LOUIS A. LEFKOWITZ
Attorney General

By 
Assistant Attorney General
Louis A. Lefkowitz

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CERTIFICATE OF INCORPORATION
OF
ADDICTION RESEARCH AND TREATMENT
CORPORATION

Under Section 10 of the Membership
Corporations Law

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den. 5 yrs

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED OCT 3 1969
TAX \$ none
GILING FEE \$ 50

John P. Zenger

Secretary of State

M.H.
24-Remij
D-5 yrs

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80 CAROL RYAN
Vera Institute of Justice
30 East 39th Street
New York, N.Y. 10018

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**CERTIFICATE OF AMENDMENT OF THE
CERTIFICATE OF INCORPORATION OF
ADDICTION RESEARCH AND TREATMENT CORPORATION**

**STATE OF NEW YORK
DEPARTMENT OF STATE**

FILED DEC 18 2013

TAX \$ _____

BY:

RECEIVED
2013 DEC 18 PM 1:01

Filed by: Kathleen Yee, Esq.

Wood, Rafalsky & Wood, LLP
394 Waverly Avenue
Brooklyn, New York 11238

FILED
2013 DEC 18 PM 4:20

880

FILING RECEIPT

ENTITY NAME: ADDICTION RESEARCH AND TREATMENT CORPORATION

DOCUMENT TYPE: AMENDMENT (DOMESTIC NFP)
PURPOSES PROCESS

COUNTY: KING

FILED:12/18/2013 DURATION:***** CASH#:131218000880 FILM #:131218000823

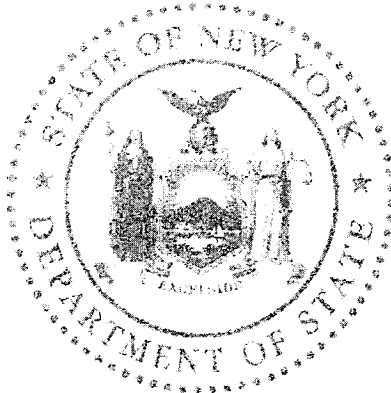
FILER:

KATHLEEN YEE, ESQ.
WOOD, RAFALSKY & WOOD, LLP
394 WAVERLY AVENUE
BROOKLYN, NY 11238

ADDRESS FOR PROCESS:

THE CORPORATION
22 CHAPEL STREET
BROOKLYN, NY 11201

REGISTERED AGENT:



SERVICE COMPANY: ** NO SERVICE COMPANY **

SERVICE CODE: 00

FEE	65.00
FILING	30.00
TAX	0.00
CERT	0.00
COPIES	10.00
HANDLING	25.00

PAYMENTS	65.00
CASH	0.00
CHECK	0.00
CHARGE	65.00
DRAWDOWN	0.00
OPAL	0.00
REFUND	0.00

DOS-1025 (04/2007)

Done

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on December 19, 2013.

Anthony Giardina

Anthony Giardina
Executive Deputy Secretary of State

131218000823

**CERTIFICATE OF AMENDMENT OF THE
CERTIFICATE OF INCORPORATION OF
ADDICTION RESEARCH AND TREATMENT CORPORATION
UNDER SECTION 803 OF THE
NOT-FOR-PROFIT CORPORATION LAW**

I THE UNDERSIGNED, being the Chairperson of ADDICTION RESEARCH AND TREATMENT CORPORATION (the "Corporation,") do hereby certify as follows:

1. The name of the Corporation is ADDICTION RESEARCH AND TREATMENT CORPORATION.

2. The Certificate of Incorporation of the Corporation was filed by the Department of State on October 3, 1969 and the law under which it was formed was the Not-For-Profit Corporation Law. The said Certificate of Incorporation was restated pursuant to Section 803 of the Not-For-Profit Corporation Law on February 4, 1986, and amended on October 15, 1992.

3. The Corporation is a corporation as defined in sub-paragraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law and is a type B Corporation as defined by Section 201 of that law.

4. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The post office address within the State to which the Secretary of State shall mail a copy of any process against the Corporation that is served upon the Secretary of State is Addiction Research and Treatment Corporation, 22 Chapel Street, Brooklyn, New York 11201.

5. The amendment in question does not add, change or eliminate a purpose or power of the Corporation. The Certificate of Incorporation is being amended to change the name of the Corporation.

6. Paragraph One of the Certificate of Incorporation relating to the Corporation name is hereby amended in its entirety as follows:

1. The name of the Corporation is: START Treatment & Recovery Centers, Inc.

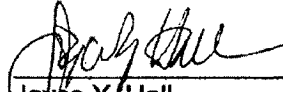
7. This foregoing amendment was authorized by the Board of Trustees of Addiction Research and Treatment Corporation by the unanimous written consent of the Corporation's Board of Trustees in lieu of a special meeting, pursuant to Section 708(b) of the New York Not-For-Profit Corporation Law.

8. That prior to the delivery to the Department of State for filing, all approvals, consents or waivers required by the Not-For-Profit Corporation Law or any other statute will be endorsed upon or annexed to this Certificate of Amendment of the Certificate of Incorporation.

(The remainder of the page intentionally left blank)

I have signed this Certificate as of the date indicated below.

Dated: As of August 6, 2013



Joyce Y. Hall
Chairperson



PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany, New York 12237

(518) 402-0964
PHHPC@health.state.ny.us

December 13, 2013

Ms. Kathleen Yee, Esq.
Wood Rafalsky & Wood, LLP
394 Waverly Avenue
Brooklyn, New York 11238

Re: Certificate of Amendment of the Certificate of Incorporation of Addiction Research and Treatment Corporation

Dear Ms. Yee:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council and Health Planning Council held on the 12th day of December, 2013, I hereby certify that the Public Health and Health Planning Council consents to the filing of the Certificate of Amendment of the Certificate of Incorporation of Addiction Research and Treatment Corporation, dated, August 6, 2013.

Sincerely,

A handwritten signature in cursive script, reading "Colleen M. Frost".

Colleen M. Frost
Executive Secretary

/cf

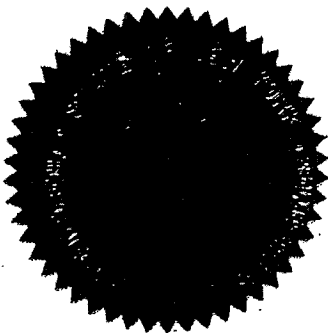
**STATE OF NEW YORK
OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES
ALBANY, NEW YORK**

KNOWN ALL PERSONS BY THESE PRESENTS:

Pursuant to the provisions of Article 32 of the Mental Hygiene Law, and Section 803 of the Not-For-Profit Corporation Law, approval is hereby given to the filing of the Certificate of Amendment of the Certificate of Incorporation of

ADDICTION RESEARCH AND TREATMENT CORPORATION

This approval shall not be construed as an authorization for the Corporation to engage in any activity for which the provisions of Article 32 of the Mental Hygiene Law require an Operating Certificate to be issued by the Office of Alcoholism and Substance Abuse Services unless said Corporation has been issued such Operating Certificate; nor shall it be construed to eliminate the need for the said Corporation to meet any and all of the requirements and conditions precedent set forth in Article 32 of such law and the regulations promulgated thereunder for issuance of said Operating Certificate.



IN WITNESS WHEREOF, this instrument is Executed
and the Seal of the New York State Office of Alcoholism
and Substance Abuse Services is affixed this 11th day of
September 2013

ROBERT A. KENT
GENERAL COUNSEL
NYS OASAS

By: Janet L. Paloski
Acting Director, Bureau of Certification and Systems
Management

Janet L. Paloski

CERTIFICATE OF INCORPORATION

of

ADDICTION RESEARCH AND TREATMENT CORPORATION

Pursuant to the Membership Corporations Law
of the State of New York

WE, THE UNDERSIGNED, for the purpose of forming
a membership corporation pursuant to the Membership Corpora-
tions Law of the State of New York, DO HEREBY CERTIFY as
follows:

FIRST: The name of the proposed corporation is:

ADDICTION RESEARCH AND TREATMENT CORPORATION

SECOND: The purposes for which the corporation
is to be formed are:

- (1) to establish, maintain and operate out-patient facilities for the prevention, study, care, treatment, rehabilitation and after-care of narcotics addicts, provided, however, that before each such facility is established and opened the written approval of the State Board of Social Welfare shall be obtained; and
- (2) to promote, develop and administer programs for prevention, study, care, treatment, cure, rehabilitation and control of narcotic addiction with emphasis on a research program for treatment of narcotic addiction through the administration, under medical supervision and control, of maintenance or other dosages of any drug useful in the treatment of narcotic addicts.

As a means of accomplishing the foregoing purposes the corporation shall have the following powers;

To acquire any property, real, personal or mixed, or interests therein by grant, gift, purchase, lease, devise, bequest or otherwise, and to own, hold use, enjoy, manage, sell, deal with, lease, pledge, mortgage, donate and dispose of the same in such manner, on such terms and for such considerations as the board of directors may determine subject to the provisions of the Membership Corporations Law; and

To invest and reinvest its funds in such mortgages, bonds, debentures, shares of preferred and common stock, and in such other securities and properties as its board of directors shall deem advisable, subject to the limitations and conditions contained in any gift, devise or bequest; and

To borrow money and contract debts in connection with the acquisition of property or otherwise in aid of any of the purposes of the corporation; and to issue or dispose of its obligations for any amount so borrowed, and to mortgage or pledge its property to secure the payment of such obligations, or of any debt contracted for such purposes;

To solicit funds for the use of the corporation from individuals, foundations, governmental agencies or others, subject to, and in accordance with, provisions of law;

To establish and maintain facilities for dispensing, under medical supervision and control, maintenance or other dosages of any drug useful in the treatment of narcotic addicts;

To provide to narcotic addicts under its care and supervision such vocational counseling, including job training and placement, as shall be deemed advisable, notwithstanding the fact that such services may also be available through other agencies, public or private;

To provide psychological and psychiatric counseling, treatment and medical services to narcotic addicts under its care and supervision or to refer such addicts for other appropriate care;

To provide after-care and continuing counseling to persons who have been under its care and supervision; and

In general, to exercise such powers which now are or may hereafter be conferred by law upon a corporation organized for the purposes hereinabove set forth, or necessary or incidental to the powers so conferred, or conducive to the attainment of the purposes of the corporation, subject to such limitations as are or may be prescribed by law; provided, however, that the corporation may not exercise any power which would cause the corporation to lose its tax exempt status.

The corporation is not organized for pecuniary profit, and no part of its income shall inure to the benefit of any member, director, officer or employee of the corporation, or any other private individual, except as reimbursement for expenditures or as reasonable compensation for services rendered in effecting, or as a proper beneficiary of, its strictly charitable and scientific purposes.

Upon the liquidation, dissolution, or winding up of the corporation, whether voluntary, involuntary or by operation of law, its assets shall be distributed exclusively to such organizations as shall have similar charitable or scientific purposes, as the directors of the corporation may determine; provided that any such recipient organization shall be qualified as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1954, or any comparable section then in effect, and that any such distribution shall be sub-

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ject to the approval of a Justice of the Supreme Court of the State of New York.

No substantial part of the activities of the corporation shall consist of carrying on propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

THIRD: The territory in which the operations of the corporation are principally to be conducted is the United States of America, but the operations of the corporation shall not be restricted to such territory.

FOURTH: The principal office of the corporation is to be located in the City of New York, County of Kings, New York.

FIFTH: The number of the directors of the corporation shall be not less than three (3) nor more than twelve (12).

SIXTH: The names and places of residence of its directors until the first annual meeting are:

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

On this day of 1969 before me
personally came to me known and known
to me to be a person mentioned and described in, and who
executed, the foregoing instrument, and he duly acknowledged
to me that he executed the same.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

On this day of 1969 before me
personally came to me
known and known to me to be persons mentioned and described
in, and who executed, the foregoing instrument, and they duly
and severally acknowledged to me that they executed the same.

DANIEL D. O'ROURKE
NOTARY PUBLIC, STATE OF NEW YORK
No. 41-121080
Qualified in Queens County
Term Expires March 30, 1971

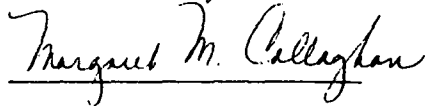
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STATE OF NEW YORK)
 : ss.:
COUNTY OF New York)

R. Palmer Baker, Jr., being duly sworn,
deposes and says that he is an attorney and counsellor at
law and a member of the firm of Lord, Day & Lord,
attorneys for the subscribers of the annexed Certificate
of Incorporation, and that no previous application for the
approval of said Certificate by any Justice of the Supreme
Court has ever been made.



Sworn to before me this
8th day of September, 1969



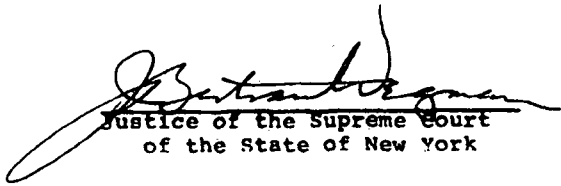
MARGARET M. CALLAGHAN
Notary Public, State of New York
No. 24-LS10550
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1971

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I, J. BERTRAM WEGMAN

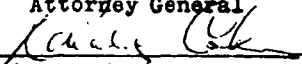
Justice of the Supreme Court of the State of New York for
the SECOND Judicial District, hereby approve the
foregoing Certificate of Incorporation of ADDICTION RESEARCH
AND TREATMENT CORPORATION.

Dated: Brooklyn, New York
Sept. 29, 1969.


Justice of the Supreme Court
of the State of New York

Notice of Application Waived
(This is not to be deemed an
approval on behalf of any
Department or Agency of the
State of New York, nor an
authorization of activities
otherwise limited by law.)

Dated: September 26, 1969
LOUIS A. LEFKOWITZ
Attorney General

By 
Assistant Attorney General
Louis A. Lefkowitz

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CERTIFICATE OF INCORPORATION
OF
ADDICTION RESEARCH AND TREATMENT
CORPORATION

Under Section 10 of the Membership
Corporations Law

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den. 5 yrs

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED OCT 3 1969

TAX \$ none
GILING FEE \$ 50

John P. Zenger

Secretary of State

M.H.
24-Remij
D-5 yrs

12

80 CAROL RYAN
Vera Institute of Justice
30 East 39th Street
New York, N.Y. 10018

**CERTIFIED RESOLUTION OF THE
BOARD OF TRUSTEES OF
START TREATMENT & RECOVERY CENTERS, INC.**

On Tuesday, August 13, 2024, at a duly noticed meeting of the Board of Trustees (the "Board") of START Treatment and Recovery Centers, Inc. (the "Corporation"), at which a quorum was present, and on motion duly made and seconded, the following resolution was adopted by vote of a majority of the Board, given that voting rights of the Company are held solely by the Board, and there are no members of the Company with or without voting rights; and

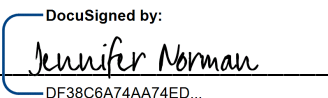
WHEREAS, in accordance with and as permitted under Section 708 of the New York Not-For-Profit Corporation Law, the Board desires to amend the Corporation's certificate of incorporation to change the name of the Corporation to StartCare, Inc.

NOW, THEREFORE, BE IT RESOLVED, that the Board adopt the following changes to the Corporation's certificate of incorporation:

RESOLVED, that the name of the Corporation is changed from START Treatment & Recovery Centers, Inc. to StartCare, Inc.

RESOLVED, that any and all actions taken by the proper officers prior to the date of adoption of the foregoing resolutions which would have been authorized by the foregoing resolutions but for the fact that such actions were taken prior to such date, be, and each hereby is, ratified, approved, confirmed and adopted as a duly authorized act of the Corporation and each of its subsidiaries in all respects and for all purposes.

I am the Secretary of the Board of Trustees of START Treatment & Recovery Centers, Inc. and I certify that the above resolutions were adopted by the Board at its meeting held on Tuesday, August 13, 2024, and that these resolutions remain in effect.

Sign:  DF38C6A74AA74ED...

Name: Jennifer Norman

Title: Secretary of the Board of Trustees
START Treatment & Recovery Centers, Inc.

Dated: 8/29/2024

**CERTIFIED RESOLUTION OF THE
BOARD OF TRUSTEES OF
START TREATMENT & RECOVERY CENTERS, INC.**

On Monday, June 3, 2024, at a duly noticed meeting of the Board of Trustees (the "Board") of START Treatment and Recovery Centers, Inc. ("START" or the "Company"), at which a quorum was present, and on motion duly made and seconded, the following resolution was adopted by vote of a majority of the Board, given that voting rights of the Company are held solely by the Board, and there are no members of the Company with or without voting rights; and

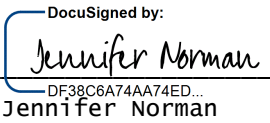
WHEREAS, in accordance with and as permitted under Section 708 of the New York Not-For-Profit Corporation Law, the Board desires to amend the Corporation's certificate of incorporation to include authority to develop, operate, and promote supportive and affordable housing, and economic development and revitalization programs.

NOW, THEREFORE, BE IT RESOLVED, that the Board, adopt the following amendment to the Corporation's certificate of incorporation:

RESOLVED, that the certificate of incorporation filed with the New York State Department of State is amended to enlarge the purposes for which the Corporation has been formed to allow the Corporation to develop, operate, and promote supportive housing, affordable housing, and economic development and revitalization programs.

RESOLVED, that any and all actions taken by the proper officers prior to the date of adoption of the foregoing resolutions which would have been authorized by the foregoing resolutions but for the fact that such actions were taken prior to such date, be, and each hereby is, ratified, approved, confirmed and adopted as a duly authorized act of the Company and each of its subsidiaries in all respects and for all purposes.

I am the Secretary of the Board of Trustees of START Treatment & Recovery Centers, Inc. and I certify that the above resolutions were adopted by the Board at its meeting held on Monday, June 3, 2024 and that these resolutions remain in effect.

Sign:  _____
Name: _____
Title: Secretary of the Board of Trustees
START Treatment & Recovery Centers, Inc.
Dated: 8/29/2024 _____

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 5th day of December 2024, approves the filing of the Restated Certificate of Incorporation of The Start Treatment and Recovery Centers Inc., dated August 29, 2024.



MEMORANDUM

To: Colleen Leonard, Executive Secretary
Public Health and Health Planning Council

From: Sarah Gold, Senior Attorney
Bureau of Program Counsel

Date: November 7, 2024

Subject: Proposed Amendment to Certificate of Incorporation for The Door – A Center of Alternatives, Inc.

This is to request that the above matter be included on the agendas for the next Establishment and Project Review Committee and Public Health and Health Planning Council (PHHPC) meetings.

The attachments relating to this matter include the following:

- 1) Memorandum to the Public Health and Health Planning Council from Kathy Marks, General Counsel;
- 2) A photocopy of a letter from Legal Counsel requesting consent to the proposed Amendment of Certificate of Incorporation of The Door – A Center of Alternatives, Inc. dated June 10, 2024;
- 3) The proposed amended Articles of Incorporation for The Door – A Center of Alternatives, Inc. and Resolution of the Board adopting the amended Articles of Incorporation.
- 4) A photocopy of the consent to filing by The State Education Department for an amendment seeking a name change from International Center for Integrative Studies, Inc. to The Door – A Center of Alternatives, Inc. dated September 4, 1991;
- 5) A photocopy of the Restated Certificate of Incorporation of the International Center for Integrative Studies, Inc. dated March 4, 1991.
- 6) A photocopy of a letter from the Department of State granting a waiver of jurisdiction under the Not-For-Profit Corporation Law dated October 17, 1991;
- 7) A photocopy of a letter from the New York State Department of Social Services waiving approval for the restated Certificate of Incorporation dated March 18, 1991, as well as a letter from the New York State Insurance Department waiving approval of the same, dated March 12, 1991.
- 8) A photocopy of a letter from the Public Health Council granting consent to file the Restated Certificate of Incorporation dated July 29, 1991;
- 9) A photocopy of a letter from DOH that the Commissioner need not grant consent for the document to be filed dated August 14, 1991.
- 10) A photocopy of the Amendment of the Certificate of Incorporation of The Door – A Center of Alternatives, Inc. where the corporation converted from a non-membership corporation to a membership corporation dated January 18, 2001.

MEMORANDUM

To: Public Health and Health Planning Council

From: Kathy Marks, General Counsel *KSM*

Date: November 7, 2024

Subject: Proposed Amendment to the Certificate of Incorporation for The Door – A Center of Alternatives, Inc.

The Door – A Center of Alternatives, Inc. requests Public Health and Health Planning Council (“PHHPC”) approval of its proposed amendment in accordance with the requirements of Not-For-Profit Corporation Law § 404.

The Door – A Center of Alternatives, Inc. (“The Door”) is a New York not-for-profit corporation formed on July 9, 1962. The Door is seeking to amend its Certificate of Incorporation to enlarge the organization’s purposes to include the operation of a mental health facility under Article 31 of the Mental Hygiene Law. The Door is currently applying with the Office of Mental Health (“OMH”) for an operating certificate and as part of that process The Door is required to amend its Certificate of Incorporation accordingly.

Because the Public Health Council previously approved the filing of amendments to the Certificate of Incorporation of The Door, PHHPC must also approve this amendment. If approved by PHHPC, the amendment will be submitted to the Department of State for approval and filing, once final OMH approval is obtained.

There is no legal objection to the proposed amendment. The required documents are attached.

Attachments.

Kathleen A. Masters, Esq.

135 Eastern Parkway 14L
Brooklyn, NY 11238

917 805 7411

kathleenamasters@gmail.com

June 10, 2024

Director, Bureau of Health Facility Planning and Development
NYS Department of Health
Corning Tower, Rm 2484
Empire State Plaza
Albany, New York 12237-0026

Re: Consent to Amendment of Certificate of Incorporation

Dear Sir or Madam,

I represent The Door-A Center for Alternatives, Inc. as Outside General Counsel. In that capacity I have been asked to assist them in filing an amendment to the organizations' Certificate of Incorporation. The amendment will enlarge the organization's purposes to include the operation of a mental health facility under Article 31 of the Mental Hygiene Law. The Door is in the final stages of its application for the operating certificate and is required to amend its certificate.

Because previous amendments and restatements of the Certificate of Incorporation required a consent from the Public Health Council, I believe that such a consent is required under N-PCL Section 404.

I have attached a copy of the proposed Certificate of Amendment. Please let me know if you need anything further to process this.

I will appreciate it if you can return the consent to me at the following address:

Kathleen A. Masters, Esq
1 Renfrew Lane
East Hampton, NY 11937

I can be reached by email at Kathleenamasters@gmail.com or
by phone at 917 805 7411. Thank you for your attention to
this matter.

Sincerely,

Kathleen A. Masters, Esq.

CERTIFICATE OF AMENDMENT OF THE
CERTIFICATE OF INCORPORATION
OF THE DOOR- A CENTER OF ALTERNATIVES, INC.

Under Section 803 of the Not- for- Profit Corporation Law

- FIRST The name of the Corporation is The Door-A Center for Alternatives, Inc. (the “Corporation”). The name under which the Corporation was formed is International Center for Integrative Studies, Inc.
- SECOND The Certificate of Incorporation was filed by the Department of State on July 9, 1962. The Certificate of Incorporation was amended by a Certificate of Amendment filed by the Department of State on October 28, 1982. The Certificate of Incorporation was amended and restated in its entirety by a Restated Certificate of Incorporation filed by the Department of State on November 8, 1991. The Certificate of Incorporation was amended by a Certificate of Amendment filed by the Department of State on January 18, 2001. The Certificate of Incorporation was amended by a Certificate of Amendment filed by the Department of State on November 4, 2020.
- THIRD The Certificate of Incorporation is amended as follows:
- Section 3 of the Certificate of Incorporation is hereby amended to include the following:
- Section 3.9—To operate programs for the mentally disabled pursuant to Article 31 of the Mental Hygiene Law and the rules and regulations adopted pursuant thereto, as each may be amended from time to time, which shall require as a condition precedent before engaging in the conduct of such services , an Operating Certificate from the New York State Office of Mental Health and the Corporation may not establish any such facility or program without first obtaining such Operating Certificate.
- FOURTH The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the Corporation is The Door-A Center for Alternatives, Inc., 121 Avenue of the Americas, New York, New York 10013.
- FIFTH The Certificate of Amendment was authorized by the Board of Directors.

IN WITNESS THEREOF, this Certificate of Amendment is signed this 28 day of October 2024

The Door- A Center of Alternatives, Inc.

BY: 

Name: Benjamin Felt

Title: Board President

RESOLUTIONS OF THE BOARD OF DIRECTORS
OF THE DOOR-A CENTER OF ALTERNATIVES INC.

The undersigned, Ben Felt President of the Board of Directors of The Door-A center of Alternatives, Inc., (the "Corporation") a New York not-for-profit corporation, does hereby certify that the following resolutions were duly adopted by the Corporation on 10/28/24 and such resolutions have not been amended or rescinded and are now in full forces and effect:

RESOLVED, that the corporate purposes of the Corporation shall be modified as follows:

"To operate programs for the mentally disabled pursuant to Article 31 of the Mental Hygiene Law and the rules and regulations adopted pursuant thereto, as each may be amended from time to time, which shall require as a condition precedent before engaging in the conduct of such services, an Operating Certificate from the New York State Office of Mental Health and the corporation may not establish any such facility or program without first obtaining such Operating Certificate."; and it is further

RESOLVED, that a certificate of amendment to the Corporation's Certificate of Incorporation be filed with the appropriate State authorities in order to effect such change.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 28 day of October, 2024.

BY: 

President of the Board of Directors

The Door- A Center of Alternatives, Inc.



F911108000382

The University of the State of New York

STATE OF NEW YORK :
: ss.:
COUNTY OF ALBANY :

Pursuant to the provisions of section 804 of the Not-for-Profit Corporation Law, consent is hereby given to the restatement and amendment of the text of the certificate of incorporation of INTERNATIONAL CENTER FOR INTEGRATIVE STUDIES, INC., which includes a change of corporate purposes and name to THE DOOR - A CENTER OF ALTERNATIVES, INC., as set forth in the annexed restated and amended certificate of incorporation.

This consent to filing, however, shall not be construed as approval by the Board of Regents, the Commissioner of Education or the State Education Department of the purposes or objects of such corporation, nor shall it be construed as giving the officers or agents of such corporation the right to use the name of the Board of Regents, the Commissioner of Education, the University of the State of New York or the State Education Department in its publications or advertising matter.

This consent to filing is granted with the understandings and upon the conditions set forth on the reverse side of this form.

IN WITNESS WHEREOF this instrument is executed
and the seal of the State Education Department is
affixed this 4th day of September, 1991.

Thomas Sobol
Commissioner of Education

By: *Richard L. Nabozny*
Richard L. Nabozny
Senior Attorney



RESTATED CERTIFICATE OF INCORPORATION
OF
INTERNATIONAL CENTER FOR INTEGRATIVE STUDIES, INC.

Pursuant to Section 805 of the
Not-for-Profit Corporation Law

FIRST: Name. The name of the corporation is International Center for Integrative Studies, Inc. (the "Corporation").

SECOND: Date of Filing. The Certificate of Incorporation of the Corporation was filed by the New York Department of State, Albany, New York, on July 9, 1962, the Corporation was formed under the Membership Corporations Law of the State of New York, and the Certificate of Incorporation of the Corporation was amended pursuant to a Certificate of Amendment of the Certificate of Incorporation, filed in the Department of State on October 28, 1982.

THIRD: Amendments. This Restated Certificate of Incorporation of the Corporation restates the text of the Certificate of Incorporation of the Corporation, as the same may have been previously amended or changed (such Certificate of Incorporation together with any such previous amendments thereto, being hereinafter referred to as the "Existing Certificate of Incorporation"), to effect amendments authorized by Article 8 of the New York Not-for-

Profit Corporation Law (the "NPCL"), which amendments include (i) amendments of the Corporation's name, purpose, powers, (ii) the changing of the Corporation from a membership corporation to a non-membership corporation, and (iii) the addition of provisions (a) stating the Corporation's intent to remain qualified under Section 501(c)(3) of the Code (as defined below), (b) prohibiting propaganda by the Corporation, (c) requiring certain action(s) in the event the Corporation is determined to be a "private foundation," or in the event the Corporation is dissolved, liquidated or terminated, (d) fixing the number of directors, (e) designating the address to which the Secretary of State should mail copies of notices, and (f) specifying the duration of the Corporation.

FOURTH: Manner of Authorization. This amendment and restatement of the Existing Certificate of Incorporation was authorized by the unanimous written consent of all of the members of the Corporation entitled to vote thereon.

FIFTH: Restatement. Pursuant to the provisions of Article 8 of the NPCL, the full text of the Existing Certificate of Incorporation is hereby amended and restated as herein set forth in full:

1. Name. The name of the Corporation is
THE DOOR - A CENTER OF ALTERNATIVES, INC.

2. Type of Corporation. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the NPCL in that it is not formed for pecuniary profit or financial gain, and no part of the assets, income or profit of the Corporation is distributable to, or inures to the benefit of its directors or officers or any private person except to the extent permissible under the NPCL; provided, however, that this paragraph 3 shall not prevent the payment to any such person of reasonable compensation for services rendered to or for the Corporation in effecting any of its purposes. The Corporation is a Type B Not-for-Profit Corporation under Section 201 of the NPCL.

3. Purposes. The purposes for which the Corporation is formed are to conduct the following activities which are exclusively charitable, scientific, literary and educational, as those terms are defined in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder or the corresponding provision of any future United States internal revenue law, including the regulations promulgated thereunder (collectively the "Code"), except as may be limited by the NPCL, such activities to include, but not be limited to, the following:

(1) To establish, maintain and operate a diagnostic and treatment center located in New York County, New York, engaged principally in providing services for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition;

(2) To establish, maintain and provide educational programs and services to youth;

(3) To provide a variety of general and professional services to youth;

(4) To provide any other social, welfare, educational or medical services which may aid youth in their development;

(5) To operate a substance abuse program within the meaning of Article 19 of the Mental Hygiene Law and the Rules and Regulations adopted pursuant thereto, as each may be amended from time to time;

(6) To solicit, collect and receive moneys or other property, or any estate therein, legal or equitable, and to hold the same and distribute it or the income therefrom, for the promotion of the purposes for which the Corporation is formed;

(7) To do all other necessary and appropriate things to achieve any or all of the purposes for which the Corporation is formed; and

(8) To engage in any and all lawful activities incidental to the purposes for which the Corporation is formed, including, but not limited to, entering into any and all appropriate contracts, agreements and arrangements necessary to effectuate the purposes for which the Corporation is formed and dealing with any appropriate governmental agencies and any other persons or entities necessary or desirable to undertake the foregoing.

4. Additional Powers. As a means of accomplishing the foregoing purposes, the Corporation shall have all of the powers set forth in Article 2 of the NPCL,

as the same may be amended, together with the power to solicit grants and contributions, and shall exercise such powers which are now or hereafter may be conferred by law upon a corporation organized for the purposes hereinabove set forth, or necessary or incidental to the powers so conferred, or conducive to the powers so conferred, or conducive to the attainment of the purposes of the Corporation, subject to such limitations as may be prescribed by law, by this Restated Certificate of Incorporation or the by-laws of the Corporation; provided, however, that nothing herein contained shall authorize the Corporation, directly or indirectly, to engage in or include among its purposes, any of the activities specified in paragraphs (b)-(u) of Section 404 of the NPCL or in Section 460-a of the Social Services Law of the State of New York without the consent or approval of the appropriate authority.

5. Qualification. It is the intention of the Corporation to qualify and remain qualified at all times as an organization described in Section 501(c)(3) of the Code.

6. No Propaganda. Except to the extent permitted by the Code, the Corporation shall not carry on propaganda or otherwise attempt to influence legislation. The Corporation shall not participate in or intervene in

(including by the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

7. Private Foundation. During any period that the Corporation is determined to be a "private foundation" as defined in Section 509 of the Code, the Corporation, in accordance with the following Sections thereof, shall: (a) distribute such amounts for each taxable year at such time and in such manner as not to subject the Corporation to tax on undistributed income under Section 4942 of the Code; (b) not engage in any act which is subject to tax as self-dealing under Section 4941 of the Code; (c) not retain any holdings which are subject to tax as excess business holdings under Section 4943 of the Code; (d) not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and (e) not make any taxable expenditures which are subject to tax under Section 4945 of the Code.

8. Dissolution, Liquidation, Termination. Upon the dissolution, liquidation, termination or winding up of the Corporation (whether voluntary or involuntary or by operation of law), and after the payment of all debts and liabilities, the Board of Directors of the Corporation shall dispose of all the property or assets of the Corporation in furtherance of the purposes of the Corporation in such

manner, or to such organization or organizations qualified under Section 501(c)(3) of the Code, as the Board of Directors shall determine. Any such assets or property not so distributed shall be disposed of in accordance with the direction of a court of competent jurisdiction in such manner as will best accomplish the purposes for which the Corporation was formed. None of the property or assets of the Corporation shall be made available in any way to any trustee, director or officer of the Corporation or to any private individual.

9. Location. The office of the Corporation is to be located in the County of New York, State of New York.

10. Activity. The territory in which the Corporation's activities are principally to be conducted is the United States of America.

11. Directors. The number of Directors on the Board of the Corporation shall be fixed by, or determined in accordance with, the by-laws of the Corporation, and in any case shall be not less than three (3).

12. Secretary of State as Agent. The Secretary of State of the State of New York is hereby designated as agent of the Corporation upon whom process against the Corporation may be served. The Post Office

address to which the Secretary of State shall mail a copy of any process against the Corporation served him or her is:
The Door - A Center of Alternatives, Inc., 121 Avenue of the Americas, New York, New York 10013.

13. Members. The Corporation shall have no members.

14. Duration. The duration of the Corporation is to be perpetual.

15. Amendment to the By-Laws. The by-laws of the Corporation may be altered, amended, restated or repealed, or new by-laws may be adopted, at any meeting of the Board of Directors of the Corporation at which a quorum is present by a majority vote of the Directors present.

~~17. Consents. Endorsed on or annexed to the Existing Certificate of Incorporation were: (a) the consents of the Education Department of the State of New York and of the Attorney General of the State of New York, and (b) the approval of a Justice of the Supreme Court of the State of New York; and prior to delivery of this Restated Certificate of Incorporation to the Department of State for filing, the consents of the Public Health Council of the State of New York, the Education Department of the State of New York and the Attorney General of the State of New York, and the approval of a Justice of the Supreme Court~~

10

AS
FC

~~of the State of New York, will be endorsed upon or annexed~~
~~hereto.~~

IN WITNESS WHEREOF, we hereunto sign our names and
affirm that the statements made herein are true under the
penalties of perjury, this 4th day of March, 1991.

INTERNATIONAL CENTER FOR
INTEGRATIVE STUDIES, INC.

Lamar C. Carter
President

George A. Christie
Secretary

COUNTY OF NEW YORK)
) ss.:
 COUNTY OF NEW YORK)

On the 4th day of March, 1991, before me came Lamar C. Carter, to me known, who being by me duly sworn, did depose and say that he resides at One Washington Square Village, New York, New York, that he is the President of INTERNATIONAL CENTER FOR INTEGRATIVE STUDIES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.


 Notary Public

CHARLES D. TERRY
 Notary Public, State of New York
 No. 31-935555
 Qualified in New York County
 Commission Expires Oct. 31, 1992

COUNTY OF NEW YORK)
) ss.:
 COUNTY OF NEW YORK)

On the 4th day of March, 1991, before me came George A. Christie, to me known, who being by me duly sworn, did depose and say that he resides at 55 East Ninth Street, New York, New York, that he is the Secretary of INTERNATIONAL CENTER FOR INTEGRATIVE STUDIES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.


 Notary Public

CHARLES D. TERRY
 Notary Public, State of New York
 No. 31-935555
 Qualified in New York County
 Commission Expires Oct. 31, 1992

The undersigned has no objection to the granting of judicial approval hereon and waives statutory notice.

Dated: _____, 1991

Robert Abrams
Attorney General of the
State of New York

THE UNDERSIGNED HAS NO OBJECTION
TO THE GRANTING OF JUDICIAL
APPROVAL HEREON AND WAIVES
STATUTORY NOTICE.

By: _____
Assistant Attorney General
of the State of New York

ROBERT ABRAMS, ATTORNEY GEN.,
STATE OF NEW YORK

by Laura Wena
October 24, 1991
ASSISTANT ATTORNEY GENERAL

XAVIER C. RICCOBONO

I, _____, a Justice of the Supreme Court of the State of New York, First Judicial District, do hereby approve the foregoing Restated Certificate of Incorporation of INTERNATIONAL CENTER FOR INTEGRATIVE STUDIES, INC., and consent that the same be filed.

Dated: ~~Oct 31, 1991~~

NOV 7 - 1991

Xavier C. Riccobono
Justice of the Supreme Court
of the State of New York

FIRST JUDICIAL DISTRICT

XAVIER C. RICCOBONO



STATE OF NEW YORK
DEPARTMENT OF STATE
ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER
SECRETARY OF STATE

October 17, 1991

Andrew L. Jagoda, Esq.
c/o Paul, Weiss, Rifkind,
Wharton & Garrison
1285 Avenue of the Americas
New York, New York 10019 - 6064

Dear Mr. Jagoda:

Re: International Center for Integrative Studies, Inc.

WAIVER OF JURISDICTION

This is in reply to your letter addressed to Edward Rook, Esq., of this office, dated September 23, 1991. You requested a waiver of jurisdiction under Not-for-Profit Corporation Law (N-PCL), Section 404(s).

It is our determination that the statement of purposes contained in the Restated Certificate of Incorporation of the above-referenced organization would not render the corporation subject to the approval of the Secretary of State under N-PCL Section 404(s). That section requires the Secretary's approval where a not-for-profit corporation will have the purposes of: (1) studying, preventing or combatting juvenile delinquency; (2) studying or preventing poverty; (3) relieving or reducing youth unemployment; (4) promoting or providing employment for youth; or (5) soliciting contributions for any of the foregoing purposes.

The stated purposes of the above-referenced corporation, being the establishment and maintenance of a diagnostic treatment center, the establishment of educational programs and services for youth in general, the operation of a substance abuse program, and the solicitation of contributions for such purposes, do not fall within the purview of Section 404(s).

Please include a copy of this letter with your submission of the Certificate of Incorporation, to our Corporations Division for filing.

Very truly yours,
Harry J. Willis
Harry J. Willis
Associate Counsel

HJW:mel

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NEW YORK STATE

DEPARTMENT OF SOCIAL SERVICES

40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001

CESAR A. PERALES
Commissioner



SUSAN V. DEMERS
Deputy Commissioner
and General Counsel
(518) 474-9493

March 18, 1991

Laurie F. Golub
Paul, Weiss, Rifkind, Wharton and Garrison
1285 Avenue of the Americas
New York, New York 10019-6064

Re: Restated Certificate of Incorporation The Door - A Center of
Alternatives, Inc. (formerly known as International Center for
Integrative Studies, Inc.)

Dear Ms. Golub:

The executed original proposed restated certificate of incorporation of the above-named corporation has been given careful consideration and I am of the opinion that an executed original certificate containing the same statement of purposes as those submitted in the draft would not require the approval of the State Department of Social Services under the provisions of the statutes. If otherwise in proper form, such an executed original certificate should be received for filing by the Secretary of State, provided the approval of a Justice of the Supreme Court is endorsed thereupon or annexed thereto.

The proposed wording of the purposes is set forth in your draft certificate as follows:

4. Purposes. The purposes for which the Corporation is formed are to conduct the following activities which are exclusively charitable, scientific, literary and educational, as those terms are defined in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder or the corresponding provision of any future United States internal revenue law, including the regulations promulgated thereunder (collectively the "code"), except as may be limited by the NPCL, such activities to include, but not be limited to, the follows:

(1) To establish, maintain and operate a diagnostic and treatment center located in New York County, New York, engaged principally in providing services for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition;

(2) To establish, maintain and provide educational programs and services to youth;

(3) To provide a variety of general and professional services to youth;

(4) To provide any other social, welfare, educational or medical services which may aid youth in their development;

(5) To operate a substance abuse program within the meaning of Article 19 of the Mental Hygiene Law and the Rules and Regulations adopted pursuant thereto, as each may be amended from time to time.

(6) To solicit, collect and receive moneys or other property, or any estate therein, legal or equitable, and to hold the same and distribute it or the income therefrom, for the promotion of the purposes for which the Corporation is formed;

(7) To do all other necessary and appropriate things to achieve any or all of the purposes for which the Corporation is formed; and

(8) To engage in any and all lawful activities incidental to the purposes for which the Corporation is formed, including but not limited to, entering into any and all appropriate contracts, agreements and arrangements necessary to effectuate the purposes for which the Corporation is formed and dealing with any appropriate governmental agencies and any other persons or entities necessary or desirable to undertake the foregoing.

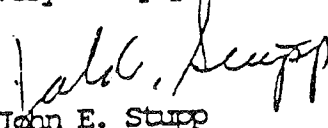
5. Additional Powers. As a means of accomplishing the foregoing purposes, the Corporation shall have all of the powers set forth in Article 2 of the NPCL, as the same may be amended, together with the power to solicit grants and contributions and shall exercise such powers which are now or hereafter may be conferred by law upon a corporation organized for the purposes hereinabove set forth, or necessary or incidental to the powers so conferred, or conducive to the powers so conferred, or conducive to the attainment of the purposes of the Corporation, subject to such limitations as may be prescribed by law, by this Restated Certificate of Incorporation or the by-laws of the Corporation; provided, however, that nothing herein contained shall authorize the Corporation, directly or indirectly, to engage in or include among its purposes, any of the activities specified in paragraphs (b) - (u) of Section 404 of the NPCL or in Section 460-a of the Social Services Law of the State of New York without the consent or approval of the appropriate authority.

This letter is not to be construed as an approval by the State Department of Social Services, or any officer of the Department, but as a statement that the approval of the State Department of Social Services would not be required for a restated certificate of incorporation containing the foregoing statement of purposes. When it is apparent on the face of a certificate that approval of the Department is not required under the provisions of the statutes, it has been the policy of the Department to indicate neither approval nor disapproval.

You may send the executed original restated certificate of incorporation to the Secretary of State together with this letter.

If your organization intends to solicit contributions in this State, please contact the Charities Registration Section of the Department of State. That office will advise you whether or not the organization is required to register with the Secretary of State pursuant to Article 7-A of the Executive Law.

Very truly yours,


John E. Stupp
Deputy Counsel
Bureau of Child Welfare
Services Law

Enclosure

JES/WJO'C:rj



STATE OF NEW YORK
INSURANCE DEPARTMENT

AGENCY BUILDING ONE
THE GOVERNOR NELSON A. ROCKEFELLER
EMPIRE STATE PLAZA
ALBANY, NEW YORK 12257

SALVATORE R. CURIALE
Superintendent of Insurance

March 12, 1991

Laurie F. Golub, Esq.
Paul, Weiss, Rifkind, Wharton
& Garrison, Esqs.
1285 Avenue of the Americas
New York, NY 10019-6064

Re: Certificate of Incorporation of International Center for
Integrative Studies, Inc. Revised to Reflect Director of
The Department of Substance Abuse Services Changes

Dear Madam:

This is in response to your letter of March 11, 1991, requesting this
Department's approval of the above captioned Restated Certificate of
Incorporation.

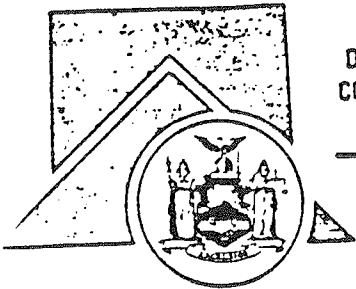
As the purposes of the corporation are not those requiring the Insurance
Department's approval pursuant to Section 404(c) and/or (l) nor does the name
require the Department's approval pursuant to Section 301 of the Not-For-
Profit Corporation Law, I know of no authority or requirements for approval by
the Insurance Department.

I am returning your document herewith.

Very truly yours,

Robert A. Ginnelly
Associate Attorney
Office of General Counsel
Albany Office

amc
Enc.



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

July 29, 1991

Ms. Laurie F. Golub
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019-6064

Re: Restated Certificate of Incorporation of International Center for
Integrative Studies, Inc.

Dear Ms. Golub:

AFTER INQUIRY and INVESTIGATION, and in accordance with action taken at a meeting of the Public Health Council held on the 26th day of July, 1991, I hereby certify that the Public Health Council consents to the filing of the Restated Certificate of International Center for Integrative Studies, Inc. hereafter to be known as The Door - A Center of Alternatives, dated March 4, 1991.

Sincerely,

Karen S. Westervelt
Executive Secretary

RESOLUTION

RESOLVED, that the Public Health Council, on this 26th day of July, 1991, approves the filing of the Restated Certificate of Incorporation of International Center of Integrative Studies, Inc., hereafter to be known as The Door - A Center of Alternatives, dated March 4, 1991.

State of New York
Division of Substance Abuse Services
Albany, New York

Know All Persons By These Presents:

Pursuant to the provisions of Paragraph (U) of Section 404 of the Not-For-Profit Corporation Law, consent is hereby given to the filing with the Department of State of the annexed:

Restated

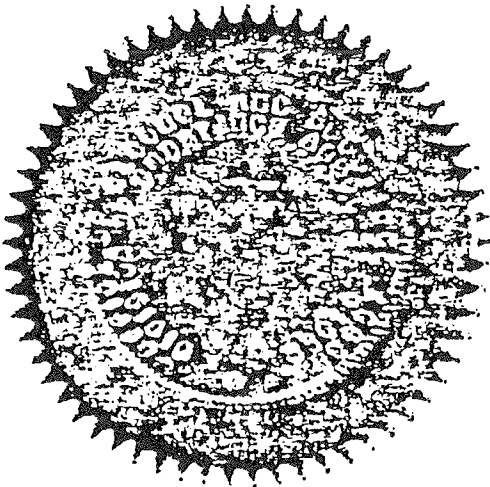
Certificate of Incorporation

Of

INTERNATIONAL CENTER FOR INTEGRATIVE STUDIES, INC.

Under Section 805 of the Not-For-Profit Corporation Law

This consent to filing shall in no way be construed as an authorization for the corporation to operate a substance abuse program for which a certificate of approval may be necessary pursuant to the provisions of Mental Hygiene Law, Section 23.01.



IN WITNESS WHEREOF this instrument is executed and the Seal of the State Division of Substance Abuse Services is affixed this 13th day of March, 1991.

Arthur Y. Webb
Director

By: A. Thomas Storace

F 911108000382

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Application of International
Center for Integrative
Studies, Inc.

IC C
Andrew Jagoda

RESTATED CERTIFICATE
OF INCORPORATION

Paul, Weiss, Rifkind, Wharton & Garrison
Attorneys for

BILLED

911108000431

New York

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED NOV 02 1991
TAXS
BY: *ka*

1285 AVENUE OF THE AMERICAS • NEW YORK, N.Y. 10019

(212) 373-3000

All communications should be referred

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STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Lorna McBarnette
Executive Deputy Commissioner

August 14, 1991

Andrew L. Jagoda, Esq.
Paul, Weiss, Rifkind, Wharton
& Garrison
1285 Avenue of the Americas
New York, New York 10019-6064

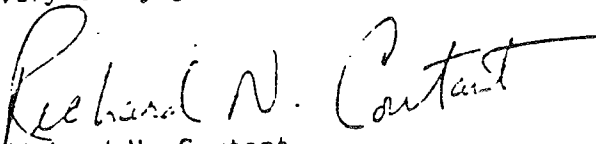
RE: Restated Certificate of Incorporation
of International Center for Integrated
Studies, Inc.

Dear Mr. Jagoda:

In your August 7, 1991 letter to Mr. Millock, you acknowledged receipt of a letter from the Public Health Council's Executive Secretary, dated July 29, 1991, informing you that the Council, at its July 26, 1991 meeting, consented to the filing of the above document. Such consent is required under Public Health Law §2801-a(1) and Not-for-Profit Corporation Law §404(o) and (t), since the statement of corporate purposes as set forth in paragraph 4 of the restated certificate includes the establishment, maintenance and operation of a diagnostic and treatment center located in New York State. You asked whether the Commissioner of Health must also consent to the filing of the document with the Secretary of State.

The subject Restated Certificate of Incorporation contains no statement of authorized activities or purposes for which the Consent of the Commissioner of Health is required under the Public Health Law or Not-for-Profit Corporation Law §404. The Secretary of State should, therefore, accept the above certificate for filing when presented with the consent letter from the Public Health Council attached, together with all other statutorily required consents or approvals, without also requiring the consent of the Commissioner of Health.

Very truly yours,


Richard N. Coutant
Attorney

tlh

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AMENDMENT OF THE
CERTIFICATE OF INCORPORATION
OF

THE DOOR - A CENTER OF ALTERNATIVES, INC.

Pursuant to Section 803 of the
Not-for-Profit Corporation Law

(1) Name. The name of the corporation is The Door - A Center Of Alternatives, Inc. (the "Corporation"). The Corporation was formed under the name International Center for Integrative Studies, Inc.

(2) Date of Filing. The Certificate of Incorporation of the Corporation was filed by the New York Department of State, Albany, New York, on July 9, 1962 under the name of International Center for Integrative Studies, Inc.; the Corporation was formed under the Membership Corporations Law of the State of New York; the Certificate of Incorporation of the Corporation was amended pursuant to a Certificate of Amendment of the Certificate of Incorporation, filed in the Department of State on October 28, 1982; and the Certificate of Incorporation of the Corporation was amended and restated in its entirety pursuant to a Restated Certificate of Incorporation, filed

in the Department of State on November 8, 1991 and pursuant to which the name of the Corporation was changed to The Door - A Center of Alternatives, Inc.

(3) Type of Corporation. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the New York Not-for-Profit Corporation Law (the "NPCL"); the Corporation is a Type B Not-for-Profit Corporation under Section 201 of the NPCL.

(4) Amendment. This Certificate of Amendment of the Certificate of Incorporation is being filed to effectuate an amendment authorized by Article 8 of the NPCL, which amendment converts the Corporation from a non-membership corporation to a membership corporation. To accomplish the foregoing, Section 13 of the Certificate of Incorporation of the Corporation relating to its membership status is hereby amended in its entirety to read as follows:

"13. Members. The members of the Corporation shall constitute such persons, corporations, joint-stock associations, unincorporated associations or partnerships as, from time to time hereafter, may become members in the manner provided in the by-laws of the Corporation."

(5) Manner of Authorization. This Amendment of the Certificate of Incorporation was authorized by the unanimous written consent of the Board of Directors of the Corporation.

(6) Secretary of State as Agent. The Secretary of State of the State of New York is hereby designated as agent of the Corporation upon whom process against the Corporation may be served. The Post Office address to which the Secretary of State shall mail a copy of any process against the Corporation served him or her is: The Door - A Center of Alternatives, Inc., 121 Avenue of the Americas, New York, New York 10013.

IN WITNESS WHEREOF, we hereunto sign our names
and affirm that the statements made herein are true under
the penalties of perjury, this 18th day of January,
2001.

THE DOOR - A CENTER OF
ALTERNATIVES, INC.



Name: Robert M. Howitt
Title: President



Name: Janice M. Nittoli
Title: Secretary

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 5th day of December 2024, approves the filing of the Certificate of Amendment of the Certificate of Incorporation of The Door- A Center of Alternatives Inc., dated October 28, 2024.



Project # 232236-B

**Central Nassau ASC LLC d/b/a Peakpoint Central Nassau
ASC**

Program: Diagnostic and Treatment Center

County: Nassau

Purpose: Establishment and Construction

Acknowledged: February 27, 2024

Executive Summary

Description

Central Nassau ASC LLC d/b/a Peakpoint Central Nassau Surgery Center (The Center), an existing Delaware limited liability company (LLC), requests approval to establish and construct a multi-specialty Article 28 freestanding ambulatory surgery center (FASC) at 371-377 Old Country Road, Carle Place (Nassau County). The FASC will specialize in orthopedic surgery (spine, sport, joint, and hand surgeries), neurosurgery, ENT surgery, urologic surgery, plastic surgery, podiatry surgery, general surgery, and pain management. The FASC will include four (4) operating rooms, 17 pre- and post-recovery cubicles, decontamination, sterile storage, reception/waiting, and support areas.

The proposed Center is a collaborative effort by Mount Sinai Health System (MSHS) and local physicians who already work with MSHS and other New York State hospitals. Projected procedures at the proposed facility are currently performed at various Mount Sinai facilities and other New York State hospitals in the downstate region.

The proposed ownership of the Center consists of 22 Class A members, 21 of which are first-level members collectively owning 45.725% ownership interest, one (1) second-level member, SK Central Nassau, Inc. (a New York corporation), whose sole member, Dr. Stelios Koutsoumbelis, will have a 3.267% ownership interest. Class B member includes Peakpoint Partners LLC (a Delaware LLC authorized to do business in New York State), which is comprised

of four (4) individual members, and Mount Sinai Ambulatory Ventures, Inc. (MSAV), a not-for-profit entity whose sole passive parent is the Mount Sinai Health System, collectively owning 51.0% ownership interest in the Center.

Michael Gorin, M.D., a Class A and First Level member and board-certified in urologic surgery, will be the Medical Director of the Center. All First Level members will be practicing physicians and are board-certified or board-eligible in their respective specialties. They have (or will have) admitting privileges at Mount Sinai South Nassau, which will serve as a backup hospital to the FASC. A Transfer Agreement has been provided.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 3,240 procedures in Year One and 3,437 in Year Three, with Medicaid at 8% and Charity Care at 2%.

Program Summary

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

Financial Summary

The total project cost of \$15,824,453 will be met with \$1,437,557 members' equity, a \$652,800 tenant improvement allowance from the landlord, and a bank loan for \$13,734,096 at 6.60% interest with a five-year term.

	<u>Year One</u>	<u>Year Three</u>
Budget:	<u>2026</u>	<u>2028</u>
Revenues	\$13,326,320	\$14,099,975
Expenses	<u>\$12,060,024</u>	<u>12,343,389</u>
Net Income/ (Loss)	\$1,266,296	\$1,756,586

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL.

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. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in NYSDOH BAER Drawing Submission Guidelines DSG-1.0 Required Schematic Design (SD) and Design Development (DD) Drawings, and 3.38 LSC Chapter 38 Business Occupancies Public Use, for review and approval. [DAS]
3. Submission of an executed loan commitment acceptable to the Department of Health. [BFA]
4. Submission of an executed working capital loan commitment acceptable to the Department of Health. [BFA]

Approval conditional upon:

1. This project must be completed by **November 15, 2026**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **August 15, 2026**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. 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]
5. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email hospinfo@health.ny.gov. [HSP]

Council Action Date

December 5, 2024

Need Analysis

Project Description

Central Nassau ASC LLC d/b/a Peakpoint Central Nassau ASC, an existing limited liability company, is seeking to establish and construct a multi-specialty, freestanding ambulatory surgical center at 371-377 Old Country Road, Carle Place, NY 11514 (Nassau County) offering orthopedic surgery (sport, joint, spine and hand surgery), pain management, neurosurgery, ENT surgery, urologic surgery, plastic surgery, general surgery and podiatric surgery. The Center will have four (4) operating rooms, 17 pre-operative and post-operative cubicles, and appropriate support functions.

Background and Analysis

The primary service area is Nassau County. The population of Nassau County is projected to increase to 1,429,023 by 2029 based on Cornell Program of Applied Demographics estimates. Demographics for the primary service area are noted below, including a comparison with New York State.

Demographics	Nassau County	New York State
Total Population-2022 Estimate	1,389,160	19,994,379
Hispanic or Latino (of any race)	17.2%	19.5%
White (non-Hispanic)	58.3%	53.8%
Black or African American (non-Hispanic)	11.0%	13.8%
Asian (non-Hispanic)	10.5%	8.8%
Other (non-Hispanic)	3.1%	4.1%

Source: 2022 American Community Survey (5-year Estimates Data Profiles)

In 2022, 96% of the population of Nassau County had health coverage as follows:

Employer Plans	58.9%
Medicaid	10.8%
Medicare	13.2%
Non-Group Plans	13%
Military or VA	0.201%

Source: Data USA

Ambulatory Surgery within a 3 Mile Radius of Proposed Center

Facility Name	Type	Patient Visits		
		2021	2022	2023
Garden City Surgi Center	ASC	7,066	7,127	7,238
Ainsworth Ambulatory Surgery Center (opened 8/2/22)	ASC	unavailable	unavailable	unavailable
NYU Langone Hospital-Long Island	Hospital	18,711	20,033	22,071
Nassau University Medical Center	Hospital	3,608	3,805	3,307
NYU Langone Hospital -Long Island Ambulatory Surgery Center	Hospital Ext Clinic	5,795	6,181	6,068
HSS Long Island Outpatient Center	Hospital Ext Clinic	1,008	1,549	1,911
Total Visits		36,188	38,695	40,595

Source: HFIS and SPARCS

All of the facilities listed above provide multi-specialty or single-specialty services that include at least one of the specialties proposed by the applicant. There are also two applications for providing one or more of the same specialty services in the CON process. These are CON 242008 Surgery Center of Long Island to establish and construct a multi-specialty ambulatory surgery center to provide orthopedic surgery and pain management (Under Review) and CON 231328 HSS Long Island ASC, LLC to establish and construct a single-specialty ambulatory surgery center for orthopedic surgery (Contingent Approval Letter Sent).

The applicant projects 3,240 procedures in Year One and 3,437 in Year Three, with Medicaid at 8% and Charity Care at 2% for the first and third years. This projection is based on the participating physicians' current caseload. It is expected that 55.2% of all proposed surgical cases will originate from Mount Sinai facilities, 24.7% from other New York State hospitals, and 20.1% from other Article 28 ASCs. The table below shows Year One and Three's projected payor source utilization.

Payor	Year One		Year Three	
	Volume	%	Volume	%
Comm ins FFS	1,166	36%	1,237	36%
Comm Ins MC	972	30%	1,031	30%
Medicare FFS	648	20%	687	20%
Medicare MC	65	2%	69	2%
Medicaid FFS	0	0%	0	0%
Medicaid MC	259	8%	275	8%
Private Pay	65	2%	69	2%
Charity Care	65	2%	69	2%

Central Nassau ASC LLC d/b/a Peakpoint Central Nassau ASC has a Transfer & Affiliation Agreement for backup and emergency services with Mount Sinai South Nassau, 11.3 miles and 24 minutes away. The participating physicians will all have admitting privileges at Mount Sinai South Nassau. The hours of operation will be Monday through Friday from 6:30 am to 5:00 pm, with an on-call service available 24 hours per day, seven days per week.

The applicant is seeking contracts with Fidelis, HealthFirst, Healthplus, HIP of Greater New York, MetroPlusHealth, Wellcare and VNS Choice SNP to provide services to Medicaid patients. They will provide charitable care to the uninsured and reduced fees to self-pay patients, as well as serve Medicaid patients. The Center will work collaboratively with other providers to develop referral mechanisms to ensure appropriate pre-operative and post-operative follow-up to promote continuity of care and recruit other providers to become credentialed to perform surgery at the Center.

Conclusion

Approval of this project will provide improved access to Ambulatory Surgery - Multi-Specialty services for the residents of Nassau County.

Program Analysis

Project Proposal

Proposed Operator	Central Nassau ASC LLC
To Be Known As	Peakpoint Central Nassau ASC
Site Address	371-377 Old Country Road, Carle Place, New York 11514 (Nassau County).
Specialties	Ambulatory Surgery - Multi-Specialty
Hours of Operation	Monday through Friday - 6:30 am to 5:00 pm; and On-call service available 24 hours per day, seven days per week
Staffing (1st Year / 3rd Year)	21.64 FTEs / 24.14 FTEs
Medical Director(s)	Michael Gorin, M.D.
Emergency, In-Patient, and Backup Support Services Agreement and Distance	Mount Sinai Hospital 11.3 miles / 24 minutes

The applicant projects 3,240 procedures in Year One and 3,437 in Year Three.

Each of the 22 physicians have signed the MD Volume Support Letters will be working at the proposed Center upon project approval. In addition to performing procedures in the Center, all 22 physicians will be partial owners of the Center. Other center staffing is listed below.

Staffing Categories	Year One	Year Three
Management & Supervision	1.14	1.14
Technician and Specialist	5.00	6.00
Registered Nurses	9.00	10.00
Aides, Orderlies & Attendants	1.00	1.00
Clerical and Administrative	5.50	6.00
Totals	21.64	24.14

The applicant submitted an executed Administrative Services Agreement (ASA) with Merritt Healthcare Holdings Peakpoint, LLC which will provide the administrative services for the Center. William Mulhall, Sarah Sanford, Matthew Searles, and Richard Searles, who are all owners in the proposed Center, are also associated with Merritt Healthcare Holdings Peakpoint, LLC.

The Center has provided an executed Transfer and Affiliation Agreement with Mount Sinai South Nassau, located at One Healthy Way, Oceanside, NY 11572 (Nassau County), which is approximately 11.3 miles / 24 minutes from the proposed Center.

Proposed Ownership in Central Nassau ASC LLC d/b/a Peakpoint Central Nassau Surgery Center is as follows:

1st Level Membership	
Name	% Ownership of 1st Level Member
Jorge Baez, M.D.	3.2670%
Scott Barbash, M.D.	2.0000%
Neal Gehani, M.D.	1.8165%
Michael Gorin, M.D.	3.0000%
Michael Herman, M.D.	2.5000%
Sam Huh, M.D.	1.8165%
Shazaan Hushmendi, M.D.	3.2670%
Jordan Kerker, M.D.	1.8165%
Sabbir Khan, D.O.	1.8165%
Yohan Lee, M.D.	1.8165%
Danny Meslamani, M.D.	1.8165%
Nathan Monhian, M.D.	1.8165%
Vijay Mukhija, M.D.	3.2670%
Crispin Ong, M.D.	1.8165%
Edward Papa, D.O.	1.8165%
Danny Seidman, M.D.	3.0000%
Araj Sidki, D.O.	1.8165%
Jason Tam, M.D.	1.8165%
Scott Weiner, D.O.	1.8165%
George Xipoleas, M.D.	1.8165%
HaeKang Yang, D.P.M.	1.8165%
SK Central Nassau, Inc. -Stelios Koutsoumbelis, M.D. 100%	3.2670%
Peakpoint Partners LLC -Mount Sinai Ambulatory Ventures, Inc.- 70.6% -William Mulhall - 8.10% -Sarah Sanford - 1.47% -Mathew Searles - 11.73% -Richard Searles - 8.10%	51.0000%

Mount Sinai Ambulatory Ventures, Inc. (MSAV), a not-for-profit entity, is a member of Peakpoint Partners LLC, which is a member of Central Nassau ASC LLC d/b/a Peakpoint Central Nassau Surgery Center, the operator of the proposed FASC. The Board Members/Officers of MSAV are Kelly Cassano, D.O., Jodi Cohen, Vicki LoPachin, M.D., Michael Pastier, Denise Prince, and Brent Stackhouse.

The Managing Members of Peakpoint Partners LLC are Brent Stackhouse, Kelly Cassano, D.O., Matthew Searles, and Richard Searles.

The Managing Members of Peakpoint Central Nassau Surgery Center are Rich Searles, William Mulhall, and Sarah Sanford.

Character and Competence:

Michael Adam Gorin, M.D. is the proposed Medical Director who earned an MD degree from the University of Miami Miller School of Medicine in 2011, received a bachelor's degree from the University of Michigan in 2005, and received certification from the American Board of Urology in 2022.

Dr. Gorin performed General Surgery postdoctoral work in the Department of Surgery at Johns Hopkins University School of Medicine; completed a Urology Residency in the Department of Urology at Johns

Hopkins University School of Medicine; and completed a Fellowship in Endourology and in Minimally Invasive Surgery at John's Hopkins University School of Medicine.

Currently, Dr. Gorin is a practicing urologist employed by the Mount Sinai Health System and an Associate Professor in the Department of Urology at the Icahn School of Medicine at Mount Sinai since 2022. Dr. Gorin has held several positions as an Adjunct Clinical Assistant Professor in the Department of Surgery at the Lake Erie College of Osteopathic Medicine, as a Clinical Assistant Professor in the Department of Urology at the University of Pittsburgh School of Medicine, as a Staff Urologist at Urology Associates & UPMC Western, and as an Assistant Professor with the Department of Urology at the John's Hopkins University School of Medicine.

Neal Chandurpal Gehani, M.D. received an MD degree from Albany Medical College in 2007, received a BS degree from the Rensselaer Polytechnic Institute in 2004, and completed a Residency at the University Hospital of Cleveland-Case Medical Center in 2008. Dr. Gehani is licensed to practice as a Medical-Otolaryngologist.

Dr. Gehani has been a practicing physician since October 2018 to present at ENT and Allergy Associates, a private Otolaryngology medical practice, and was a physician at Tri-County Medical Associates from 2012 to 2018.

Matthew (Matt) J. Searles received a BA degree in economics from the University of Virginia in 1992, a master's in business administration in general management from Duke University in 1997, and received two certifications in Investment Banking.

From 2008 to the present, Matthew Searles is the founder and the managing director at Merritt Healthcare Advisors ("MHA") in Ridgefield, Connecticut. Merritt Healthcare Advisors is a healthcare investment bank that focuses on Healthcare Services (specializing in mergers and acquisitions). From 2001 to the present, Matthew Searles is a partner at Merritt Healthcare Holdings, LLC ("MHH") and is a developer and manager of Ambulatory Surgery Centers in the Eastern US.

From 2012 to 2021, Matthew Searles was affiliated with six (6) Connecticut ASC(s) and with one (1) ASC facility in Maryland.

In New York, Merritt currently manages the Upper West Side GI Center in Manhattan, NY, and the Yorktown Ambulatory Surgery Center in Yorktown, NY. Matthew Searles also owns four (4) ASC(s) facilities and two (2) each in Connecticut and New York.

Daniel (Danny) Lee Seidman received a BS (Chemistry) degree from Vanderbilt University in 2007, an MD degree from Tulane University School of Medicine in 2011, completed a residency at Albert Einstein Medical Center in 2016, and completed a fellowship at UT Houston in 2017.

Dr. Seidman is currently employed at Central Orthopedic Group as an orthopedic foot and ankle surgeon since 2022; is currently a clinical associate professor of orthopedics at Hofstra School of Medicine since 2022; was an associate professor of orthopedics at Hofstra School of Medicine from 2019 to 2022; and was an executive on the Northwell Foot and Ankle committee from 2019 to 2022.

William F. Mulhall received certification as an Administrator Surgery Center (CASC) in 2012; received a BA degree in healthcare administration from Graceland University in 2002; completed an Associates Nurse degree from St. Vincent's College of Nursing in 1994; and received an associate degree in Paramedicine from Northern University in 1991.

William Mulhall is currently employed and is a partner at Merritt Healthcare Holdings, LLC since January 2003; was the Director of Nursing at the Wilton Surgery Center from 2005 to 2010; and was the Chief Procedural Nurse at the Pain Management Associates of Connecticut from 2002 to 2005. Merritt Healthcare Holdings, LLC is an ambulatory surgery center development company that operates multiple ASCs in the greater NY Metropolitan and New England area.

Jason Ho-Yin Tam M.D. received a BS degree (Biology) from Bucknell University in Lewisburg, Pennsylvania, in 2006 and an MD degree from the New York Medical College in Valhalla, NY, in 2010; is

board certified as an Orthopaedic Surgeon since 2018; completed a Residency at Westchester Medical Center in 2015; and completed a Fellowship at San Diego Arthroscopy and Sports Medicine.

Dr. Tam is currently employed as a Clinical Assistant Professor in Orthopaedic Surgery at Mount Sinai from 2019 to the present and was the Attending Orthopaedic Surgeon with Emanate Health (formerly known as Citrus Valley Health Partners) from 2016 to 2019.

HaeKang Yang, D.P.M. received a DPM degree from New York College of Podiatric Medicine in 2015; a BS degree from SUNY at Stony Brook in 2010; completed a Fellowship in Microsurgery at Asian Medical Center, South Korea, in 2018; completed a Residency at NYCHHC-Bellevue Hospital Center in 2018; and became board certified by the American Board of Podiatric Medicine in 2018.

Dr. Yang is currently employed as an Associate Podiatrist at Village MD/Summit Health since 2021 to the present; was an Associate Podiatrist at Medical Associates from 07/2021 to 11/2021; was an Associate Podiatrist at Thurber & Thurber in Elmira, NY, from 2018 to 2021; and was an Attending Podiatric Surgeon at Arnot Ogden Medical Center from 2018 to 2021.

Edward (Eddie) Papa, D.O. received a D.O. degree from the New York College of Osteopathic Medicine in 2012; a BS from Fairfield University in 2006; completed a Fellowship in Interventional Pain Medicine at the University of Michigan from 2016 to 2017; completed a Residency for Physical Medicine and Rehabilitation at Northwell Health System from 20013 to 2016; completed an Internship for Osteopathic at Nassau University Center from 2012 to 2013; and received board certification for Physical Medicine and Rehabilitation in 2017.

Dr. Papa is currently employed as an Assistant Clinical Professor in Pain Management at Mount Sinai Doctors Long Island from 2019 to the present and was an Assistant Clinical Professor of the Anesthesiology/Pain Management Department at Stony Brook Medicine from 2017 to 2018.

Scott Weiner, D.O. received a BA (Biology) degree from the University of Buffalo in 2003; a Doctor of Osteopathic (DO) Medicine degree from New York College of Osteopathic Medicine in 2012; completed a Fellowship at Johns Hopkins in 2020; and completed a Residency at Northwell Plainview Hospital in 2019.

Dr. Weiner is currently employed as an Attending Physician in the Division of Orthopedics and Sports Medicine at Summit Health since 2021 to the present; was the Attending Physician in the Department of Orthopedic Surgery at Franklin Memorial Hospital in 2021 and was a Clinical Instructor for the Department of Orthopedic Surgery at John Hopkins Hospital in Baltimore, Maryland from 2019 to 2020.

Richard J. Searles received a BA (Economics) degree from Wake Forest University in 2005 and is a registered Investment Banking Agent since 2012.

Richard Searles is currently the partner and chief financial officer for Merritt Healthcare since 2008, is a partner for Merritt Healthcare Advisors since 2008, and is a board member with the Connecticut Association of Ambulatory Surgery Centers since 2016 to present.

Michael P. Herman, M.D. received a BA degree from Harvard University in 2000 and an MD from UT Southwestern Medical Center in 2005.

Dr. Herman is currently employed as the director of Urology Oncology at Mount Sinai South Nassau since 2015 to present; was an Assistant Professor at Weill Cornell Medical College / NY Presbyterian Hospital from 2024 to 2015; and was an instructor at Weill Cornell Medical College / NY Presbyterian Hospital from 2011 to 2014.

Danny Mesleman, M.D. received a BS degree from the University of Michigan in 2022; received an MD from the Wayne State University School of Medicine in 2006; completed a Fellowship for Facial Plastic and Reconstructive Surgery at SUNY Upstate from 2011 to 2012; completed a Residency for the Department of Otolaryngology Head and Neck Surgery at Henry Ford Health System from 2002 to 2006; and received certification as an Otolaryngologist.

Dr. Meslemani is currently employed as an Attending Otolaryngologist / Facile Plastic Surgeon at ENT and Allergy Associates since 2022; was an Attending Otolaryngologist / Facile Plastic Surgeon at ENT Associates of New York from 2012 to 2022.

Stelios A. Koutsoumbelis, M.D. received a BS degree (Cell and Molecular Biology) from Tulane University in 2006; received an MD from the University of Akron in 2010; completed a Residency in the Department of Orthopedic Surgery at Northwell Health System in 2015; completed a Fellowship in the Department of Spine Surgery at the Hospital For Special Surgery Memorial Sloan Kettering Cancer Center in 2016; and became board certified in Orthopedic Surgery and Spinal Surgery.

Dr. Koutsoumbelis currently works as a professor and as chairman for Mount Sinai Icahn School of Medicine focusing on Orthopedic Surgery of the Spine at Mount Sinai Health System South Nassau Hospital since 2016. Dr. Koutsoumbelis is a partner with Central Orthopedic Group.

Jodi Cohen-Ansari received a BA (History / Law & Society) degree from Binghamton University in Binghamton, NY, in 1994 and a Master of Public Administration (Management) from New York University-Wagner School of Public Service in 1998.

Currently, Jodi Cohen-Ansari is employed as a System Senior Vice President of Business & Strategic Planning with Mount Sinai Health System from 2008 to the present and was a Vice President of Finance and Clinical Services at Saint Vincent's Hospital from 2001 to 2008.

Sarah J. Sanford received an MBA from The University of Hartford in 2014 and received a BS from Northeastern University in 2006. Currently, Sarah has been employed at Merritt Healthcare since 2015.

Denise Bachand Prince received an MBA and a Master of Public Health (MPH) at the University of California, Berkeley, in 1989 and a BA from Mount Holyoke College in 1984.

Currently, Denise Prince is employed as the Senior Vice-President and the Chief Operating Officer for Mount Sinai Health Partners and for New York Medical Partners ACO, LLC since 2017, and was the System Vice-President and CEO for the Geisinger Health System from 1990 to 2016. Denise is also the Chief Operating Officer with New York Medical Partners ACO, LLC, from 2022 to the present.

Michael J. Pastier received a B.B.A. (Accounting) degree from Pace University in 1984, is currently employed as the Senior Vice President/Chief Financial Officer of the Mount Sinai Health System, and serves as the Officer of Health First/Mount Sinai System since 2021.

Prior to this current position, Michael Pastier was the Senior Vice president and Chief Financial Officer with Mount Sinai Hospital from 2002 to 2015, was a Vice-President for Mount Sinai Hospital from 2000 to 2003, and was the director of Finance with Mount Sinai from 1987 to 2000.

Jorge Baez, M.D. received a BS degree from Stony Brook University in 1990, received an MD degree from New York University School of Medicine in 1994, completed an Adult Reconstruction Fellowship at Harvard Medical School in 2000, completed an Orthopedic Surgery Residency at NYU Hospital for Joint Disease in 1999, and is board certified with the American Board of Orthopedic Surgery since 2002.

Dr. Baez currently has a private practice at the Central Orthopedic Group specializing in Adult Reconstruction (out-patient procedures) in Rockville Centre (2015 to present), in Massapequa (2019 to present), and in Plainview since 2000; is the Chief and Co-Chief of the Orthopedic Department for Northwell Hospital since 2011 to present; is the Clinical Site Director of Orthopedic Residency Program at Northwell Hospital from 2012 to present; is the Clinical Assistant Professor in Orthopedic Surgery at Hofstra North Shore Long Island Jewish School of Medicine from 2012 to present; is the NYITCOM Clinical Assistant Professor for the Department of Surgery from 2014 to present; and is a Fellow of the American Association of Hip and Knee Surgeries from 2011 to present.

Jordan T. Kerker, M.D. received a BS degree from the University of Michigan in 2000, received an MD from Update Medical University in 2004, completed a Fellowship from Southern California Orthopedic

Institute in Van Nuys in 2010, and completed a Residency in Orthopedic Surgery at North Shore / Long Island Jewish Health System in 2010.

Dr. Kerker is a partner and an Orthopedic Surgeon at Central Orthopedic Group from 2010 to the present and is co-owner of Melville Surgery Center from 2012 to the present.

Shazaan F. Hushmendi, M.D. received an MD from Albany Medical College in Albany, NY, in 2013; received a BS (Psychology) from Rensselaer Polytechnic Institute in Troy, NY in 2013; completed residency at Albany Medical Center 2018; and completed a Fellowship at Lenox Hill Hospital in New York City, New York in 2019.

Dr. Hushmendi is currently employed as the Chief of Joint Replacement Surgery at Mount Sinai South Nassau from 2021 to present; is an Adult Reconstructive Surgeon at Central Orthopedic Group from 2019 to present; was an Adult Reconstruction Surgeon at Lenox Hill Hospital from 2018 to 2019; was a Resident of Orthopaedic Surgery at Albany Medical College; was a Doctor of Medicine at Albany Medical College from 2009 to 2013; is an Orthopedic Team Physician for Sports Medicine at Lenox Hospital since 2018 to present, was an Orthopaedic Physician at St. Peter's Hospital from 2016 to 2018; and was the Assistant Team Physician at Rensselaer Polytechnic Institute from 2016 to 2018. Dr. Hushmendi also makes Educational Trips to the University of Gitwe Medical School, Rwanda, Africa, since 2016 to present.

Nathan Monhian, M.D. received a BA degree from Yeshiva University in 1992, received an MD degree (Otolaryngology) from Cornell University Medical College in 1996, completed a Fellowship in Facial Plastic & Reconstructive Surgery at the University of Michigan in 2002, completed a Residency in Otolaryngology-Head and Neck Surgery at the University of California in 2001; and was a student of Medicine at Tehran University School of Medicine in Tehran, Iran from 1986 to 1989.

Dr. Monhian has a private practice in Otolaryngology and Facial Plastic Surgery from 2004 to the present and was employed at the Division of Otolaryngology-Head & Neck Surgery at ProHealth Medical Group from 2011 to 2014.

Araj F. Sidki, D.O. received a BS (Life Sciences) degree from the New York Institute of Technology in 2008; received an MS (Biological & Physical Sciences) at Touro College in 2011; received a Doctor of Osteopathic Medicine degree at the Touro College of Osteopathic Medicine (TOUROCOM) in 2015; completed a Fellowship at the Center for Advanced Pain Management and Rehabilitation in Interventional Spine and Sports from 2021 to 2022; completed a Residency at Flushing Hospital Medical Center in Internal Medicine from 2015 to 2016; and received licensure from the American Board of Physical Medicine and Rehabilitation in 2020.

Dr. Sidki is currently employed as a pain management physician at Central Orthopedic Group from 2022 to present, was a Physiatrist Consultant at Progressive Care Medical Group from 2019 to 2022, and was a General Physiatrist at Interventional Physical Medicine & Rehabilitation P.C. from 2019 to 2020.

Scott E. Barbash, M.D. received a BS degree at the University of Pennsylvania in 2004, received an MD degree at Albert Einstein College of Medicine in 2009, completed a Fellowship in the Division of Sports Medicine/Department of Orthopedic Surgery at the University of Virginia Medical Center in 2015, completed a Residency in the Department of Orthopaedic Surgery and Sports Medicine at the Temple University Hospital in 2014, and is certified by the American Board of Orthopaedic Surgery in 2017.

Currently, Dr. Barbash is employed as an Orthopaedic Surgeon with Central Orthopedic Group from 2017 to the present; was the Chief of the Department of Orthopaedic Surgery at Brookdale University Hospital and Medical Center in 2017, was an Assistant Professor in the Department of Orthopaedic Surgery and Rehabilitation Medicine at SUNY Downstate Medical Center from 2015 to 2017, was the director of Service in Orthopaedic Sports Medicine at Kings County Hospital Center from 2015 to 2017, and was the Attending Physician of the Division of Orthopaedic Surgery at VA Harbor Healthcare System from 2015 to 2017.

Vijay Mukhija, M.D. received a BS degree at Sophie Davis School of Biomedical Education / City University of NY in 2003; received a Master in Public Health (MPH) degree at Columbia University / Mailman School of Public Health in 2005; received an MD at Stony Brook University / State University of NY in 2006; completed a Fellowship in the Department of Otolaryngology at Mount Sinai School of Medicine in 2012; and completed a Residency in the Department of Otolaryngology at the Mount Sinai School of Medicine in 2011. Dr. Mukhija is board-certified by the American Board of Facial Plastic and Reconstructive Surgery and by the American Board of Otolaryngology.

Dr. Mukhija is a partner and Attending Otolaryngologist / Facial Plastic and Reconstruction Surgery at ENT and Allergy Associates from 2017 to the present and was an Attending Otolaryngologist / Facial Plastic and Reconstruction Surgery at the Ear, Nose and Throat Associates of NY from 2012 to 2017.

Sabbir R. Khan, D.O. received a BS degree from the New York Institute of Technology in 2022; received a Doctor of Osteopathic Medicine from the New York College of Osteopathic Medicine in 2005; completed a Fellowship at the Jefferson Medical College and Delaware University Biotechnology in 2011; completed a Residency at the Philadelphia College of Otolaryngology / Head and Neck Surgery Consortium; and became certified by the American Osteopathic Board of Otolaryngology / Head and Neck Surgery in 2011.

Currently, Dr. Khan is a Staff Physician at Huntington Hospital from 2013 to present, was a Staff Physician at ProHealth Surgery Center from 2012 to 2013, was a Staff Physician at NSLIJ Plainview Hospital from 2011 to 2013, is a Staff Physician at South Nassau Communities Hospital from 2011 to present, and has a private practice at ENT and Allergy Associates LLP from 2017 to present.

Vicki L. LoPachin, M.D. received an MBA (Health Services Management) from Hofstra University / Zarb School of Business in 2012; received a BS degree in Pharmacology from the University of Houston in 1988; received an MD from SUNY Stony Brook in 1993; and is board certified by the American Board of Internal Medicine since 1996.

Currently, Dr. LoPachin is the Senior Vice President and Chief Medical Officer at Mount Sinai Health System from 2016 to present; was the Senior Vice President and Chief Medical Officer for the Office for Excellence in Patient Care at Mount Sinai from 2013 to 2016; was the Medical Director for North Shore University Hospital from 2008 to 2013; and is an Attending Physician and Assistant Professor for the Department of Medicine at Mount Sinai School of Medicine from 2014 to present.

Kelly A. Cassano, D.O. received a BA degree from SUNY New Paltz in 1986; received a Doctor of Osteopathic Medicine from the University of New England in 1989; completed a Residency at St. Vincent's Hospital in 1997; and is board certified by the American Board of Internal Medicine in 1997.

Currently, Dr. Cassano is the Chief Executive Officer at Mount Sinai Doctors Faculty Practice from January 2021 to present; is the Senior Vice President of Ambulatory Operations at Mount Sinai Health System from June 2020 to present; is the Dean of Clinical Affairs / Icahn School of Medicine at Mount Sinai from June 2020 to present; is the Medical Director of Mount Sinai Doctors Downtown Union Square from 2014 to present; is an Associate Professor at the Icahn School of Medicine from 2014 to present; was the Chief of Ambulatory Care at Mount Sinai Downtown from 2014 to 2020; was the Senior Associate Dean of Clinical Affairs at Icahn School of Medicine at Mount Sinai from 2017 to 2020; and was the Associate Dean of Clinical Affairs at Icahn School of Medicine at Mount Sinai from 2014 to 2017.

Ong C. Crispin, M.D. received a BA (Economics) degree from Harvard College in 1999; received an MD degree from NYU School of Medicine in 2008; completed a Fellowship in Sports Medicine at Lenox Hill Hospital in 2014; completed an Orthopaedic Surgery Residency at NYU Hospital for Joint Diseases in 2013; and is board certified by the American Board of Orthopaedic Surgery.

Currently, Dr. Crispin is an Orthopaedic Surgeon in Sports Medicine at the Central Orthopedic Group from 2014 to present; and was an Associate in the Department of Corporate Swaps Marketing Group with JP Morgan Chase & CO from 1999 to 2002.

Sam K. Huh, M.D. received an MD from the Albert Einstein College of Medicine in 1994; received a BA (Economics) degree at Northwestern University in 1987; and completed a Residency in Otolaryngology / Head and Neck Surgery at the Albert Einstein College of Medicine in 1999.

Currently, Dr. Huh is an Assistant Professor in the Department of Otolaryngology at the Icahn School of Medicine at Mount Sinai from 2016 to the present; was in private practice in Otolaryngology at Wyckoff Heights Medical Center from 1999 to 2016; and was the Director of Otolaryngology in the Department of Surgery at Wyckoff Heights Medical Center from 1999 to 2016.

Yohan Lee, M.D. received an MD degree from Ross University School of Medicine in the West Indies in 2008; received a BA degree (Biological Sciences) from Binghamton University in 2002; completed a Fellowship in Pain Management at the National Pain Institute in 2014; completed a Residency in Physical Medicine & Rehabilitation at the Marian Rehabilitation Hospital in 2013; and is board certified by the American Board of Physical Medicine & Rehabilitation since 2014.

Currently, Dr. Lee is an Interventional Pain Physician at The Center Orthopedic Group from 2016 to present; was an Intervention Pain Physician at the Pain Management Center (A Prospira PainCare Co.) from 2014 to 2016; was an Interventional Pain Physician at the National Pain Institute (A Prospira PainCare Co.) in 2014; was employed in the Department of PM&R and Orthopedics at Northwell-Plainview from 2016 to present; was employed in the Department of PM&R at Virtua Hospital and at Kennedy University Hospitals from 2015 to 2016; and was employed in the Department of PM&R at Princeton University Hospital from 2014 to 2016.

George D. Xipoleas received a BS degree from Stony Brook University in 2002; received an MD at Mount Sinai School of Medicine in 2006; completed an Anesthetic Fellowship at New York Eye and Ear Infirmary in 2013; and completed a Plastic Surgery Residency at Mount Sinai School of Medicine in 2012. Currently, Dr. Xipoleas is a Plastic Surgeon at The New York Plastic Surgery Group.

Brent C. Stackhouse received a BS from Georgetown University in 2003 and is currently the Managing Director for Mount Sinai Ventures since 2014 to present.

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.

- Mount Sinai West's Stipulation and Order, dated 10/04/22 for a violation of patient rights - The facility had 21 ORs running. It was observed that in twelve of the rooms a total of 24 staff were observed not following acceptable standards of practice for Infection Control practices in the Surgical Areas. specifically in regard to the use of prop and was fined \$10,000.
- Mount Sinai Beth Israel's Stipulation and Order, dated 06/14/24 for a violation of patient rights - Facility failed to protect patients at risk for elopement and was fined \$10,000.
- Mount Sinai West's Stipulation and Order, dated 08/06/24 for a violation of patient rights - Facility failed to assess, identify and implement preventative fall measures for at-risk patients and fined \$10,000.

Conclusion

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

Financial Analysis

Total Project Cost and Financing

The total project cost for renovations and movable equipment is estimated at \$15,824,453, broken down as follows:

Renovation & Demolition	\$6,630,000
Design Contingency	663,000
Construction Contingency	663,000
Architect/Engineering Fees	663,000
Other Fees	500,000
Movable Equipment	5,050,000
Telecommunications	245,000
Financing Costs	206,011
Interim Interest Expense	1,115,895
Application Fee	2,000
Additional Processing Fee	<u>86,547</u>
Total Project Cost	\$15,824,453

The financing for this project will be as follows:

Tenant Improvement Allowance from the Landlord	\$652,800
Members' Equity	1,437,557
Bank loan (6.60% interest, 5-yr. term)	<u>13,734,096</u>
Total	\$15,824,453

BFA Attachments A through E show sufficient resources to meet the equity requirement.

Operating Budget

The applicant has submitted an operating budget, in 2024 dollars, for years one and three, summarized below:

	<u>Year One</u> <u>(2026)</u>		<u>Year Three</u> <u>(2028)</u>	
	<u>Per Proc.</u>	<u>Total</u>	<u>Per Proc.</u>	<u>Total</u>
Revenues:				
Commercial FFS	\$5,335.90	\$6,221,661	\$5,335.93	\$6,600,548
Commercial MC	\$4,876.51	4,739,967	\$4,877.78	5,028,992
Medicare FFS	\$3,048.03	1,975,126	\$3,050.08	2,095,405
Medicare MC	\$2,582.80	167,882	\$2,581.46	178,121
Medicaid MC	\$1,753.46	454,147	\$1,610.01	442,753
Private Pay	\$607.74	39,503	\$607.41	41,911
Less: Bad Debt		(271,966)		(287,755)
Total Revenue		\$13,326,320		\$14,099,975
Expenses:				
Operating	\$2,801.95	\$9,078,319	\$2,831.56	\$9,732,068
Capital	<u>920.28</u>	<u>2,981,705</u>	<u>759.77</u>	<u>2,611,321</u>
Total	\$3,722.23	\$12,060,024	\$3,591.33	\$12,343,389
Net Income / (Loss)		<u>\$1,266,296</u>		<u>\$1,756,586</u>
Total Procedures		3,240		3,437
Cost per Procedure		\$3,722.23		\$3,591.33

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

<u>Payor:</u>	<u>Years One</u>	<u>Year Three</u>
Commercial FFS	35.99%	35.99%
Commercial MC	30.00%	30.00%
Medicare FFS	20.00%	19.98%
Medicare MC	2.00%	2.00%
Medicaid MC	7.99%	8.00%
Private Pay	2.01%	2.01%
Charity Care	2.01%	2.01%
Total	100.00%	100.00%

The following is noted with respect to the submitted budget:

- The number of FTEs and staffing mix were determined by the historical experience of the proposed physician members and will be based upon demand to ensure the provision of high-quality services.
- Revenues and operating expenses are based on the experience of the proposed physician members and MSSN in providing ambulatory surgery services.
- Reimbursement rates reflect current and projected Federal and State government rates, with private payers reflecting adjustments based on experience in the region. Operating revenues by payer are based on the experience of participating providers in accordance with the expected collection rate of the Center.
- The Medicaid rate is based on the downstate region's Medicaid APG base rate of \$116.24, which is adjusted based on the given procedure's APG weight plus the downstate capital add-on rate.
- Commercial, Self-Pay, and All Other rates are projected based on a percentage of the 2024 Medicare fee-for-service (FFS) rate, ranging from 175% for Commercial FFS payors down to 20% for Self-Pay payors.
- All Other is based on 60% of the Medicare FFS rate.
- The Medicare rate is based on the 2024 Medicare FFS rate, with Medicare Managed care estimated at 85% of the FFS rate.
- The applicant indicated they are committed to serving underinsured populations and all persons in need without regard to the patient's ability to pay or the source of payment. The FASC developed a financial assistance policy with a sliding fee scale to be utilized when the center is operational.

Lease Rental Agreement

The applicant has submitted an executed lease rental agreement for the site to be occupied, summarized below:

Premises:	371-377 Old Country Road, Carle Place, NY 11514
Landlord:	Steel OCR, LLC
Tenant:	Central Nassau ASC LLC
Term:	25 years with an option to renew for one (1) five-year term
Rental:	Base rent for total leased space is \$530,400 per year for the 1st year. Rent will increase at 2% of the base year rent for years 2 - 25.
Provisions:	Tenant is responsible for real estate taxes, insurance, utilities, and maintenance.

The applicant has submitted an affidavit stating the lease between the property owner and the lessee is an arm's length arrangement. The applicant has submitted letters from two NYS licensed realtors attesting to the reasonableness of the per-square-footage rental. The FASC will have a separate entrance for its patients.

Capital Contributions

The capital contribution requirements for First and Second Level Class A members and Class B members are detailed under Section 3.1 of the draft operating agreement. Class A and Class B members are expected to make an aggregate contribution of \$2,500,000 in exchange for 100 units. Class A members will collectively contribute \$1,225,000 in exchange for 48.992 Class A units or approximately 49.0% ownership. Class B members will collectively contribute \$1,275,000 in exchange for 51.0 Class B units or

51.0% ownership. BFA Attachment H lists the Class A, and Class B members' total cash capital contributions.

Administrative Services Agreement

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

Date:	February 15, 2024
Company:	Central Nassau ASC, LLC
Consulting Company:	Merritt Healthcare Holdings Peakpoint, LLC
Terms:	5 years with an automatic five-year renewal.
Administrative Duties and Responsibilities:	Overseeing and advising on the day-to-day operations of the Company and the Center, Determining the need for and making recommendations regarding the procurement of capital equipment, supplies, information technology, and other materials, negotiating with vendors as the Company may approve for equipment, supplies, and information technology services and systems, assisting with the implementation of appropriate billing and other information technology systems, assisting with financial management, including, implementing an accounting system, assisting with the retention of an auditor, preparing periodic financial projections, and causing quarterly and annual financial statements, assisting with preparation of an updated annual business plan and annual capital and operating budgets, overseeing management of capital accounts, recruitment and training of non-clinical staff, accreditation, preparing draft policies and procedures, coordinating and managing bookkeeping, accounting, and data processing, administering welfare, benefit or insurance plans, billing, and collections.
Consulting Fee:	\$250,000 (\$23,166.67/month) with an annual increase of 3% in subsequent years.

Central Nassau ASC, LLC retains ultimate control in all final decisions associated with the services. The applicant has submitted an executed attestation stating that the applicant understands and acknowledges that there are powers that must not be delegated, the applicant will not willfully engage in any illegal delegation, and understands that the Department will hold the applicant accountable.

Capability and Feasibility

The total project cost of \$15,824,453 will be met with \$1,437,557 of members' equity, a \$652,800 tenant improvement allowance from the landlord, and a bank loan for \$13,734,096 at 6.60% interest with a five-year term. VNB New York, LLC has provided a letter of interest.

Working capital requirements are estimated at \$2,057,232 based on two months of third-year expenses. The working capital will be funded with members' equity of \$1,028,616 and a bank loan of \$1,028,616 for a five-year term at 7.0% interest. VNB New York, LLC has provided a letter of interest. BFA Attachment A, Net Worth Statements of the Proposed Members, indicates sufficient resources to fund the equity requirements. Mount Sinai Hospital provided a letter indicating willingness to provide up to \$1,000,000 in equity to fund capital and working capital needs for the participation of MSAV in the ownership of the Center. The submitted budget projects net income of \$1,266,296 and \$1,756,586 during Year One and Year Three, respectively. The budget appears reasonable.

BFA Attachment B, Mount Sinai Hospital's 2023 Certified Financial Statements, show the entity maintained positive working capital, a positive net asset position, and excess of operating revenue over operating expenses before other items of \$64,098,000. Other items, for the period ended December 31, 2023, reduced revenues by \$14,273,000, resulting in excess of revenue over expenses of \$49,825,000. BFA Attachment C, Mount Sinai Hospital's Internal Financial Statements for the period ended June 20, 2024, which shows the entity has maintained positive working capital, a positive net asset position, and reported \$28,252,000 in excess of operating revenue over expenses before other items. During this reporting period MSH generated \$48,400,000 in unrealized gains on investments, \$24,032,000 in third-

party reimbursement settlements and a \$1,136,000 net change in the captive insurance program resulting in \$101,820,000 excess of revenue over expenses. The resulting excess of revenue over expenses was reduced by \$194,641,000 in transfers to affiliates and offset by \$13,590,000 in net assets release from restrictions resulting in net decrease in net assets without donor restrictions of \$79,231,000.

BFA Attachment D, Mount Sinai Ambulatory Venture's 2023 Certified Financial Statements, show the entity maintained positive working capital, a positive net equity position and a net surplus of \$5,453,129. BFA Attachment E, Mount Sinai Ambulatory Venture's June 30, 2024, Internal Financial Statements, show the entity has maintained positive working capital, a positive net equity position and a net surplus of \$8,445,338.

BFA Attachment F, Pro-Forma Balance Sheet for Peakpoint Central Nassau Surgery Center, shows the operation will start with \$3,118,973 in members' equity, which includes the \$652,800 tenant improvement allowance from the landlord.

Conclusion

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

Attachments

BHFP Attachment	Map
BFA Attachment A	Net Worth Statement of Proposed Members of Peakpoint Central Nassau Surgery Center
BFA Attachment B	The Mount Sinai Hospital – December 31, 2023, Certified Financial Statements
BFA Attachment C	The Mount Sinai Hospital – June 30, 2024, Internal Financial Statements
BFA Attachment D	Mount Sinai Ambulatory Ventures, Inc – December 31, 2023, Certified Financial Statements
BFA Attachment E	Mount Sinai Ambulatory Ventures, Inc – June 30, 2024, Internal Financial Statements
BFA Attachment F	Pro-Forma Balance Sheet
BFA Attachment G	Peakpoint Central Nassau Surgery Center Organizational Chart and list of Members
BFA Attachment H	Capital Contributions and Membership Units

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a multi-specialty ambulatory surgery center at 371-377 Old Country Road, Carle Place, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

232236 B

FACILITY/APPLICANT:

Central Nassau ASC LLC d/b/a Peakpoint
Central Nassau ASC

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. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in NYSDOH BAER Drawing Submission Guidelines DSG-1.0 Required Schematic Design (SD) and Design Development (DD) Drawings, and 3.38 LSC Chapter 38 Business Occupancies Public Use, for review and approval. [DAS]
3. Submission of an executed loan commitment acceptable to the Department of Health. [BFA]
4. Submission of an executed working capital loan commitment acceptable to the Department of Health. [BFA]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **November 15, 2026**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **June 15, 2025**, and construction must be completed by **August 15, 2026**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. 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]
5. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf.
Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email hospinfo@health.ny.gov. [HSP]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Project # 242107-E

Queens Endoscopy ASC, LLC

Program: Diagnostic and Treatment Center
Purpose: Establishment

County: Queens
Acknowledged: August 30, 2024

Executive Summary

Description

Queens Endoscopy ASC, LLC, a single-specialty (gastroenterology) freestanding ambulatory surgery center (FASC) at Utopia Center, 176-60 Union Turnpike, Flushing (Queens County), New York 11366 (the Center), requests a transfer of 37.03% membership interest in the Center from an existing member, PE Healthcare Associates, LLC (PEHA), to a new member, Northwell Queens Endo ASC Ventures, LLC. The sole member of Northwell Queens Endo ASC Ventures, LLC is North Shore University Hospital. The sole member of North Shore University Hospital is Northwell Healthcare, Inc., a New York State not-for-profit corporation. The sole member of Northwell Healthcare, Inc. is Northwell Health, Inc., a New York State not-for-profit corporation. The sole member of Northwell Health, Inc. is Northwell, Inc.

In addition, PEHA intends to change the composition of its membership. In accordance with the terms of the Center's Operating Agreement, PEHA proposes to appoint Ms. Katharine Losavio as an outside manager to serve on the Center's Board of Managers.

The Center is not proposing to add any services or surgical specialties through this application.

The Center's existing Co-Medical Directors, Neil Brodsky, M.D. and Rom Gupta, M.D., will continue to serve in that role for the Center. The Center has an existing transfer and affiliation agreement with New York-Presbyterian Queens, approximately 7.9 miles from the Center. The Center will now have a Hospital Transfer

Agreement with Long Island Jewish Medical Center, 7 miles and 16 minutes travel time from the Center.

OPCHSM Recommendation

Approval

Need Summary

There will be no need review per Public Health Law §2801-a (4).

Program Summary

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

Financial Summary

The purchase price for the sale of 97 units of membership interest in PE Healthcare Associates, LLC is \$970 (currently held in escrow), and will be paid in cash by the individual members acquiring additional interest. The sale of the 37.03% membership interest in Queens Endoscopy ASC, LLC by PE Healthcare Associates, LLC as the seller is \$342,249 per 1%, which totals \$12,673,500. The purchase price will be paid with equity by Northwell, Inc.

Since there will be no change in operations and due to the positive historical performance, no budget is being presented with this application.

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL.

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. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Council Action Date

December 5, 2024

Program Analysis

Program Description

Queens Endoscopy ASC, LLC, a single-specialty (gastroenterology) freestanding ambulatory surgery center (FASC) at Utopia Center, 176-60 Union Turnpike, Flushing (Queens County), New York 11366 (the Center), is submitting this Certificate of Need (C.O.N.) Application to transfer a 37.03% membership interest in the Center from an existing member, PE Healthcare Associates, LLC (PEHA), to a new member, Northwell Queens Endo ASC Ventures, LLC. The sole member of Northwell Queens Endo ASC Ventures, LLC is North Shore University Hospital. The sole member of North Shore University Hospital is Northwell Healthcare, Inc., a New York State not-for-profit corporation. The sole member of Northwell Healthcare, Inc. is Northwell Health, Inc., a New York State not-for-profit corporation. The sole member of Northwell Health, Inc. is Northwell, Inc. In addition, PEHA intends to change the composition of its membership. Finally, in accordance with the terms of the Center's Operating Agreement, PEHA proposes to appoint Ms. Katharine Losavio as an outside manager to serve on the Center's Board of Managers.

Adding Northwell Queens Endo ASC Ventures, LLC as a new member will allow the Center to enhance the already exceptional quality of care delivered to patients, to have an even more positive impact on the communities the Center serves, to improve its financial stability, and to continue to provide excellent surgical outcomes for patients.

The Center is not proposing to add any services or surgical specialties through this application.

The Center's existing Co-Medical Directors, Neil Brodsky, M.D. and Rom Gupta, M.D., will continue to serve in that role for the Center. The Center has an existing transfer and affiliation agreement with New York-Presbyterian Queens, approximately 7.9 miles from the Center. The Center will now have a Hospital Transfer Agreement with Long Island Jewish Medical Center, 7 miles and 16 minutes travel time from the Center.

The Center's current ownership and proposed ownership is below:

Current Membership Structure:

Member	Ownership
Armand Asadourian M.D.	2.59%
Neil Brodsky, M.D.	5.07%
Donald Palmadessa, M.D.	5.07%
James Rand, M.D.	6.14%
Alan Schnall, M.D.	5.07%
Nicholas Triantafillou, M.D.	3.65%
Kamran Nia, M.D.	5.07%
Rom Gupta, M.D.	5.07%
Liberato Salvatore, M.D.	5.22%
PEHA:	57.03%
Barry Tanner 48%	
David Young 49%	
Ann Sariago 1%	
Rafael Axen, M.D. 1%	
Matthew Jenkins 1%	
Total:	99.98*

Proposed membership structure:

Member	Ownership
Armand Asadourian M.D.	2.59%
Neil Brodsky, M.D.	5.07%
Donald Palmadessa, M.D.	5.07%
James Rand, M.D.	6.14%
Alan Schnall, M.D.	5.07%
Nicholas Triantafillou, M.D.	3.65%
Kamran Nia, M.D.	5.07%
Rom Gupta, M.D.	5.07%
Liberato Salvatore, M.D.	5.22%
PEHA:	20.00%
Ann Sariego 33.3%	
Rafael Axen, M.D. 33.3%	
Matthew Jenkins 33.3%	
Northwell Queens Endo ASC Ventures, LLC	37.03%
Total:	99.98*

* These percentages do not equal 100.00% due to rounding.

The following are the members of Northwell Queens Endo ASC Ventures, LLC:

Member	Title
Laurence A. Kraemer	Board Member, Northwell Queens Endo ASC Ventures, LLC
Matthew Kirschner	Board Member, Northwell Queens Endo ASC Ventures, LLC
Adam Boll	Board Member, Northwell Queens Endo ASC Ventures, LLC
Katharine Losavio	Proposed Outside Manager
Alan I. Greene	Trustee
Barry Rubenstein	Trustee
Benjamin B. Tucker	Trustee
Cary Kravet	Trustee
Catherine C. Foster	Trustee
Clifford H. Friedman	Trustee
Donald Zucker	Trustee
Douglas W. Hammond	Trustee
Elizabeth M. Hammack	Trustee
Emmett F. Walker, Jr.	Trustee
Gary A. Cohen	Trustee
Jeffrey B. Lane	Trustee
Kenneth Taber	Trustee
Leo Sternlicht	Trustee
Lewis S. Ranieri	Trustee
Lloyd M. Goldman	Trustee
Margaret M. Crotty	Trustee
Mark L. Claster	Trustee
Michael A. Epstein	Trustee
Michael Caridi	Trustee
Michael E. Feldman	Trustee
Michael G. Fisch	Trustee
Michael J. Dowling	Trustee
Michael S. Smith	Trustee
Paul B. Guenther	Trustee
Ralph A. Nappi	Trustee
Richard D. Goldstein	Trustee
Richard J. Mack	Trustee

Character and Competence:

Katharine Losavio is currently the Vice President of Operations at SCA Health since 2023. Prior to this, Katharine worked in various roles at Northwell Health since 2013, most recently the Assistant Vice President of Operations and the Senior Director of Operations. Katharine also held the roles of Administrative Director, Business Development and Strategy for one (1) year, Director of Practice Transitions for one (1) year, Director of Ambulatory Services for one (1) year, Program Manager of the World Trade Center Health Program for two (2) years, and Financial Analyst for CareConnect for two (2) years. Katherine graduated with a Master of Public Administration from Baruch College, Marxe School of Public and International Affairs in 2018, and from Hofstra University with a Bachelor of Business Administration in 2011. Katharine received a Bachelor of Arts, Economics & Public Policy from Duke University in 2007.

Disclosures

Northwell Healthcare, Inc. ("Northwell" or the "Health System") and/or its affiliates and/or its employees, like other large employers and especially those in the heavily regulated health care field has received inquiries in connection with investigations by governmental agencies concerning alleged violations of various federal, state and/or local laws regarding issues involving, among other things, claim submissions, to government insurance plans, and private and employment laws. In most instances, the investigations were concluded without any findings against Northwell, its affiliates and its employees (and in many of those instances Northwell was viewed by the government entity as a potential witness in connection with their investigation). Any remaining closed investigations would have been resolved through settlement, consent decree or similar mechanisms. Below are examples of such matters.

In November 2015 and in months thereafter, Northwell responded to various grand jury subpoenas and other information requests issued by the U.S. Attorney's Office for the Southern District of New York seeking, among other records and information, documents relating to cardiac catheterization procedures performed by a non-employed physician who held medical staff privileges at two Northwell Health hospitals. It is our understanding that Northwell and its employees were witnesses in this investigation, and the investigation is now closed.

In September 2015, Staten Island University Hospital ("SIUH") made a voluntary self-disclosure to OIG-HHS and the New York State Office of the Medicaid Inspector General ("OMIG") in which it identified potential overpayments to Medicare and Medicaid relating to certain type of documentation issues at one of its laboratory patient service centers. SIUH entered into a settlement agreement with OIG-HHS in January 2017 that resolved the OIG-HHS self-disclosure.

In April 2017, Northwell made a self-disclosure to OIG-HHS relating to overpayments that it determined it had received by ten Northwell hospitals relating to certain inpatient percutaneous vertebral augmentation procedures performed at those hospitals. Northwell entered into a settlement agreement with OIG-HHS in February 2018 that settled the self-disclosure.

In October 2017, Northwell made a self-disclosure to OIG-HHS relating to overpayments that it determined it had received on the basis certain physician-office evaluation and management services performed by one of its formerly employed physicians that were billed at a level not supported by the available medical record documentation. OIG-HHS has notified Northwell that its submission was accepted into OIG-HHS's self-disclosure protocol.

Northwell received two Civil Investigative Demands (CIDs) in March and August 2018, respectively, from the United States Attorney's Office for the Southern District of New York ("SDNY") regarding the surgical practices and employment contract of a full-time physician employed by Lenox Hill Hospital. In the course of settlement negotiations, Northwell and Lenox Hill Hospital were advised that the CIDs were related to a civil complaint filed under seal in federal district court by three *qui tam* relators. In November 2019, Northwell and Lenox Hill Hospital entered into a civil settlement agreement with the SDNY and the individual relators that conclusively resolved the claims asserted against them in that action. In December 2019, Lenox Hill Hospital and Northwell (solely with respect to its control of Lenox Hill Hospital) entered into a corporate integrity agreement ("CIA") with HHS-OIG. As stated in the CIA, the obligations

of the CIA do not apply to Northwell with respect to any subsidiary, corporate affiliate or related organization other than Lenox Hill Hospital.

In December 2018, Northwell made a self-disclosure to OIG-HHS related to overpayment that it determined it had received for certain evaluation and management services performed over a limited period of time by emergency physicians at six of its hospitals that were billed at a level not supported by the available medical record documentation. In August 2019, Northwell supplemented its disclosure to include a limited number of additional evaluation and management service claims. Northwell entered into a settlement agreement with OIG-HHS in March 2020 that resolved the self-disclosure.

Huntington Hospital (HH) made a voluntary self-disclosure to the Centers for Medicare and Medicaid Services (CMS) relating to three clinical services arrangements that did not appear to comply with CMS's regulatory self-referral "set-in-advance" compensation requirement between 2016 and 2021. In October 2022, CMS informed HH that its self-disclosure was accepted into the CMS Voluntary Self-Referral Disclosure Protocol. In April 2023, HH entered into a settlement agreement with CMS.

Lenox Hill Hospital (LHH) made a voluntary self-disclosure to the Centers for Medicare and Medicaid (CMS) related to six sublease and license arrangements that did not appear to comply with CMS's regulatory self-referral "set-in-advance" compensation requirement for a limited period of time in 2017. In January 2023, CMS informed LHH that its self-disclosure was accepted into the CMS Voluntary Self-Referral Disclosure Protocol. In April 2023, LHH entered into a settlement agreement with CMS.

Northwell Health, Inc. and its affiliates are occasionally involved in various types of administrative actions one would expect with respect to the entities of their size and nature, including but not limited to, actions involving New York City Fire Department citations and/or fines and other matters. Given the size of Northwell Health Inc., consisting of 23+ hospitals, two long term care facilities, and numerous other healthcare service providers, and having more than 83,000 employees, the responses herein are based on information and belief on information reasonably available after investigation as of the date of this submission. The summons and citations are addressed and in a timely manner upon notice and closed as timely as possible.

Beginning soon after the onset of the COVID-19 pandemic, in March 2020, Northwell began conducting COVID testing in its hospitals with emergency departments. In April of 2021, the New York State Attorney General ("NYAG") began an investigation into Northwell's practices concerning COVID testing and associated billing practices in response to consumer complaints concerning primarily three Northwell locations (Lenox Hill Hospital, Lenox Health Greenwich Village, and Huntington Hospital) alleging that Northwell was charging for emergency department visits at those locations when individuals received only COVID tests. Notably, each of the Three Northwell Locations indicated to individuals through exterior, public-facing signage that was posted during different periods of time between March 2020 and March 2021 that they were COVID testing locations. New York and Federal law prohibited health plans from assessing cost-sharing for diagnostic COVID tests and related services provided in furtherance of and for the purpose of diagnosis or treatment of COVID-19 during the federal COVID-19 Public Health Emergency. Although Northwell had claims hold process in place to prevent balance billing for COVID testing and related services, in response to the NYAG's investigation, Northwell discovered that there were still thousands of instances when individuals presenting to the Three Northwell Locations were inadvertently billed or otherwise remitted payment for COVID tests and/or related services or visits.

Northwell Health has entered into two notable agreements with the Office of the New York State Attorney General ("NYAG"). On April 12, 2024, Northwell Health entered an Assurance of Discontinuance ("AOD") with the NYAG concerning COVID-19 testing administered at three Northwell locations with emergency departments during the early waves of the COVID-19 pandemic. Northwell Health voluntarily agreed to enter the AOD to avoid the time, expense, and distraction of further litigation. Pursuant to the AOD, Northwell agreed to pay a penalty of \$650,000. Separately Northwell agreed to refund \$81,761.46 to patients who made payments for encounters that were subject to COVID-19 balance billing restrictions. Because Northwell applied an overly broad methodology, consistent with its claims hold, when issuing refunds, Northwell also made an additional \$318,402.83 in refunds to patients whose encounters were not subject to COVID-19 balance billing restrictions.

On June 4, 2024, following significant cooperation and collaboration between them, Northwell Health and the NYAG announced historic agreement "Best Practices Agreement" to significantly improve and expand access to financial assistance to New Yorkers. Northwell worked closely with the NYAG to review and revise its preexisting financial assistance and medical debt collection policies. This process resulted in Northwell increasing financial assistance for eligible hospital patients and adding more safeguards in its collection efforts. Northwell has long recognized the financial challenges affecting the uninsured and patients with high-deductible health plans and has continued to strengthen its efforts over the past 20 years. In 2023, Northwell's financial counselors assisted approximately 26,000 patients in obtaining medical insurance. Northwell also has a medical debt ombudsperson to add other layers of protection regarding collection efforts that are pursued as a last resort when patients who Northwell believes can pay their medical bills ignore those bills.

Enforcements

The Department issued a Stipulation and Order, signed 09/11/2017, and fined Northwell HealthCare Lenox Hill Hospital \$10,000. Deficient practice in the area of Surgical Services.

The Department issued a Stipulation and Order, signed 11/21/2016, and fined Long Island Jewish Medical Center \$4,000. Deficient practice in the area of Infection control.

The Department issued a Stipulation and Order, signed 11/21/2016, and fined Northern Westchester Hospital \$10,000. Deficient practice in the area of Nursing Services.

The Department issued a Stipulation and Order, signed 01/31/2017, and fined Plainview Hospital \$14,000. Deficient practice in the area of Infection control.

Conclusion

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

Financial Analysis

Financial Analysis

There are no proposed changes to operations as a result of this transaction and Queens Endoscopy ASC, LLC has demonstrated positive working capital, net assets, and an average net income of \$4,468,782 during 2022 and 2023. Due the positive historical performance, no budget is being presented with this application.

Unit Transfer Agreement

The applicant has submitted an executed unit transfer agreement, summarized below:

Date	June 20, 2024
Transferor	Barry Tanner (48 units) and David Young (49 units)
Transferee	Ann Sariego, Rafael Axen, MD. And Matthew Jenkins.
Company	PE Healthcare Associates, LLC
Purpose	Sale of 97 units of PE Healthcare Associates, LLC
Purchase Price	The transferors desire to transfer the transferred units to the transferees for an aggregate purchase price of \$970. The purchase price will be funded as follows: Ann Sariego (\$323.33), Rafael Axen, MD. (\$323.33) and Matthew Jenkins (\$323.33)
Payment of Purchase Price	Payment is in escrow.

Membership Interest Purchase Agreement

The applicant has submitted an executed membership interest purchase agreement, summarized below:

Date	July 17, 2024
Purpose	The sale of 37.03% of the membership interest of Queens Endoscopy ASC, LLC.
Purchaser	Northwell Queens Endo ASC Ventures, LLC
Seller	PE Healthcare Associates, LLC
Purchase Price	\$342,249.53 per one percent of the Company. Membership interest or an aggregate amount for all of \$12,673,500
Payment of Purchase Price	Cash at Closing.

Capability and Feasibility

The purchase price for the sale of 97 units of PE Healthcare Associates, LLC is \$970, which will be paid in cash by the individual members acquiring additional interest, is currently held in escrow. The sale of 37.03% membership interest in Queens Endoscopy ASC by PE Healthcare Associates, LLC as the Seller for \$342,249 per 1%, which totals \$12,673,500. The purchase price will be paid with equity by Northwell, Inc. BFA Attachment C, 2022-2023 Certified Financial Statements of Northwell Health, Inc., indicate the availability of sufficient funds to pay the purchase price to acquire the membership interest.

As shown on Attachment C, Northwell Health, Inc. had an average positive working capital position and an average positive net asset position during 2022 and 2023. Also, the entity achieved an average excess of revenues over expenses of \$157,675,000 the period.

BFA Attachment D, 2022-2023 Certified Financial Statements of Queens Endoscopy ASC, LLC, show the entity had an average positive working capital position and an average positive net asset position during 2022 and 2023. Also, the entity achieved an average net income of \$4,468,782 during period.

Conclusion

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

Attachments

BFA Attachment A	Queens Endoscopy ASC, LLC – Current and Proposed Membership
BFA Attachment B	PE Healthcare Associates, LLC - Membership
BFA Attachment C	Northwell Health, Inc. – 2022-2023 Certified Financial Statements
BFA Attachment D	Queens Endoscopy ASC, LLC – 2022-2023 Certified Financial Statements

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to transfer 37.03% ownership interest from one withdrawing member LLC to a new member LLC, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

242107 E

FACILITY/APPLICANT:

Queens Endoscopy ASC, LLC

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Project # 241113-B
EMJ Healthcare Clinic

Program: Diagnostic and Treatment Center **County:** Kings
Purpose: Establishment and Construction **Acknowledged:** March 15, 2024

Executive Summary

Description

JEM NYC Consulting, LLC (JEM), an existing limited liability company, requests approval to establish and construct an Article 28 Diagnostic and Treatment Center (D&TC) in leased space at 1900B Ralph Avenue, Brooklyn (Kings County). Jem will be certified for Medical Services - Primary Care, Medical Services - Other Medical Specialties, including Podiatry O/P and Therapy-Physical O/P. Upon approval of this application, the site will be known as EMJ Healthcare Clinic.

Bobby Borukhov is the sole member of the proposed operator.

The proposed Medical Director is Abdalla Ishag Adam, M.D., who is board certified by the American Board of Physical Medicine and Rehabilitation, American Board of Independent Medical Examiners, New York State Worker's Compensation Board, and received certifications from the American Association of Manipulation Under Anesthesia and the Educations Commission for Foreign Medical Graduates.

JEM NYC Consulting, LLC is negotiating a Transfer and Affiliation Agreement for emergency and backup services with Mt. Sinai Brooklyn, 2 miles (6 minutes travel time) from the proposed Center.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 6,201 visits in Year One and 9,349 in Year Three with 63% Medicaid and 2% Charity Care.

Program Summary

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

Financial Summary

Total project costs are \$1,196,299 and will be met with \$119,630 in proposed member equity and a \$1,076,669 bank loan for a ten-year term with a 6% interest rate.

Budget:	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$1,046,436	\$1,577,648
Expenses:	<u>\$976,612</u>	<u>\$1,385,057</u>
Net Income:	\$69,824	\$192,591

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Section 2802-B of the PHL.

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. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
3. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
4. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
5. Submission of an executed loan commitment for total project costs, acceptable to the Department of Health. [BFA]
6. Submission of an executed loan commitment for working capital, acceptable to the Department of Health. [BFA]

Approval conditional upon:

1. This project must be completed by **February 1, 2026**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **July 1, 2025**, and construction must be completed by **November 1, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. 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]
5. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]

Council Action Date

December 5, 2024

Need Analysis

Project Description

Jem NYC Consulting, LLC d/b/a EMJ Healthcare Clinic seeks approval to establish and construct a new Article 28 Diagnostic and Treatment Center in a leased space at 1900B Ralph Avenue, Brooklyn, New York 11234 (Kings County).

The applicant projects 6,201 visits in Year One and 9,349 in Year Three with 63% Medicaid and 2% Charity Care.

Proposed Services Medical Services - Primary Care, Medical Services - Other Medical Specialties, including Podiatry O/P and Therapy-Physical O/P.

EMJ Healthcare Clinic proposes to renovate 2086 square feet of an existing medical office. There will be three (3) Exam Rooms, one (1) Physical Therapy Gym, and five (5) Treatment Bays. Systems upgrades will include the HVAC.

Background and Analysis

The service area is Kings County. The population of Kings County is estimated to increase to 2,854,617 by 2029 per projection data from the Cornell Program on Applied Demographics, an increase of 6.5%. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Kings County	New York State
Total Population	2,679,620	19,994,379
Hispanic or Latino (of any race)	18.9%	19.5%
White (non-Hispanic)	36.1%	53.8%
Black or African American (non-Hispanic)	28.3%	13.8%
Asian(non-Hispanic)	11.7%	8.8%
Other (non-Hispanic)	5.0%	4.1%

Source: 2022 American Community Survey (5-Year Estimates Data Profiles)

In 2021, 93.4% of the population of Kings County had health coverage as follows:

Employee plans	40.9%
Medicaid	32.5%
Medicare	8.13%
Non-group plans	11.7%
Military or VA plans	0.308%

Source: Data USA

The projected payor mix includes:

Applicant Projected Payor Mix		
Payor	Year One	Year Three
	Outpatient	
Commercial	14.00%	14.00%
Medicare	18.00%	17.99%
Medicaid	63.01%	63.01%
Private Pay	3.00%	2.99%
Charity Care	2.00%	2.00%
Total Visits	6,201	9,349

The facility will focus on addressing health disparities in the area by providing cancer screening, working with community members and leaders to increase awareness of the prevalence, early detection, and treatment of cancers, working with people to identify pregnancy in the early stages and to help get care, and promote their well being and prevent mental health and substance abuse disorders.

The hours of operation of the new main site will be Monday through Friday: 8 AM - 6 PM and Saturday 8 AM - 2 PM. The Center will extend its hours as necessary to accommodate patient needs.

Prevention Quality Indicators (PQIs) are rates of admission to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization, or for which early intervention can prevent complications or more severe disease. The table below provides information on PQI rates for 2020 related to this application which indicates that the county has higher PQI rates than New York State.

Hospital Admissions per 100,000 Adults		
PQI Name	Kings County	New York State
Diabetes Short-Term Complications	80	71
Diabetes Long-Term Complications	122	106
Chronic Obstructive Pulmonary Disease or Asthma	251	244
Hypertension	67	63
Heart Failure	359	336
Bacterial Pneumonia	82	105
Uncontrolled Diabetes	59	45
Prevention Quality Overall Composite	1015	994

Conclusion

Approval of this project will allow for increased access to primary care, other medical specialties, podiatry, and physical therapy services for the residents of Kings County.

Program Analysis

Project Proposal

Proposed Operator	Jem NYC Consulting, LLC
To Be Known As	EMJ Healthcare Clinic
Site Address	1900B Ralph Avenue Brooklyn, New York 11234 (Kings County)
Specialties	Medical Services – Primary Care Medical Services – Other Medical Specialties Podiatry O/P Therapy – Physical O/P
Hours of Operation	Monday through Friday, 8 am to 6 pm Saturday 8 am to 2 pm If needs indicate, hours may expand.
Staffing (1st Year / 3rd Year)	7.74 FTEs / 12.78 FTEs
Medical Director(s)	Abdalla Adam, M.D.
Emergency, In-Patient, and Backup Support Services Agreement and Distance	Expected to be provided by Mount Sinai Brooklyn 2.0 miles / 6 minutes away

The table below shows projected FTEs in Year One and Year Three after completion of the project:

Positions	Year One	Year Three
Management & Supervision	0.70	1.20
Aides, Orderlies & Attendants	2.0	3.00
Registered Nurse	0.50	1.00
Physicians	1.12	1.68
Nurse Practitioner	0.21	0.31
Social Worker & Psychologist	0.33	0.75
Physical Therapists and PT	0.89	1.34
Infection Control/Environment	1.00	1.50
Clerical and Other Administrative	1.00	2.00
Totals	7.74	12.78

Character and Competence

The sole member of Jem NYC Consulting, LLC is:

Name:	Membership Interest
Bobby Borukhov / Manager	100%
Total	100%

Dr. Abdalla Ishag Adam is the proposed Medical Director. Dr. Adam received a Physical Medicine Rehabilitation degree from SUNY at Stony Brook in October 2003, completed an Internship at Howard University Hospital in June 1999, and received a Medical Degree from Khartoum University located in Sudan in March 1986. Dr. Adam is currently licensed to practice in New York, New Jersey, and Virginia and is board certified by the American Board of Physical Medicine and Rehabilitation, American Board of IME (ABIME), New York State Worker's Compensation Board (CPLCP), and received certifications from the American Association of Manipulation Under Anesthesia (MUA) and the Educations Commission for Foreign Medical Graduates (ECFMG).

Current administrative experience consists of being a Medical Director specializing in Pain Medicine at the Perry Avenue Family Medical in the Bronx, New York since 2022, as Director of the Strategic Planning Office for the Sudanese American Physician Association (SAPA) since 2022, and as the Medical Director with Empire Medical & Rehabilitation, Falls Church, VA since 2008.

Dr. Adam's employment history includes ownership of Andrade Medical PLLC, Bronx, NY since January 2023, Staff Member at Sentara Virginia Beach General Hospital Inpatient Rehabilitation, Virginia Beach, VA from April 2019 to April 2020, Staff Physiatrist at MetroPain Specialists in Ardsley, NY and in NJ from January 2017 to January 2018, Staff Physiatrist at CitiMedical in Rego Park, NY from March 2016 to present, and as Medical Director at Empire Medical & Rehabilitation in NY from 2008 to present.

Dr. Adam has Hospital Affiliation with admitting privileges at Sentara Virginia Beach General Hospital and Garnet Health Medical Center in Middletown New York. Dr Adam has an affiliation at Kingsbrook Jewish Medical Center and Brookdale University Hospital as an Associate with no admitting privileges at this time.

On 6/11/24, a lawsuit was filed in US District Court for the Eastern District of New York (Case #1:2024cv04153) LM Insurance Corporation et al v. Abdalla I. Adam, M.D. et al. The case was filed against Abdalla I. Adam, M.D. doing business as Medelstar Medical Services, with the allegation of Racketeer/Corrupt Organization in accordance with 18 U.S.C. § 1962 Racketeering (RICO) Act

Bobby Borukhov is the proposed Sole Member/ Manager for Jem Healthcare Clinic. Bobby Borukhov graduated with a GED in September 2000 and has been employed as Medical Office Administrator with Ahmed Ahmed PT PC, Brooklyn, New York, from 2021 to present, as the Medical Office Administrator with Mindful Chiropractic PC in Brooklyn, New York, from 2017 to 2021, and as the President of EVM Gold Refinery, Inc in New York City, from 2009 to present.

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

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

Financial Analysis

Total Project Cost and Financing

Total project cost for leasehold improvements, renovations, and moveable equipment is \$1,196,299, broken down as follows:

Renovation & Demolition	\$648,720
Design Contingency	\$64,872
Construction Contingency	\$64,872
Planning Consultant Fees	\$10,000
Architect /Engineering Fees	\$50,800
Other Fees	\$50,000
Moveable Equipment	\$253,955
Financing Costs	\$17,787
Interim Interest Expense	\$26,680
CON Fee	\$2,000
Additional Processing Fee	<u>\$6,533</u>
Total Project Cost	\$1,196,299

The applicant's financing plan is as follows:

Member's Equity	\$119,630
Bank loan (6% interest*, 5-year term)	<u>\$1,076,669</u>
Total Financing	\$1,196,299

**The interest rate would be indexed to the firm's 5-year cost of funds with an indicative rate today of 6%.*

Hudson Shine Capital has provided a letter of interest for the bank loan at the above-stated terms. BFA Attachment A, Net Worth Statement of Proposed Member of JEM NYC Consulting, LLC indicating sufficient resources to meet the equity requirements of this application.

Operating Budget

The applicant has submitted their projected first and third-year operating budget, in 2024 dollars, as shown below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>
<u>Revenues:</u>				
Commercial FFS	\$175.00	\$108,500	\$175.00	\$163,625
Commercial MC	\$148.75	\$36,890	\$148.75	\$55,633
Medicare FFS	\$175.00	\$162,750	\$175.00	\$245,350
Medicare MC	\$148.75	\$27,668	\$148.75	\$41,650
Medicaid FFS	\$200.26	\$24,832	\$200.26	\$37,449
Medicaid MC	\$170.22	\$643,946	\$170.22	\$970,941
Private Pay	\$225.00	<u>\$41,850</u>	\$225.00	<u>\$63,000</u>
Total Revenues		\$1,046,436		\$1,577,648
<u>Expenses:</u>				
Operating	\$116.92	\$725,036	\$122.67	\$1,146,884
Capital	<u>\$40.57</u>	<u>\$251,576</u>	<u>\$25.48</u>	<u>\$238,173</u>
Total Expenses	\$157.49	\$976,612	\$148.15	\$1,385,057
Net Income		<u>\$69,824</u>		<u>\$192,591</u>
Visits		6,201		9,349

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

	<u>Year One</u>		<u>Year Three</u>	
	<u>Visits</u>	<u>%</u>	<u>Visits</u>	<u>%</u>
Commercial FFS	620	10.00%	935	10.00%
Commercial MC	248	4.00%	374	4.00%
Medicare FFS	930	15.00%	1,402	15.00%
Medicaid MC	186	3.00%	280	3.00%
Medicaid FFS	124	2.00%	187	2.00%
Medicaid MC	3,783	61.00%	5,704	61.00%
Private Pay	186	3.00%	280	3.00%
Charity Care	<u>124</u>	<u>2.00%</u>	<u>187</u>	<u>2.00%</u>
Total	6,201	100.0%	9,349	100.0%

The following is noted with respect to the submitted budget:

- The Medicaid Fee for Service reimbursement rate is based on the base rate plus the cost of capital as obtained from the NYSDOH, Bureau of D&TC Reimbursement.
- Medicaid Managed Care is assumed to be 80% of the Medicaid APG Fee for service rate.
- Commercial Insurance and Medicare Fee for Service rates are based on fee schedule.
- Medicare Managed Care and Commercial Managed Care is based on 80% of the Medicare Part B Fee schedule.
- The utilization projections by service and payer were determined based on demographic data/preventable quality indicators (PQI) of the proposed service area. The PQI data drives the type of clinical staff needed for the Article 28 D&TC. The payer mix is determined based on the payer mix of the service area related to Medicaid Fee-for-Service, Medicaid Managed Care, Medicare fee-for-service, Medicare Managed Care, etc. in the area.

Lease Agreement

The applicant has submitted an executed lease agreement for site control of the facility, the terms of which are summarized below:

Date:	January 4, 2024
Premises:	Street Level store located at 1900B Ralph Avenue, Brooklyn, NY
Landlord:	Flatlands Shopping Center Associates
Tenant:	JEM NYC Consulting, LLC
Rental:	Base rent \$67,200 annually (\$5,600 per month) for years one and two, 3% increase annually thereafter.
Term:	Five (5) years with one (1) seven (7) year renewal option
Provisions:	Real estate taxes, maintenance, personal property insurance, and pro rata share of electricity, water, and gas.

The applicant submitted an affidavit that the lease is an arm's length agreement as the landlord and tenant do not have common membership. Letters from two New York real estate brokers were submitted attesting to the reasonableness of the rent.

Capability and Feasibility

Total project cost of \$1,196,299 will be met with \$119,630 in proposed member's equity and a \$1,076,669 bank loan for a ten-year term with a 6% interest rate. The working capital requirements are estimated at \$230,842, based on two months of third-year expenses and will be met with \$115,421 proposed member's equity and a \$115,421 bank loan for a three-year term at a 6% interest rate. Hudson Shine Capital has provided a letter of interest for the bank loans at the above-stated terms. BFA Attachment A, Net Worth Statement of Proposed Member of JEM NYC Consulting, LLC indicates sufficient resources to meet the equity requirements of this application.

BFA Attachment B, Pro Forma Balance Sheet of JEM NYC Consulting, LLC, indicates that the facility will initiate operations with members equity of \$235,051.

The submitted budget shows the facility estimates it will generate net income of \$69,824 and \$192,591 in the first and third years, respectively. Revenues are based on prevailing reimbursement methodologies for D&TCs. The budget appears reasonable.

Conclusion

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

Attachments

BHFP Attachment	Map
BFA Attachment A	Net Worth Statement of Proposed member of JEM NYC Consulting, LLC
BFA Attachment B	Pro Forma Balance Sheet of JEM NYC Consulting, LLC

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a Diagnostic and Treatment Center at 1900B Ralph Avenue, Brooklyn, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

241113 B

FACILITY/APPLICANT:

Jem NYC Consulting LLC d/b/a EMJ
Healthcare Clinic

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. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
3. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0 [AER]
4. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
5. Submission of an executed loan commitment for total project costs, acceptable to the Department of Health. [BFA]
6. Submission of an executed loan commitment for working capital, acceptable to the Department of Health. [BFA]

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **February 1, 2026**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]
2. Construction must start on or before **July 1, 2025**, and construction must be completed by **November 1, 2025**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date, this shall constitute abandonment of the approval. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. 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]
5. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf.

Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov. [HSP]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.



Department
of Health

Public Health and Health Planning Council

Project # 241128-E Mount Sinai Home Health, LLC

Program: LHCSA
Purpose: Establishment

County: New York
Acknowledged: April 9, 2024

Executive Summary

Description

Mount Sinai Home Health, LLC, a New York State limited liability company and a subsidiary of the Mount Sinai Health System, is requesting approval to establish a new Licensed Home Care Services Agency (LHCSA) pursuant to Article 36 of the Public Health Law.

OALTC Recommendation

Approval

Need Summary

In accordance with 10 NYCRR §765-1.16(c), this application is not exempt from public need review as the agency is not actively serving 25 patients as attested to by the current operator. Pursuant to 10 NYCRR §765-1.16(c)4 a rebuttal to the presumption of no need was submitted, which was determined to be sufficient based on the criteria set forth in 10 NYCRR §765-1.16(d).

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3605.

Financial Summary

In accordance with 10 NYCRR §765-1.2(b)(3), the applicant has submitted financial documents prepared by a Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Aging and Long-Term Care

Approval conditional upon:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Council Action Date

December 5, 2024

Program Analysis

Background

Mount Sinai Home Health, LLC, a subsidiary of the Mount Sinai Health System, seeks to establish a new Licensed Home Care Services Agency (LHCSA) pursuant to Article 36 of the Public Health Law that will provide home care services exclusively to patients in the Mount Sinai Health System, for Mount Sinai's Home Infusion pharmacy, and for Hospitalization at Home.

An affidavit of no control has been implemented above Mount Sinai Home Health, LLC whereby all entities and persons above the LLC will refrain from exercising control over the LHCSA by directing or causing the direction of the actions, management, or policies of the agency, whether through voting securities or voting rights thereunder, electing or appointing directors, the direct and indirect determination of policies, or otherwise. Please refer to Attachment A for the organizational chart.

The applicant proposes to serve the residents of the following counties from an office located at 419 West 114th Street, New York, NY 10025:

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

The applicant proposes to provide the following healthcare services:

- Nursing
- Home Health Aide
- Therapy- Physical
- Therapy- Occupational
- Therapy- Speech Language Pathology
- Medical Social Services

Character and Competence Review

Mount Sinai Home Health System, LLC will be comprised of the following individuals:

Margaret Pastuszko – Manager

Employment

President and Chief Operating Officer, Mount Sinai Health System (January 2019 – Present)

Affiliations

No offices held or ownership interests in other health facilities.

Stephen Harvey – Manager

Employment

Executive Vice President and Chief Financial Officer, Mount Sinai Health System (October 2021 – Present)

Affiliations

No offices held or ownership interests in other health facilities.

Jeffrey Silberstein – Manager

Employment

Executive Vice President and Chief Administrative Officer and Dean for Operations, Mount Sinai Health System (June 1997 – Present)

Affiliations

No offices held or ownership interests in other health facilities.

A review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a Licensed Home Health Care Agency.

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

Facility Compliance/Enforcement

Not applicable, as there are no affiliated licensed healthcare agencies.

Need Review

In accordance with 10 NYCRR §765-1.16(c), this application is not exempt from a public need review as the agency is applying for counties with no presumed need. Pursuant to 10 NYCRR §765-1.16(c)(4), an application may still be submitted; however, it must contain a rebuttal and present data-driven evidence A rebuttal to the presumption of no need was submitted, and it was determined by the Department to be sufficient.

Specifically, the applicant reports they will be serving patients who receive care in Mount Sinai Hospital and affiliate network hospitals and practices. Their focus will be to provide acute hospital-level care in the home setting under Hospital at Home, or rehabilitation health care facility level care in Subacute Rehab at Home. Mount Sinai Home Health, LLC will also focus on patients who require complex care and intravenous medications after hospital admission or due to ongoing chronic disease. The agency will be able to coordinate with Mount Sinai physicians and allied partners to ensure continuity of care and services tailored to their patient caseload.

Mount Sinai was also able to demonstrate the unduplicated number of patients on waiting lists for high-acuity home nursing and infusion services. According to the applicant, there was a significant number of patients who had to remain in the hospital to receive infusion services due to the limitations of LHCSAs in the area who could provide those services. This care is provided by highly trained IV nurses who are qualified to provide that care in the home setting.

As stated by the applicant, the agency will primarily utilize the existing workforce from the Mount Sinai Health System and will provide skill assessments, training programs, regulatory compliance, supervision, and ongoing development to its workforce. Mount Sinai Home Health LLC will have access to the Mount Sinai Health System's Human Resources Department, as well as, their education and development programs to assist with nurse recruitment, retention, and training. The goal of this approach is to expand the workforce by tapping into an available pool of experienced caregivers, reducing costs by eliminating the need for extensive recruitment and onboarding new staff, and client continuity by allowing patients who prefer their caregivers to continue receiving care from the same individuals within the organization.

The applicant also reports that the Mount Sinai Health System has a long and positive history of providing health services to the residents of New York State and has proven to be culturally competent. With access to Mount Sinai's workforce, Mount Sinai Home Health, LLC intends to prioritize matching staff to individual clients in order to create a seamless transition from hospital care to home care. The LHCSA will also be able to offer cultural competency training as well as provide regular supervision and communication to ensure that each patient feels comfortable with their caretakers. Mount Sinai Home Health, LLC agrees to serve the underserved populations within the proposed counties. It is the applicant's intention to provide quality homecare treatment to those populations who have limited access to affordable, high-standard care.

Financial Review

In accordance with 10 NYCRR §765-1(b)(3) the applicant has submitted financial documents prepared by a Certified Public Accountant (CPA) demonstrating the financial feasibility of the agency.

Workforce Review

The applicant's response regarding the recruitment and retention of the workforce was adequately addressed. Please refer to Attachment B.

Conclusion

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3605.

Attachments

OALTC Attachment A	Organizational Chart
OALTC Attachment B	Workforce Review

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 5th day of December 2024, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish a new licensed home care services agency at 419 West 114th Street, New York, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program -- Title XIX of the Social Security Act) or other State fund overpayments made to the facility covering the period during which any such transferor was an operator of the facility, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER:

241128 E

FACILITY/APPLICANT:

Mount Sinai Home Health, LLC

APPROVAL CONDITIONAL UPON:

1. This project must be completed by one year from the date of the approval letter, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a complete response to each individual contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the Contingencies Tab in NYSE-CON.

STATE OF NEW YORK: DEPARTMENT OF HEALTH

In the Matter of the Matter of

**THE PROPOSED DISAPPROVAL BY THE PUBLIC HEALTH
AND HEALTH PLANNING COUNCIL OF AN APPLICATION
FOR A THREE-YEAR EXTENSION OF LIMITED LIFE**

BY

**SHINING STAR HOME CARE, LLC
d/b/a SHINING STAR HOME HEALTH CARE
APPLICATION NO. 171041-E**

Petitioner

**REPORT AND
RECOMMENDATION**

Pursuant to Article 36 of the Public Health Law of the
State of New York and Part 760, Chapter V, Title 10 (Health)
of the Official Compilation of Codes, Rules and Regulations of the
State of New York (NYCRR)

To: The New York State Public Health and Health Planning Council

Before: Sean D. O'Brien, Administrative Law Judge

Hearing Date: October 18, 2023, via WEB EX video conference

Appearances:

Shining Star Home Care, LLC, d/b/a Shining Star Home Health Care
5922 18th Avenue
Brooklyn, New York 11204
By: Cornelius Murray, Esq.
O'Connell and Aronowitz
54 State Street
Albany, New York 12207

New York State Department of Health
By: Daniel Rencan, Esq.
Bureau of Administrative Hearings
Division of Legal Affairs
Corning Tower, Room 2412
Empire State Plaza
Albany, New York 12237

JURISDICTION and APPLICABLE LAW

The Hearing was held pursuant to Public Health Law (PHL) Section 3606(2) and was in response to the New York State Department of Health's (Department) Public Health and Health Planning Council's (PHHPC's) proposed disapproval of Application Number 171041-E (Application) of Shining Star Home Care, LLC d/b/a Shining Star Home Health Care (Petitioner). The Application was for a three-year extension of the Petitioner's provisional (limited life) license to operate as a Certified Home Health Agency (CHHA) issued on or about January 17, 2012. At a PHHPC meeting on June 3, 2021, a majority of the PHHPC members voted to deny the Petitioner's Application based solely on Petitioner's Centers for Medicare and Medicaid Services' (CMS) Quality of Patient Care Star Rating (Star Rating) in effect on June 3, 2021.

The Hearing was held in accordance with Article 36 of the PHL, Article 3 of the State Administrative Procedures Act (SAPA), 10 NYCRR Part 760 and 10 NYCRR Part 51. Per SAPA Section 306(1) the Petitioner has the burden to prove by substantial evidence that the action of the PHHPC was incorrect.

RECORD of the HEARING

At the Hearing, the Department was represented by Daniel Renehan, Esq. The Department presented one document, Exhibit 1, and the testimony of Carol Rodat who at the time of PHHPC's vote was the Department's Director of Home and Community-Based Services. The Petitioner was represented by Cornelius D. Murray, Esq. and the Petitioner presented documents (Exhibits A-H.) The Amended Notice of Hearing was marked and admitted into evidence as Administrative Law Judge (ALJ) Exhibit I. Official Notice was taken of CMS guidance, regulations and its Star Rating system of Home Health Care Agencies. On August 24, 2023, a WEB EX pre-hearing conference

was conducted with the attorneys and the ALJ. A digital recording of the pre-hearing conference is incorporated into the record. A transcript of the Hearing was made.

FINDINGS OF FACT

Citations in parenthesis refer to the testimony of the named witness ("T.") and exhibits (Exhibit) in evidence. An opportunity to be heard having been afforded the parties and evidence been duly considered, it is hereby found:

1. The Petitioner is currently a certified CHHA with its principal place of business at 5922 18th Avenue, Brooklyn, New York. (Exhibits A, C, D, E, H.)
2. The Department initially certified the Petitioner in January 2012 for a five-year period as a special needs home health care agency authorized to serve patients suffering from stroke, hypertension, diabetes and other debilitating diseases in low-income neighborhoods in the New York counties of Bronx, Kings, New York and Queens. (Exhibits 1, C, D, E, F, H.)
3. PHHPC is the administrative body within the Department charged with overseeing the approval of home care service agencies. PHL Section 224-b. The PHHPC considers the public need for the proposed agency; the applicant's character and competence; financial resources; its standing in the community and such other matters it deems pertinent. PHL Section 3602(2).
4. In January 2017, the Petitioner applied for a three-year certificate and on December 13, 2018, the PHHPC disapproved the Petitioner's Application for failure to meet the charity care requirement of the regulations. 10 NYCRR 763.11[a][11]. (Exhibits 1, E, F, H.)
5. As result of the PHHPC's disapproval of the Petitioner's January 2017 Application, the Petitioner requested and received a hearing on the limited issue of its charity care services. A Hearing was held

before a Department Administrative Law Judge (ALJ) who determined the PHHPC erred in disapproving the Petitioner's Application and remanded the action back to the PHHPC for reconsideration. (Exhibits 1, F, H.)

6. At its June 3, 2021, meeting the PHHPC rejected the ALJ's recommendations and, further, voted to deny the Petitioner's Application due to the quality of patient care based solely on the Petitioner's CMS Star Rating of 1.5. (Exhibits 1, E, F.)

7. CMS developed the Quality of Patient Care Star Ratings (Star Ratings) to reflect how CHHAs compare with one another on measurements of their quality of patient care performance. The Star Ratings are from one to five stars with the highest performing CHHA having 5 stars and the lowest performing CHHA having 1 star. However, a rating of 1 or 2 stars doesn't necessarily mean patient care is poor. (Exhibit C; T. Rodat.)

8. To have a Star Rating, a CHHA must have performance surveys/reports across five domains of care: managing daily activities; managing pain and treating symptoms; preventing harm; preventing unplanned hospital care and patient satisfaction. (Exhibit C.)

9. The Star Ratings are calculated using each of the CHHA's scores on the quality measures based on the CHHA's patient assessments and Medicare claims. (T. Rodat.)

10. Department recertification, follow-up and revisit surveys from November 1, 2018, through October 31, 2021, found five deficiencies but none of the deficiencies "...significantly impact[ed] on care for patients." No survey document was provided to the PHHPC prior to its June 3, 2021, vote on the Petitioner's Application. (Exhibits 1, A, B.)

11. The Petitioner appeals the PHHPC's vote on the Application taken on June 3, 2021. Pursuant to SAPA Section 401(2) the Petitioner's existing license does not expire until the renewal application has been finally determined.

DISCUSSION

The Petitioner proved that the PHHPC's vote on June 3, 2021, vote to disapprove the Petitioner's Application based solely on Petitioner's 1.5 CMS Star Rating was incorrect. The vote was not valid because the PHHPC was not fully informed about the meaning of the 1.5 Star Rating. In addition, prior to its vote on June 3, 2021, the PHHPC was not given copies of Department survey results finding that no cited deficiency impacted the care of the Petitioner's patients. (Exhibit 1.)

At the Hearing, Carol Rodat, who was the Department's Director of Home and Community Based-Services at the time of the PHHPC vote, testified that she brought up the Star Ratings of the Petitioner at the June 3, 2021, meeting because she wanted to give PHHPC members a picture of the Petitioner's operation. However, Director Rodat explained the CMS Star Ratings only generally and failed to outline the actual criteria and sources of the rating information specific to the Petitioner and the context by which CMS views its rating system. (Exhibit 1 at pp. 28, 35.) In particular, Director Rodat did not make clear that a Star Rating of 1.5 does not necessarily mean patient care is poor. Indeed, Tracy Raleigh, the Director of Planning, Licensure and Finance for the Department at the time, stated at the meeting, "...overall, 1 and a half stars meets the conditions of participation to continue...providing home care services...." Exhibit 1 at p. 35.)

In addition, although Director Rodat verbally informed PHHPC members that the Department's recertification survey deficiencies for the Petitioner were "...very small and very minor...", she did not provide hard copies of the results to members. (Exhibit 1 at p. 28.) The Department's survey results concluded that none of the deficiencies "...significantly impact[ed] on care for patients." (Exhibits A, B.) Specifically, none of the detailed deficiencies related to direct patient care. (Exhibits A, B.)


The PHHPC members were not given complete information to support their vote on June 3, 2021. The members were not provided with the CMS fact sheet entitled "Quality of Patient Care Star Rating" which states that a rating of 1 or 2 stars "...doesn't necessarily mean [patient] care is poor". This omission, coupled with a review of the transcript of the PHHPC meeting, reveals that PHHPC members were not adequately briefed on how the CMS Star Rating system works, despite being given "a lesson" on it at some earlier date. (Exhibit 1 at p. 29.) In addition, the failure to provide the PHHPC members with the Department's recertification survey report of the Petitioner did not give the PHHPC members an accurate and complete picture of the Petitioner's quality of patient care.

The Department's omission in not providing complete information as to the meaning of the CMS Star Rating System, along with its failure to provide the Petitioner's recertification survey report, resulted in PHHPC members drawing erroneous conclusions as to the quality of patient care the Petitioner provided. The Application also was not properly vetted prior to reaching the full PHHPC for vote. Although the PHHPC's Establishment and Project Review Committee met on May 13, 2021, the Committee did not discuss the Petitioner's Application. Therefore, the PHHPC's vote of June 3, 2021, to deny the Petitioner's Application is factually and legally unsupportable.

RECOMMENDATION

Recommend the PHHPC reverse its June 3, 2021, vote to propose disapproval of the Petitioner's Application based solely on the Petitioner's CMS Star Rating.

DATED: October 26, 2023
Albany, New York


SEAN D. O'BRIEN
Administrative Law Judge

STATE OF NEW YORK: DEPARTMENT OF HEALTH

In the Matter of

**THE PROPOSED DISAPPROVAL BY THE PUBLIC HEALTH AND HEALTH
PLANNING COUNCIL OF AN APPLICATION FOR A THREE-YEAR EXTENSION
OF THE LIMITED LIFE BY**

**SHINING STAR HOME CARE, LLC d/b/a SHINING STAR HOME HEALTH CARE
APPLICATION NO. 171041-E**

Petitioner,

Pursuant to Article 36 of the Public Health Law (PHL) of the State of New York and Part 760,
Chapter V, Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New
York (NYCRR)

REPORT and RECOMMENDATION

To: The New York State Public Health and Health Planning Council

Before: Jean T. Carney, Administrative Law Judge

Held at: New York State Department of Health
150 Broadway, Suite 510
Menands, New York 12204
October 2, 2019 and December 5, 2019
Record closed on February 20, 2020

Appearances: Shining Star Home Care, LLC, Petitioner
5922 18th Avenue
Brooklyn, New York 11204
By: Cornelius D. Murray, Esq.
O'Connell and Aronowitz
54 State Street
Albany, New York 12207

New York State Department of Health, Respondent
By: Eric J. Mantey, Esq.
Corning Tower, Room 2412
Empire State Plaza
Albany, New York 12237

JURISDICTION and APPLICABLE LAW

New York State Public Health Law (PHL) Article 36 sets forth the requirements for establishing and operating home care services agencies. In order to obtain an operating certificate, the proposed Certified Home Health Agency (CHHA) must submit an application to the Public Health and Health Planning Council (PHHPC) for approval. (PHL §3606). The PHHPC considers the public need for the proposed agency; the applicant's character, competence, and standing in the community; the CHHA's proposed financial resources; and "such other matters as it shall deem pertinent." (PHL §3606[2]; 10 NYCRR §760.3). Among the other matters that the PHHPC may deem pertinent in approving an application is whether the proposed agency intends to provide charity care; which is defined as "care provided at no charge or reduced charge for the services the agency is certified to provide to patients who are unable to pay full charges, are not eligible for covered benefits under title XVIII or XIX of the Social Security Act, are not covered by private insurance, and whose household income is less than two hundred percent of the federal poverty level." (10 NYCRR §760.11[a][11]). If the PHHPC proposes to disapprove an application, the proposed CHHA is entitled to a hearing. (PHL §3608).

Shining Star Home Care, LLC (Petitioner, or Shining Star) bears the burden of proof in this matter; and must show by substantial evidence that the PHHPC erred in its proposed determination to disapprove the Petitioner's application to extend its Limited Life certification. Substantial evidence means such relevant proof as a reasonable mind may accept as adequate to support conclusion or fact; less than preponderance of evidence, but more than mere surmise, conjecture or speculation and constituting a rational basis for decision. *Stoker v. Tarantino*, 101 A.D.2d 651, 475 N.Y.S.2d 562 [3rd Dept. 1984], *appeal dismissed* 63 N.Y.2d 649 (1984).

HEARING RECORD

In support of its position, the Petitioner presented documents (Petitioner Exhibits 1-13); the testimony of Frank M. Cicero, President and CEO of Cicero Consultants, VCC, Inc; and the testimony of Yechiel Landau, Managing Member and Majority Owner of Shining Star. The Department of Health (DOH or Respondent) presented documents (DOH Exhibits A-X); and the testimony of George T. Macko, Director of Planning and Licensure at the DOH. The ALJ admitted the Notice of Hearing (ALJ I) on her own motion, and Official Notice was taken of the Patient Protection and Affordable Care Act (ACA), enacted on March 23, 2010. (42 USCS §18001 *et. seq.*). A transcript of the hearing was made, and each party submitted post hearing memoranda and reply briefs.

FINDINGS OF FACTS

After careful consideration of the record, it is hereby found:

1. The Petitioner was certified January 12, 2012 as a special pilot program CHHA, with a conditional five-year limited life. The population Shining Star serves is limited to individuals in Bronx, Kings, New York, and Queens Counties who have been identified as being a high risk for re-hospitalization due to heart disease, stroke, and diabetes. (Petitioner Exhibit 2; DOH Exhibit F; Testimonies of Mr. Cicero and Mr. Landau).

2. Approval of the Petitioner's initial certification was contingent upon the submission of several documents, including a signed agreement with an outside entity to provide annual reports to the DOH; an acceptable plan for providing "no less than 2% charity care in accordance with Section 763.11(a)(11) of Title 10 NYCRR"; an executed building lease; executed and dated Articles of Organization; an executed and dated copy of the Operating Agreement; and any amendments to those sections of the application describing the target population. (DOH Exhibit A; Testimony of Mr. Cicero).

3. Prior to the expiration of its initial certification, Shining Star applied for a three-year extension. This application was reviewed by the DOH; and submitted for consideration to the PHHPC's Establishment Project Review Committee (Committee). The DOH initially did not recommend approval, and the Committee deferred its determination until the DOH recommended approval with conditions and contingencies, which did not include submission of a plan to provide charity care. (Testimonies of Mr. Macko and Mr. Cicero; DOH Exhibits G through K; DOH Exhibit V).

4. On November 29, 2018 the Committee recommended approval to the full PHHPC of the application without the condition or contingency to provide charity care. (DOH Exhibit U).

5. At their meeting on December 13, 2018, the full PHHPC voted to disapprove Shining Star's application based on its failure to provide charity care stating, "[h]ere we have an operator who is not running a successful business who also has been unable to get to two percent of indigent care. If we're ever going to set an example and make it clear, we have expectations and we expect the providers to live up to those expectations they pledge to, this is that opportunity." (DOH Exhibits W and X; Testimony of Mr. Macko).

6. Shining Star was designed to serve post-hospital discharged patients with specific diagnoses. Since the ACA was enacted, virtually all post-hospital discharged patients are insured through Medicare; and many are insured through both Medicare and Medicaid. (Testimony of Mr. Cicero; DOH Exhibit W; Petitioner Exhibit 1).

DISCUSSION

The only issue here is whether the PHHPC acted rationally when it denied Shining Star's application to extend its certification based solely on Shining Star's failure to provide two percent charity care. At the hearing, the Department conceded that this was the reason for disapproving the

Petitioner's application to extend. The evidence shows that the Petitioner's application was recommended for approval without any condition or contingency requiring a plan for charity care; and the PHHPC has not held other entities to the standard of providing charity care. Therefore, the Petitioner has met its burden of showing that the PHHPC erred in proposing to deny its application.

Shining Star was established to provide home health care services to a narrowly defined, specific population. Specifically, Shining Star provides services to individuals at risk for re-hospitalization for diabetes, heart disease, or stroke. Patients are referred to Shining Star by hospitals upon the patient's discharge; and are covered by Medicare and/or Medicaid as a matter of course. (Testimony of Mr. Landau; DOH Exhibit U). Although many of these patients are either low income or indigent, they do not meet the definition of charity care eligibility because they have health insurance through Medicaid and/or Medicare. (10 NYCRR §760.11[a][11]). The Committee considered this information when recommending approval of Shining Star's application to extend its limited life certification to the full PHHPC. Notably, the Committee's approval was contingent and conditioned on certain factors; but providing charity care was not one of those contingencies or conditions. In voting to disapprove Shining Star's application, the PHHPC acknowledged the Committee's consideration of these factors; but chose to disregard its recommendation.

Instead, the full PHHPC focused on Shining Star's inability to provide two percent charity care, and chose to make an example of the Petitioner, indicating that providing charity care is an important aspect of approving such applications. However, this requirement sets Shining Star up for failure because their target patient population does not meet the definition of charity care. Furthermore, the PHHPC did not follow through with this policy, approving similar applications despite the applicant's failure to meet the two percent charity care requirement. (Testimony of Mr. Cicero; Petitioner Exhibits 1, 8, and 10-13).

The Department posited that Shining Star's application was unique because it is a limited life CHHA, and therefore could not be compared to any other applicant. However, the record reflects that some applicants were similar in that they were established CHHAs who had failed to provide two percent charity care, and yet were approved to continue under new ownership. Additionally, the record reflects that no other initial CHHA application was denied for failure to provide a plan to provide two percent charity care. (Testimony of Mr. Cicero; Petitioner Exhibits 1, 8, and 10-13). Therefore, the PHHPC's disapproval in this matter deviated from the norm, and was unsupported by either precedent or antecedent.

CONCLUSION and RECOMMENDATION

The Petitioner showed that the PHHPC erred in disapproving Shining Star's application to extend its certification as a limited life CHHA. This matter is remanded to the PHHPC for reconsideration.

DATED: May 15, 2020
Albany, New York


JEAN T. CARNEY
Administrative Law Judge

STATE OF NEW YORK : DEPARTMENT OF HEALTH

IN THE MATTER

OF

THE PROPOSED DISAPPROVAL BY THE PUBLIC HEALTH
AND HEALTH PLANNING COUNCIL OF AN APPLICATION
FOR A THREE-YEAR EXTENSION OF LIMITED LIFE

Department's
Exceptions to the
Report of the
Administrative
Law Judge

By

SHINING STAR HOME CARE, LLC D/B/A SHINING STAR HOME
HEALTH CARE APPLICATION NO. 171041-E,

Petitioner,

pursuant to Article 36 of the Public Health Law of the
State of New York and Part 760 Chapter V, Title 10 (Health)
of the Official Compilation of Codes, Rules and Regulations of the
State of New York (NYCRR).

TO: Hon. James F. Horan, Chief Administrative Law Judge
Bureau of Adjudication
New York State Department of Health
Riverview Center
150 Broadway, Suite 510
Albany, NY 12204
James.Horan@health.ny.gov

Hon. Jean T. Carney, ALJ
Bureau of Adjudication
New York State Department of Health
Riverview Center
150 Broadway, Suite 510
Albany, NY 12204
Jean.Carney@health.ny.gov

Cornelius D. Murray, Esq
O'Connell & Aronowitz
54 State Street
Albany, New York 12207
cmurray@oalaw.com

Exceptions

The Administrative Law Judge (ALJ) found that the Public Health and Health Planning Counsel ("PHHPC")'s denial of the Petitioner's application for an extension of its limited-life certified home health agency ("CHHA") operating certificate was not rational because PHHPC "deviated from the norm", as evident from the lack of "precedent or antecedent". However, the facts of this case, the exhibits admitted into the record, and the testimony received from witnesses irrefutably demonstrate that the Petitioner is an applicant like no other. Therefore, there was no "norm" from which the PHHPC could have deviated, nor can there have been any precedent or antecedent to support PHHPC's actions.

The Petitioner applied for an extension of its limited-life license. That license had been issued during a moratorium of licensing of new CHHAs, and its approval was expressly contingent upon the Petitioner's plan for meeting charity care requirements prescribed in regulation. The PHHPC voted to disapprove the application for an extension of this license on the grounds it failed to meet charity care requirements.

The agencies and applicants whose treatment the ALJ compared to that of the Petitioner were not similarly situated applicants. One was a permanent license holder that was seeking an extension of its service area which is not akin to an application seeking to extend the life of an operating certificate. The other agency used as a comparison involved an application for a change of ownership. The proposed new owner would not have a prior history upon which its provision of charity-care could be gauged, and the existing owner's provision of charity-care would not reflect the proposed new owner's abilities. Indeed, in that case, any failure of the agency to have

met its requirements under existing ownership would reinforce the need to change ownership.


The ALJ did not expressly find that it would be irrational *per se* for the PHHPC to deny an extension of a limited-life license to an applicant that failed to meet its obligations. She noted disparagingly, however, that the PHHPC disregarded the recommendation of the Establishment and Project Review Committee (EPRC), which had reviewed the Petitioner's application without considering its prior compliance with charity-care requirements. In fact, the mere fact that the PHHPC considered issues in addition to those considered by the EPRC and reached different conclusions does not render PHHPC's decisions irrational. Indeed, it would be more irrational for the PHHPC to blindly rubber-stamp the recommendations of its committees. Buttressed by the self-serving testimony of Mr. Landau, the ALJ also noted that the PHHPC set the Petitioner up for failure by requiring charity-care when the Petitioner's target population purportedly did not meet the definition of charity care because they consisted primarily of Medicare and Medicaid customers. The Petitioner did not introduce any evidence showing that all its patients were Medicare and/or Medicaid customers. In fact, it shows on page 6 of the Petitioner's own exhibit #2, which was admitted into evidence, that for the "current year" Medicare visits accounted for only 19.3% of the Petitioner's business, while Medicaid accounted for only 7.6%; furthermore, for six months in 2018, those percentages were 14.3% and 16.9% respectively.

For the reasons set forth above, including PHHPC's rational use of valid Department regulations and statutes when proposing to disapprove the Petitioner's application, the Department requests a final Order that the Petitioner has not met its

burden of proving that PHHPC's proposed disapproval of Petitioner's application was not supported with substantial evidence, and further requests a recommendation to PHHPC that its proposed disapproval be upheld.

DATED: June 18, 2020

Respectfully submitted,



Eric J. Mantey, Senior Attorney
Bureau of Administrative Hearings
Division of Legal Affairs
New York State Department of Health

RESOLUTION OF APPROVAL

WHEREAS, the Public Health and Health Planning Council, pursuant to the provisions of Section 3606(2) of the Public Health Law, has considered any advice offered by any applicable Regional Health Systems Agency, the staff of the New York State Department of Health and the Establishment Committee of this Council; and

WHEREAS, on June 3, 2021, this Council proposed to disapprove CON application #171041-E, request for a three-year extension of limited life for CON #072094-E; and

WHEREAS, following the applicant's request for a public hearing pursuant to said Section 3606(2), such a hearing was held before an Administrative Law Judge, and the Administrative Law Judge has, by his Report and Recommendation dated October 26, 2023 recommended that the Public Health and Health Planning Council reverse its June 3, 2021 vote disapproving application #171041-E, which was based solely on the applicant's CMS Star Rating; and

WHEREAS, the Public Health and Health Planning Council has considered the record of said hearing and Report and Recommendation; it is hereby

RESOLVED, that this Council, after due deliberation, on this 5th day of December, 2024, hereby proposes to approve CON application #171041-E, request for a three-year extension of limited life for CON #072094-E, with the conditions and contingencies specified below; and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified in the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary to the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that any approval of this application is not to be construed as in any manner releasing or relieving any transferor, as applicable (of any interest in the facility that is the subject of the application) of responsibility and liability for any Medicaid (Medicaid Assistance Program – Title XIX of the Social Security Act) or other State fund overpayments made to the certified home health agency covering the period during which any such transferor was an operator of the certified home health agency, regardless of whether the applicant or any other entity or individual is also responsible and liable for such overpayments, and the State of New York shall continue to hold any such transferor responsible and liable for any such overpayments, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of the documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by the Department of Health, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

APPLICATION NUMBER:

171041 E

FACILITY/APPLICANT:

Shining Star Home Health Care
(Kings County)

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

1. Submission of 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 Bronx, 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]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a **complete** response to each **individual** contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the *Contingencies Tab in NYSE-CON*.

RESOLUTION OF DISAPPROVAL

WHEREAS, the Public Health and Health Planning Council, pursuant to the provisions of Section 3606(2) of the Public Health Law, has considered any advice offered by any applicable Regional Health Systems Agency, the staff of the New York State Department of Health and the Establishment Committee of this Council; and

WHEREAS, on June 3, 2021, this Council proposed to disapprove CON application #171041-E, request for a three-year extension of limited life for CON #072094-E; and

WHEREAS, following the applicant's request for a public hearing pursuant to said Section 3606(2), such a hearing was held before an Administrative Law Judge, and the Administrative Law Judge has, by his Report and Recommendation dated October 26, 2023 recommended that the Public Health and Health Planning Council reverse its June 3, 2021 vote disapproving application #171041-E, which was based solely on the applicant's CMS Star Rating; and

WHEREAS, the Public Health and Health Planning Council has considered the record of said hearing and Report and Recommendation; it is hereby

RESOLVED, that this Council, after due deliberation, and for the reasons stated on the record at its meeting of this Council, on this 5th day of December, 2024 hereby accepts the Conclusion set forth in said Report and Recommendation; and be it further

RESOLVED, that this Council, after due deliberation, and for the reasons stated on the record at its meeting of this Council, on this 5th day of December, 2024 hereby disapproves the following application for the request for a three-year extension to its limited life operating certificate.

APPLICATION NUMBER:

171041 E

FACILITY/APPLICANT:

Shining Star Home Health Care
(Kings County)



Project # 171041-E
Shining Star Home Health Care

Program: Certified Home Health Agency
Purpose: Establishment

County: Kings
Acknowledged: January 19, 2017

Executive Summary

Description

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

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

The 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 4,313 for 2017 (per Cost Reports). 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:

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

The projected net income is positive going forward, however it 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. Landau'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 Public 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 through 2017.

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 (1 st Full Year)	Actual 2014	Actual 2015 (3 rd Full Year)	Actual 2016	Actual 2017
Nursing	7,199	21,783	240	1,773	3,176	2,261	2,386
Occupational Therapy	196	320	0	43	16	1	1
Physical Therapy	561	1,336	39	278	522	184	1,774
Speech/Language Pathology	27	57	0	17	37	1	1
Medical Social Services	21	307	2	14	4	12	4
Home Health Aide	26,748	151,465	1,788	3,618	2,924	540	147
Total	34,752	175,268	2,069	5,743	6,679	2,999	4,313

Source: Agency's Cost Reports

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 discontinued 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.
- The applicant reports that in 2017 only 12 of Shining Star's 726 patients (1.7%) were discharged to a hospital or Emergency Department. The applicant reports that, per statistics published by the Agency for Healthcare Research and Quality, the average readmission rate for patients seven days after discharge from a hospital was 7.5%, and 30 days after discharge from a hospital was 21.1%.

The applicant 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 has a 3.5 CMS Quality of Patient Care Star Rating, compared to a NYS average of 3 stars and a national average of 3.5 stars.

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

Financial Analysis

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:

	<u>Current Year</u>	<u>2018 (6 mos)</u>	<u>Year One</u>	<u>Year Three</u>
<u>Revenues</u>				
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	<u>4,407</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Revenues	\$440,703	\$336,066	\$672,132	\$692,296
<u>Total Expenses</u>				
Operating	\$569,612	\$229,937	\$577,225	\$582,465
Space Occupancy	<u>22,977</u>	<u>15,000</u>	<u>26,859</u>	<u>32,168</u>
Total Expenses	\$592,589	\$244,937	\$604,084	\$614,633
Net Income/(Loss)	<u>(\$151,886)</u>	<u>\$91,129</u>	<u>\$68,048</u>	<u>\$77,663</u>
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

** Net Income/Loss differences for 2017 (as submitted by the applicant) would be immaterially different if actual utilization of 4,313 was used as the basis.

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 Managed 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 CHHA's 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 contribution 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 audited financial statements 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 positive net income of \$91,151. The applicant attributes the 2016 loss to low utilization, while 2018 results through June show positive net income based on improved efficiency and increased utilization.

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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 3606 of the Public Health Law, on this 13th day of December 2018, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council, and after due deliberation, hereby approves the following application to request for a three-year extension of limited life for CON #072094-E, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

RESOLVED, that upon fulfillment by the applicant of the conditions and contingencies specified for the application in a manner satisfactory to the Public Health and Health Planning Council and the New York State Department of Health, the Secretary of the Council is hereby authorized to issue the approval of the Council of the application, and be it further

RESOLVED, that upon the failure, neglect or refusal of the applicant to submit documentation or information in order to satisfy a contingency specified with reference to the application, within the stated time frame, the application will be deemed abandoned or withdrawn by the applicant without the need for further action by the Council, and be it further

RESOLVED, that upon submission of documentation or information to satisfy a contingency specified with reference to the application, within the stated time frame, which documentation or information is not deemed sufficient by Department of Health staff, to satisfy the contingency, the application shall be returned to the Council for whatever action the Council deems appropriate.

NUMBER

171041 E

APPLICANT/FACILITY

Shining Star Home Health Care

APPROVAL CONTINGENT UPON:

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

1. Submission of 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 CONDITIONED 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]

Documentation submitted to satisfy the above-referenced contingencies shall be submitted within sixty (60) days. Enter a **complete** response to each **individual** contingency via the New York State Electronic Certificate of Need (NYSE-CON) system by the due date(s) reflected in the *Contingencies Tab in NYSE-CON*.