

STATE OF NEW YORK
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

COMMITTEE DAY

AGENDA

March 27, 2025
10:15 a.m.

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

I. COMMITTEE ON ESTABLISHMENT AND PROJECT REVIEW

Peter Robinson, Chair

A. Application for Construction of Health Care Facilities/Agencies

Acute Care Services – Construction

<u>Number</u>	<u>Applicant/Facility</u>
1. 242268 C	Hospital for Special Surgery (New York County)
2. 242324 C	Long Island Jewish Medical Center (Queens County)
3. 251013 C	Montefiore Mount Vernon Hospital (Westchester County)

Ambulatory Surgery Center – Construction

<u>Number</u>	<u>Applicant/Facility</u>
1. 242333 C	Endoscopy Center of Western New York, LLC (Erie County)

Certified Home Health Agency – Construction

<u>Number</u>	<u>Applicant/Facility</u>
1. 251016 C	Marquis Certified Home Care, LLC (Albany County)

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

Ambulatory Surgery Centers – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>
1. 242221 B	Ambulatory Surgery Center of Williamsburg (Kings County)
2. 242292 E	Crystal Run Ambulatory Surgery Center of Middletown (Orange County)
3. 251014 E	Atrium Endoscopy (Suffolk County)

Diagnostic and Treatment Center – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>
1. 242263 B	Medical Center of Williamsburg (Kings County)

Certified Home Health Agency – Establish

<u>Number</u>	<u>Applicant/Facility</u>
1. 231143 E	Western Region Health Corporation d/b/a Willcare (Erie County)
2. 231144 E	Litson Certified Care, Inc. d/b/a Willcare (Orange County)

Residential Health Care Facilities – Establish

<u>Number</u>	<u>Applicant/Facility</u>
1. 231220 E	CLRNC Operating LLC d/b/a Clinton County Nursing Home (Clinton County)
2. 232241 E	WRNC Operating LLC d/b/a Wells Rehabilitation and Nursing Center (Fulton County)

3. 202251 E Hoosick Falls Center LLC d/b/a Hoosick Falls
Rehabilitation and Nursing Center
(Rensselaer County)
4. 222053 E VS Servicer at Beacon LLC d/b/a Taconic
Rehabilitation and Nursing at Beacon
(Dutchess County)
5. 222054 E VS Servicer at Fishkill LLC d/b/a Taconic
Rehabilitation and Nursing at Hopewell
(Dutchess County)
6. 222055 E VS Servicer at Ulster LLC d/b/a Taconic
Rehabilitation and Nursing at Ulster
(Ulster County)
7. 231043 E Meadowbrook Operating LLC d/b/a Meadowbrook Healthcare
(Clinton County)
8. 241267 E Morningstar Residential Care Center
(Oswego County)
9. 242133 E Delmar SNF Operations Associates, LLC d/b/a Delmar Center for
Rehabilitation and Nursing
(Albany County)



Project # 242268-C
Hospital for Special Surgery

Program: Hospital
Purpose: Construction

County: New York
Acknowledged: December 9, 2024

Executive Summary

Description

The Hospital for Special Surgery (HSS), a 215-bed hospital at 535 E 70th Street New York, New York (New York County), requests approval to build a new, 12-story, 94,000-square-foot building (HSS Kellen Tower, formerly River Building) on a on the main campus to include imaging services and inpatient beds.

HSS originally submitted and received approval for this project under an administrative review Certificate of Need (CON) Application 191311-C. Due to an 18-month delay from the original construction start date and initial total project cost increases stemming from material and labor cost escalation as a result of the COVID-19 Public Health Emergency, this project is being resubmitted as a full CON application and will amend and supersede project 191311-C.

The proposed building will be on a platform over the FDR Drive and connected to the main hospital building via a bridge as well as to the HSS's Ambulatory Pavilion Building on 535 East 71st Street, in Manhattan (New York County). Construction commenced on October 12, 2021, and there have been no material project scope changes from what was included in the original CON project 191311-C.

The new building will be known as HSS Kellen Tower and will include three floors of Article 28 medical/surgical inpatient units with a total of 35 single-bedded private patient rooms and related support spaces. There will be no change in the number of certified beds as a result of this project. The increase in private rooms will also support the Hospital's growing infection control

program. Also, one floor will provide Article 28 imaging services with ten diagnostic imaging X-Ray rooms, along with staff lockers and lounge, technician work areas, and clinical/administrative support spaces. There will be seven (7) floors of non-Article 28 physician office space for HSS medical staff and one (1) floor for building mechanical equipment. The new physician space will enable HSS to accommodate planned recruitment for its Spine and Adult Reconstruction and Joint Replacement (ARJR) service lines, as well as more efficiently co-locate these service line practices. Having Article 28 imaging services located in the same building supports the accessibility to these services for the patients of the physicians practicing in HSS Kellen Tower, enhancing efficiency of care and throughput for these physicians.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant is projecting an inpatient payor mix of 3.8% Medicaid and 55% Medicare with 9,664 patient discharges in Year One and 10,221 in Year Three. The applicant projects an outpatient payor mix of 3.9% Medicaid and 26% Medicare with 763,233 patients in Year One and 771,217 in Year Three.

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 \$292,715,000 includes \$123,576,006 in Article 28 costs and \$169,138,994 in non-Article 28 costs. The Article 28 portion will be funded with \$60,250,242 in equity from HSS and \$63,325,764 in bond financing. The non-Article 28 space will be funded with \$82,464,758 in equity and \$86,674,236 in bond financing

Budget: (in 000s)	<u>Current Year (2023)</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,586,363	\$1,727,882	\$1,819,258
Expenses	<u>\$1,503,701</u>	<u>\$1,633,942</u>	<u>\$1,648,522</u>
Excess Revenues over Expenses	\$82,662	\$93,940	\$170,736

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 a bond resolution acceptable to the Department of Health. Included with the submitted bond resolution must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. [BFA]

Approval conditional upon:

1. This project must be completed by **February 15, 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 **October 15, 2025**, and construction must be completed by **November 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]

Council Action Date

April 10, 2025

Need Analysis

Project Description

The Hospital for Special Surgery (HSS), is a 215-bed hospital at 535 E 70th Street New York, New York (NY) 10021 (New York County), and is seeking approval to build a new, 12-story, 94,000-square-foot building (HSS Kellen Tower, formerly River Building) to be constructed on a platform over the FDR Drive, connected to HSS's Ambulatory Pavilion Building on East 71st Street, and with bridge connectivity to the main hospital building. This project supersedes the previously submitted Administrative Review CON 191311 and has moved to the full review process due to the increase in project cost from delaying construction during the COVID pandemic. The building will include 35 single-bedded medical/ surgical rooms using beds from existing double occupancy rooms, ten (10) X-ray rooms, and clinical spaces.

Background and Analysis

The primary service area for this project is New York County, however, this is a specialty hospital and sees patients from around the world. HSS estimates that 87% of patients come from NY County and other areas throughout NY State and the remaining 13% of patients come from other states and countries around the world. The population of NY County is estimated at 1,627,788 and the 65+ population is estimated at 289,340 based on 2023 American Community Survey data. The total population is expected to increase to 1,727,631 by 2030 and the 65+ population is expected to increase to 348,459 per projection data from the Cornell Program on Applied Demographics, an increase of 6.1% and 20.4% respectively.

Demographics	New York County	New York State
Total Population – 2023 Estimate	1,627,788	19,872,319
Hispanic or Latino (of any race)	24.3%	19.6%
White (non-Hispanic)	46.3%	53.4%
Black or African American (non-Hispanic)	12.5%	13.6%
Asian (non-Hispanic)	12.3%	8.8%
Other (non-Hispanic)	4.6%	4.6%

Source: 2023 American Community Survey (5-Year Estimates Data Profiles)

In 2022, 95.4% of the population of NY County had health coverage as follows:

Employer plans	52.3%
Medicaid	19.7%
Medicare	10.5%
Non-group plans	12.7%
Military or VA plans	0.321%

Source: Data USA

The applicant reports performing 41,000 orthopedic surgeries in 2023 and expects a 5% annual surgical growth. They focus on the aging population and patients with complex musculoskeletal conditions. They have special programs that reach out to underserved populations and are involved in community outreach programs focusing on chronic disease management including arthritis and diabetes.

The table below provides current and projected payor mix data for inpatient discharges and outpatient visits.

Applicant Projected Payor Mix						
Payor	Current	Year One	Year Three	Current	Year One	Year Three
	Inpatient			Outpatient		
Commercial	37.56%	35.56%	35.56%	64.16%	64.01%	64.01%
Medicare	55.23%	55.19%	55.20%	25.84%	26.00%	26.01%
Medicaid	2.76%	3.76%	3.76%	4.34%	4.34%	4.33%
Private Pay	2.22%	2.86%	2.86%	3.91%	3.90%	3.89%
Other	2.23%	2.63%	2.62%	1.76%	1.75%	1.75%
Total Visits	9,183	9,664	10,221	749,705	763,233	771,217

The applicant offers free care for qualified individuals with no insurance and discounted care with no liability with insurance. HSS's Financial Assistance policy and procedures are maintained and operated in compliance with the applicable Federal and State New York Hospital Financial Assistance laws. According to the applicant, HSS provides full and partial charity care for certain uninsured patients and partial charity care/financial assistance to cover deductibles and co-pays for insured patients. In 2023, HSS provided \$23,338,733 in charity care/financial assistance to its Self-Pay, Medicare, and Commercial patients (\$9,299,584 for inpatients and \$14,039,149 for outpatients). These dollars are not included in the payor mix but do equate to approximately 1.8% of HSS's total 2023 patient revenue.

Hospital for Special Surgery Average Daily Census and Occupancy							
Service	Beds	ADC	Occ.	ADC	Occ.	ADC	Occ.
		2021		2022		2023	
Medical/Surgical	205	92	44.9%	77.6	37.9%	68.1	33.2%
Pediatric	10	1.6	15.9%	1.4	14.3%	1.6	15.8%
Total	215	93.5	43.5%	79.1	36.8%	69.7	32.4%

Source: SPARCS

Through this project, there will be no increase in the number of inpatient beds. The new single rooms will help the facility control infection and improve patient experience.

Hospital For Special Surgery Surgical Volume and Percentage of Inpatient Admissions						
Surgeries	2019	2020	2021	2022	2023	2024
Inpatient Surgeries	15,906	12,536	12,534	11,876	10,811	9,162
Same Day Outpatient	11,114	8,684	10,502	11,771	12,817	13,906
Overnight Outpatient	2,871	2,606	4,811	5,629	7,299	7,922
Total	29,891	23,826	27,847	29,276	30,927	30,990

Source: Applicant

The table above shows a shift from inpatient surgery to outpatient surgery but an increase in total surgeries. According to the applicant, Overnight Outpatient is based on clinical need, when patients require an overnight hospital stay and are admitted to an inpatient bed but are still considered and billed as an outpatient (lower reimbursement). Most of these patients remain hospitalized for one night or more, the average length of stay is 1.1-1.4 days.

Conclusion

This renovation project will provide the addition of single-bedded inpatient rooms and X-ray rooms, while enhancing care, improving wait times, and helping control infection.

Program Analysis

Project Proposal

New York Society for the Relief of the Ruptured and Crippled, which maintains the Hospital for Special Surgery ("HSS"), at 535 East 70th Street, New York, New York 10021 (New York County) seeks approval to add Article 28 space in a newly constructed 12-story building on the main campus. Construction will include the core, the shell, and a fit-out of floors 2,3, 4 and 5 of the proposed Kellen Tower Building.

The newly constructed Article 28 space will include imaging services and the relocation of 35 inpatient beds. There will be no change in the total certified bed count. The relocation of the Radiology rooms will include consolidating the outpatient radiology area on the 2nd floor of the Pavilion/Kellen Tower complex, which will allow for future development of the 3rd floor of the existing HSS East Wing.

This new construction is designed as an addition to the HSS Pavilion (formerly "Caspary" building) which is an existing 8-story building containing both Article 28 and non-Article 28 outpatient services. The remaining floors, 6-12 of the Kellen Tower building, will contain non-Article 28 services which will be separated from the hospital services, each with their distinct physical space. Patients of the Article 28 services or physician offices will not pass through clinical space of another provider to access, or egress from, their space.

Updates will occur to the HVAC, plumbing, fire protection/sprinklers, and electrical systems. The HSS Kellen Tower was expected to be completely enclosed by the end of 2024 with an interior fit-out of the building to continue through 2025 and opening in early 2026.

The current services provided by HSS will remain the same: Ambulatory Surgery-Multi Specialty, Medical Services-Other Medical Specialties, Medical Services-Primary Care, and Occupational and Physical Outpatient services.

The following table shows FTEs in Year One and Year Three after completion of the project:

Position	First Year	Third year
Management and Supervision	714.4	714.4
Technician and Specialist	904.3	904.3
Registered Nurses	659.2	659.2
Licensed Practical Nurses	79.1	79.1
Aides, Orderlies & Attendants	282.5	282.5
Physicians	390.7	390.7
PGY Physicians	114.1	114.1
Physicians' Assistants	225.7	225.7
Nurse Practitioners	59.1	59.1
Social Workers and Psychologist	19.5	19.5
Physical Therapists and PT Assistants	198.0	198.0
Occupational Therapists and OT Assistants	0.6	0.6
Speech Therapists and Speech Assistants	1.1	1.1
Other Therapists and Assistants	16.9	16.9
Clerical and Other Administrative	1,138.2	1,149.6
Infection Control, Environment and Food Service	305.3	322.4
Other: Research and Scientist	24.2	24.2
Totals	5,120.0	5,161.4

HSS's main campus is in New York City, and associated facilities are located throughout Westchester County, and in the states of Connecticut, Long Island, New Jersey, and Florida.

The staff from the Division of Certification & Surveillance reviewed the ten-year surveillance compliance history of all associated facilities. Sources of information included the files, records, and reports found within 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 no current outstanding citations.

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

The Hospital for Special Surgery (HSS), located in New York County, requests approval for the construction of a new building, the "HSS Kellen Tower," that amends and supersedes Project No. 191311-C, reflecting increased project costs that occurred due to delays. This project will support the implementation of more private inpatient beds into their main facility, in acknowledgement of the large population served within and outside the New York City metropolitan region.

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

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

The proposed project will advance the Prevention Agenda priorities of Preventing Chronic Diseases and Promoting Well-Being and Preventing Mental and Substance Use Disorders by allowing HSS to utilize evidence-based care, strengthen self-management skills, and build supportive environments that improve the health of patients with chronic diseases, including musculoskeletal and rheumatologic conditions. As per the latest available report, HSS spent \$12,175,997 on community health improvement services in 2022, representing 0.85 % 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 cost of \$292,715,000 comprised Article 28 and non-Article 28 space is further broken down as follows:

	<u>Article 28</u>	<u>Non-Article 28</u>	<u>Total</u>
New Construction	\$78,032,117	\$118,875,559	\$196,907,676
Renovation and Demolition	\$5,929,385	\$0	\$5,929,385
Construction Contingency	\$11,003,485	\$15,060,515	\$26,064,000
Architect/Engineering Fees	\$5,803,595	\$7,943,405	\$13,747,000
Construction Manager Fees	\$2,343,898	\$3,208,102	\$5,552,000
Other Fees (Consultant)	\$5,568,445	\$7,621,555	\$13,190,000
Moveable Equipment	\$9,676,000	\$10,210,000	\$19,886,000
Financing Costs	\$597,552	\$818,448	\$1,416,000
Interim Interest Expense	\$3,943,590	\$5,401,410	\$9,345,000
CON Fee	\$2,000	\$0	\$2,000
Additional Processing Fee	<u>\$675,939</u>	<u>\$0</u>	<u>\$675,939</u>
Total Project Cost	\$123,576,006	\$169,138,994	\$292,715,000

The applicant's financing plan appears as follows:

	<u>Article 28</u>	<u>Non-Article 28</u>	<u>Total</u>
Cash	\$60,250,242	\$82,464,758	\$142,715,000
Bond Financing	\$63,325,764	\$86,674,236	\$150,000,000
Total	\$123,576,006	\$169,138,994	\$292,715,000

Operating Budget

The applicant has submitted an operating budget, in 2025 dollars, for the Current Year, Year One and Year Three of operation:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Per Disch</u>	<u>Total</u>	<u>Per Disch</u>	<u>Total</u>	<u>Per Disch</u>	<u>Total</u>
	<u>(Whole \$)</u>	<u>(\$000s)</u>	<u>(Whole \$)</u>	<u>(\$000s)</u>	<u>(Whole \$)</u>	<u>(\$000s)</u>
Inpatient Revenues:						
Commercial FFS	\$70,784	\$287,381	\$80,283	\$275,933	\$80,330	\$292,000
Medicare FFS	\$23,244	\$122,517	\$26,367	\$120,393	\$26,376	\$127,395
Medicare MC	\$27,549	\$19,312	\$30,912	\$23,740	\$30,859	\$25,058
Medicaid FFS	\$20,806	\$541	\$21,971	\$703	\$21,573	\$733
Medicaid MC	\$20,767	\$5,649	\$24,029	\$7,954	\$24,092	\$8,432
Private Pay	\$99,680	\$23,923	\$115,650	\$31,919	\$115,924	\$33,850
All Other	\$33,712	<u>\$8,125</u>	\$37,931	<u>\$9,634</u>	\$37,931	<u>\$10,164</u>
Inpatient Revenues		\$467,448		\$470,276		\$497,632
Expenses: (Inpatient)						
Operating	\$33,260	\$359,579	\$40,751	\$393,816	\$39,021	\$398,830
Capital	<u>\$1,218</u>	<u>\$13,166</u>	<u>\$1,819</u>	<u>\$17,583</u>	<u>\$1,720</u>	<u>\$17,583</u>
Inpatient Expenses	\$34,478	\$372,745	\$42,570	\$411,399	\$40,741	\$416,413
Inpatient Excess of Revenues over Expenses		<u>\$94,703</u>		<u>\$58,877</u>		<u>\$81,219</u>
Utilization:						
Discharges		10,811		9,664		10,221

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Per Disch</u>	<u>Total</u>	<u>Per Disch</u>	<u>Total</u>	<u>Per Disch</u>	<u>Total</u>
	<u>(Whole \$)</u>	<u>(\$000s)</u>	<u>(Whole \$)</u>	<u>(\$000s)</u>	<u>(Whole \$)</u>	<u>(\$000s)</u>
Outpatient Revenues:						
Commercial MC	\$1,447	\$658,311	\$1,588	\$776,040	\$1,681	\$829,999
Medicare FFS	\$390	\$61,204	\$526	\$89,537	\$564	\$97,079
Medicare MC	\$480	\$12,512	\$651	\$18,406	\$692	\$19,767
Medicaid FFS	\$168	\$458	\$192	\$564	\$194	\$575
Medicaid MC	\$283	\$7,947	\$310	\$9,368	\$313	\$9,523
Private Pay	\$340	\$9,415	\$387	\$11,498	\$405	\$12,132
All Other	\$441	\$5,499	\$474	\$6,332	\$495	\$6,691
Outpatient Revenues		\$755,346		\$911,746		\$975,766
Expenses:						
(Outpatient)						
Operating	\$1,388	\$984,371	\$1,400	\$1,068,456	\$1,398	\$1,078,022
Capital	\$207	\$146,585	\$202	\$154,087	\$200	\$154,087
Outpatient Expenses	\$1,595	\$1,130,956	\$1,602	\$1,222,543	\$1,598	\$1,232,109
Outpatient deficiency of revenues over expenses		<u>(\$375,610)</u>		<u>(\$310,797)</u>		<u>(\$256,343)</u>
Utilization: Visits		708,955		763,233		771,217
Deficiency of revenues over expenses		<u>(\$280,907)</u>		<u>(\$251,920)</u>		<u>(\$175,124)</u>
Other Op. Rev*		\$336,642		\$316,734		\$316,734
Net Asset Released from Restrictions**		\$26,927		\$29,126		\$29,126
Total Other Op. Rev		\$363,569		\$345,860		\$345,860
Total Excess of Revenues over Expenses		<u>\$82,662</u>		<u>\$93,940</u>		<u>\$170,736</u>

Other Operating Revenue include the following shown below*:

	<u>Current</u>	<u>Year One</u>	<u>Year</u>
	<u>Year</u>	<u>(000s)</u>	<u>Three</u>
	<u>(000s)</u>	<u>(000s)</u>	<u>(000s)</u>
Physician Practice Revenue	\$200,629	\$189,483	\$189,483
Overhead Recoveries	\$69,848	\$79,449	\$79,449
Investment Income (Interest and Dividends)	\$23,164	\$9,629	\$9,629
Rebates and Discounts	\$9,062	\$9,383	\$9,383
FEMA Grant	\$4,028		
Other	\$29,911	\$28,790	\$28,790
Total	<u>\$336,642</u>	<u>\$316,734</u>	<u>\$316,734</u>

**Net assets released from restrictions represents temporarily restricted assets (predominantly contributions) released from restrictions to pay for operating expenses. The total amount released in 2023 was \$26,927,000 and the total amount released in each of Years One and Year Three is projected to be \$29,126,000.

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

- Reimbursement rates reflect HSS's current and projected rates. Operating revenues by payer are based on the mix of cases HSS expects. Incremental volume and revenue include those associated with the incremental ambulatory surgery volume and incremental x-ray volume HSS

expects to experience. The operating budget in Schedule 13 reflects the impact of the shift from inpatient care to outpatient care that HSS has been experiencing and expects to continue.

- Expense assumptions are based on the experience of the applicant and its members in providing similar ambulatory surgery services, in providing similar services.
- Utilization is expected to have a steady increase of approximately 5%, HSS has experienced this increase steadily over the last several years and based on comprehensive market assessment completed in 2024, HSS is forecasting this growth rate to continue over the next five to ten years.

Utilization, broken down by payor source is as follows:

<u>Inpatient Discharges</u>	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	37.56%	35.56%	35.56%
Medicare FFS	48.76%	47.25%	47.27%
Medicare MC	6.48%	7.95%	7.94%
Medicaid FFS	.24%	0.33%	0.33%
Medicaid MC	2.52%	3.42%	3.42%
Private Pay	2.22%	2.86%	2.86%
All Other	<u>2.23%</u>	<u>2.63%</u>	<u>2.62%</u>
Total	100.00%	100.00%	100.00%

<u>Outpatient Visits</u>			
Commercial FFS	64.16%	64.01%	64.01%
Medicare FFS	22.16%	22.30%	22.31%
Medicare MC	3.68%	3.71%	3.71%
Medicaid FFS	.38%	0.38%	0.38%
Medicaid MC	3.96%	3.95%	3.95%
Private Pay	3.91%	3.90%	3.89%
All Other	<u>1.76%</u>	<u>1.75%</u>	<u>1.75%</u>
Total	100.00%	100.00%	100.00%

Capability and Feasibility

Total project cost of \$292,715,000 includes \$123,576,006 in Article 28 costs and \$169,138,994 in non-Article 28 costs. The Article 28 portion of the total project cost will be financed with equity from HSS in the amount of \$60,250,242 and \$63,325,764 in bond financing (terms 2.667% for 30 years). The non-Article 28 space will be financed with \$82,464,758 in equity and \$86,674,236 in bond financing (terms 2.667% for 30 years).

Working capital requirements are estimated at \$24,136,739, equivalent to two months of third-year incremental expenses, as this is an ongoing operation. The applicant will provide equity to meet the working capital requirement from ongoing operations of the Hospital for Special Surgery. BFA Attachment A, 2022-2023 Certified Financial Statement of the New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery, indicates the availability of sufficient funds for the equity contribution.

Also, BFA Attachment A shows that the facility has achieved both a positive working capital and net asset position and generated an average excess of revenues over expenses of \$41,126,000 for the period shown.

BFA Attachment B, September 30, 2024, Internal Financial Statements of New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery, shows that the facility has achieved both a positive working capital and net asset position and generated an excess of revenues over expenses of \$106,548,000 for the period.

The submitted budget indicates an excess of revenues over expenses of \$93,940,000 in Year One and \$170,736,000 in Year Three. 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

BFA Attachment A	2022-23 Certified Financial Statements New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery
BFA Attachment B	September 30, 2024, Internal Financial Statements of New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery



Department of Health Public Health and Health Planning Council

Project # 242324-C Long Island Jewish Medical Center

Program: Hospital
Purpose: Construction

County: Queens
Acknowledged: January 14, 2025

Executive Summary

Description

Long Island Jewish Medical Center (LIJMC or The Center) a 1,004-bed, voluntary not-for-profit, Article 28 acute-care hospital at 270-05 76th Avenue, New Hyde Park (Queens County), requests approval to certify eleven (11) bone marrow transplant (BMT) beds in addition to the four currently operated to function as a dedicated BMT Adult unit on the fourth floor of the Center's main campus Oncology Building. Upon completion, the facility will have 15 BMT beds and an increased total certified bed count of 1,015.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 25 bone marrow transplant discharges in Year One and 71 transplant discharges in Year Three.

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 \$18,950,111 will be met with equity from Northwell Health, Inc.

<u>Incremental Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$5,173,000	\$15,003,000
Expenses	<u>4,121,348</u>	<u>11,871,848</u>
Excess Revenues over Expenses	\$1,051,652	\$3,131,152

<u>Enterprise Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,312,182,678	\$1,321,879,049
Expenses	<u>\$1,278,107,148</u>	<u>\$1,285,857,648</u>
Excess Revenues over Expenses	\$34,075,530	\$36,021,401

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]

Approval conditional upon:

1. This project must be completed by **January 15, 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 **October 15, 2025**, and construction must be completed by **October 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

April 10, 2025

Need Analysis

Project Description

Long Island Jewish Medical Center (LIJMC), at 270-05 76th Avenue, New Hyde Park, New York 11040 (Queens County), proposes to establish an inpatient adult Bone Marrow Transplant (BMT) Unit by certifying eleven (11) adult BMT beds and performing requisite renovations on the 4th floor of the Oncology building on LIJMC main campus. This renovation will include a new eleven BMT bed unit, and associated support spaces such as an intake room, medication/clean workroom, equipment storage, and soiled utility.

Background & Analysis

LIJMC is in Queens County and the relevant service area includes Queens, Nassau, and Suffolk counties. The population of the service area is estimated at 5,243,942 based on 2023 American Community Survey data and is projected to increase to 5,487,012 by 2030 per projection data from the Cornell Program on Applied Demographics (PAD), an increase of 4.6%. Demographics for the service area are noted below including a comparison with New York State:

Demographics	Queens County	Nassau County	Suffolk County	New York State
Total Population – 2023 Estimate	2,330,124	1,388,138	1,525,680	19,872,319
White (non-Hispanic)	23.6%	55.4%	63.2%	53.4%
Hispanic or Latino (of any race)	27.9%	18.5%	22.2%	19.6%
Black or African American (non-Hispanic)	16.5%	10.9%	6.8%	13.6%
Asian (non-Hispanic)	25.9%	11.5%	4.2%	8.8%
Other (non-Hispanic)	6.1%	3.7%	3.6%	4.6%

Source: 2023 American Community Survey (5-year Estimates Data Profiles)

In 2022, the population in Queens, Nassau, and Suffolk Counties had health coverage as follows:

	Queens County	Nassau County	Suffolk County
Health Coverage %	91.3%	96.0%	95.6%
Employer Plans	41.7%	58.9%	57.5%
Medicaid	26.5%	10.8%	11.9%
Medicare	10.7%	13.2%	13.1%
Non-Group Plans	12.1%	13.0%	12.7%
Military or VA	0.278%	0.201%	0.449%

Source: Data USA

LIJMC projects 25 adult BMT discharges in Year One and 71 discharges in Year Three. The tables below show the applicant's projected payor mix for inpatient and outpatient services for Years One and Three.

Applicant Projected Payor Mix				
Payor	Inpatient		Outpatient	
	Year One	Year Three	Year One	Year Three
Commercial MC	30.57%	30.57%	35.53%	35.53%
Medicare FFS	19.77%	19.78%	10.00%	10.00%
Medicare MC	21.10%	21.10%	10.55%	10.55%
Medicaid FFS	5.25%	5.24%	5.01%	5.01%
Medicaid MC	22.21%	22.20%	29.40%	29.40%
Private Pay	.33%	.33%	7.02%	7.02%
All Other	.78%	.77%	2.46%	2.48%

Source: Applicant

The table below shows the bed changes at the end of this project:

Bed Type	Current	Bed Change	Beds After Completion of 242324
Bone Marrow Transplant	4	11	15
Coronary Care	10	-	10
Intensive Care	62	-	62
Maternity	76	-	76
Medical/Surgical	435	-	435
Neonatal Continuing Care	4	-	4
Neonatal Intensive Care	24	-	24
Neonatal Intermediate Care	29	-	29
Pediatric	97	-	97
Pediatric ICU	37	-	37
Psychiatric	226	-	226
Total Number of Licensed Beds	1,004	11	1,015

Source: HFIS; Applicant

According to the applicant, since 2014, adult BMT cases have increased 24.1% (from 340 to 422), with the average length of stay increasing from 25.6 days to 27.7 days in the service area, reflecting increasing case complexity. This project will add 11 additional adult BMT beds to help address this gap, by improving access and reducing the need for patients to seek care outside of the service area thereby enhancing care continuity. Currently, adult patients presenting to LIJMC and require a bone marrow transplant are admitted to the BMT program at North Shore University Hospital, also a part of the Northwell Health system. The applicant also noted, a large proportion of the residents travel outside of the service area to receive these services into New York, Bronx, and Westchester Counties. This involved significant travel times, expenses, and logistical challenges, particularly for elderly patients and their families. By adding an adult BMT program at LIJMC, these burdens can be alleviated, providing more convenient and accessible care for the service area residents.

The table below shows New York hospitals with BMT beds and their approximate distances from LIJMC:

New York Hospitals with BMT Beds			
Hospital Name	County	Distance/Time from Applicant	Number of BMT Beds
Long Island Jewish Medical Center	Queens	-	4
North Shore University Hospital	Nassau	2.2 miles/10 min	4
New York-Presbyterian Hospital – Columbia Presbyterian Center	New York	17.9 miles/51 min	12
Montefiore Medical Center – Henry & Lucy Moses Div	Bronx	18.5 miles/44 min	4
NYU Langone Hospitals	New York	19.1 miles/51 min	6
New York-Presbyterian Hospital – New York Weill Cornell Center	New York	21.1 miles/57 min	15
Westchester Medical Center	Westchester	32.5 miles/47 min	4
Stony Brook University Hospital	Suffolk	40.5 miles/57 min	10
Albany Medical Center	Albany	162 miles/2 hr 47 min	6
University Hospital SUNY Health Science Center	Onondaga	271 miles/4 hr 22 min	4
John R. Oishei Children's Hospital	Erie	415 miles/6 hr 44 min	2
Roswell Park Cancer Institute	Erie	421 miles/6 hr 36 min	14

Source: HFIS; Google Maps 2025 (Travel times displayed assume average travel conditions)

The table below shows the number of adult BMT cases from the service area (Queens, Nassau, Suffolk Counties) treated by facilities offering BMT services in 2023. Approximately 75% of the 422 total cases from the service area were performed outside of the service area.

2023 Adult BMT Cases by Facility		
Facility Name	Number of Cases	Percent of Service Area Adult BMT cases
Memorial Sloan-Kettering Cancer Center	172	40.8%
Mount Sinai Medical Center	86	20.4%
North Shore University Hospital*	82	19.4%
New York-Presbyterian Hospital – New York Weill Cornell Center	28	6.6%
Stony Brook University Hospital*	22	5.2%
NYU Langone Hospitals – Tisch Hospital	18	4.3%
New York-Presbyterian Hospital – Columbia Presbyterian Center	10	2.4%
Northwell Health – Cohen Children’s Medical Center	2	0.5%
Montefiore Medical Center – Henry & Lucy Moses Division	2	0.5%

Source: Applicant

*Denotes facilities located in the applicant’s service area

Conclusion

Approval of this project will allow patients to receive complex and critical care closer to home, by reducing travel burdens, enhancing access to care, and strengthening patient support systems.

Program Analysis

Project Proposal

The renovation will create an eleven (11) bed Bone Marrow Transplant (BMT) unit with support functions. Three (3) of the inpatient rooms will be classified as airborne infection isolation and protective environment combo room with an anteroom. This will increase BMT beds on the facility's operating certificate to 15. The new total certified bed capacity including all bed types will be 1015 beds.

The applicant reports a critical need for an adult bone marrow transplant program to serve residents of Queens and Long Island communities. The applicant currently provides oncology and hematology services for certain conditions but lacks a dedicated bone marrow transplant unit. Patients requiring life-saving treatment must be referred out of their service area for continuum care. The applicant reports an increase in bone marrow transplant cases within the service area requiring approximately 33 beds and the current bed availability in the area is 14 beds. This unit would directly address this need and reduce the burden.

The facility reports that the Blood Bank is able to support four (4) to six (6) patients per day and they have a blood separator, central blood repository, and irradiator for blood products.

The program will employ data management staff to collect all data necessary to complete the Transplant Essential Data and Comprehensive Report Forms of the Center for International Blood and Marrow Transplant Research (CIBMTR).

The table below shows the FTEs in the Current Year, Year One and Year Three after completion of this project:

Staffing Categories	Current Year FTEs	Year One FTEs	Year Three FTEs
Management/Supervision	420.5	420.5	421.5
Technician and Specialist	773.3	773.3	776.3
Registered Nurses	1471.2	1474.8	1474.8
Licensed Practical Nurses	19.4	19.4	19.4
Aids, Orderlies	11.7	11.7	11.7
Physicians	2.3	2.3	2.3
PGY physicians	362.9	362.9	362.9
Physician Assistants	154.6	154.6	154.6
Nurse Practitioners	78.1	78.1	80.1
Nurse Midwife	3.4	3.4	3.4
Social Workers and Psychologist	72.1	72.1	72.1
Physical Therapist and PT assistants	23.4	23.4	23.4
Occupational Therapist and OT assistants	3.0	3.0	3.0
Speech Therapist and assistants	4.3	4.3	4.3
Other Therapist and assistants.	32.9	32.9	32.9
Infection Control, Environment and Food Services	360.4	360.4	360.4
Clerical and other admin	985.4	985.4	985.4
Other	469.5	469.5	471.5
Total Number of Employees	5248.4	5252.0	5264.0

Dr. Ahmad Samer Al-Homsi is the Medical Director. Dr. Al-Homsi is board certified in hematology. Dr. Al-Homsi was the Medical Director of Hematology and Bone Marrow Transplant at NYU Langone Health from 2018-2019. Dr. Al-Homsi was the chief of Blood and Marrow Transplant from 2017-2024. Dr. Al-Homsi is the system chief of Northwell Health since 2024.

Enforcement History

- *The Department issued a Stipulation and Order (S&O) dated November 21, 2016, and fined Northern Westchester Hospital \$10,000 based on deficiencies found during an inspection completed on May 25, 2016. Deficient practice was found in the area of nursing services*
- *The Department issued a Stipulation and Order (S&O) dated November 21, 2016, and fined Long Island Jewish Medical Center \$4,000 based on deficiencies found during an inspection completed on July 11, 2016. Deficient practice was found in the area of infection control*
- *The Department issued a Stipulation and Order (S&O) dated November 1, 2016, and fined Northwell Healthcare Lenox Hill Hospital \$10,000 based on deficiencies found during an inspection. Deficient practice was found in the area of surgical services*
- *The Department Issued a Stipulation and Order (S&O) dated September 22, 2017, and fined Northwell Health Lenox Hill Hospital \$10,000 based on deficiencies found during an inspection completed on November 1, 2016. Deficient practice was in the area of surgical services.*
- *The Department issued a Stipulation and Order (S&O) dated January 31, 2017, and fined Plainview Hospital \$4,000 based on deficiencies found during an inspection completed on June 13, 2016, Deficient practice was found in the area of infection control*
- *The Department issued a Stipulation and Order (S&O) dated July 22, 2022, and fined Long Island community Hospital \$2,000 based on deficiencies found during an inspection completed on March 31, 2022*

Compliance with Applicable Codes, Rules and Regulations

The Applicant has submitted a written plan that demonstrates their ability to comply with all of the standards for Bone Marrow Transplant and have assured the Department that their program will meet all of the requirements of 709.8 (Bone marrow transplantation (BMT) services) and 712-2.5 (Allogeneic bone marrow transplant units).

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

The 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

Long Island Jewish Medical Center (LIJMC), in Queens County, requests approval to undergo renovations on the 4th floor of their Oncology building, installing eleven (11) adult bone marrow transplant (BMT) beds and supporting facilities. This project will ensure patients residing in Queens and Long Island have direct access to life-sustaining treatments when receiving oncology and hematology services for chronic conditions, limiting the financial, emotional, and logistical challenges when attaining care.

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

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

The proposed project will advance the Prevention Agenda priority of Preventing Chronic Diseases, Promoting Well-Being and Preventing Mental and Substance Use Disorders, and Promoting Healthy Women, Infants, and Children by allowing LIJMC to improve access to high-quality, specialized chronic disease care and treatments for patients closer to their place of residence, addressing current gaps and barriers to care.

As per the latest available report, in 2022, LIJMC spent \$64,510,126 on community health improvement services, representing 1.71% 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

The total project cost for renovations and movable equipment are estimated at \$18,950,111, based on 2025 dollars, detailed as follows:

Renovation & Demolition	\$10,677,234
Design Contingency	1,051,007
Construction Contingency	1,051,007
Architect /Engineering Fees	840,805
Construction Manager Fees	100,000
Other Fees	495,598
Moveable Equipment	4,628,815
CON Fee	2,000
Additional Processing Fee	<u>103,645</u>
Total Project Cost	\$18,950,111

The total project costs of \$18,950,111 will be funded with equity. As shown on BFA Attachment A and B, Northwell has sufficient resources to meet the equity requirement.

Operating Budget

The applicant has submitted an operating budget, in 2025 dollars, for the Current Year, Year One and Year Three, summarized below:

	<u>Current Year</u> <u>Enterprise (2023)</u>		<u>Year One</u> <u>Enterprise</u>		<u>Year Three</u> <u>Enterprise</u>	
<u>Inpatient Revenue</u>	<u>Per Dis.</u>	<u>Total</u>	<u>Per Dis.</u>	<u>Total</u>	<u>Per Dis.</u>	<u>Total</u>
Commercial MC	\$42,998	\$508,111,000	\$43,163	\$510,460,000	\$43,488	\$514,924,000
Medicare FFS	\$22,061	168,547,700	\$22,170	169,535,700	\$22,377	171,413,700
Medicare MC:	\$21,568	175,951,600	\$21,634	176,583,600	\$21,761	177,785,600
Medicaid FFS	\$20,183	40,972,300	\$20,203	41,020,300	\$20,240	41,110,300
Medicaid MC	\$15,105	129,674,300	\$15,231	130,830,300	\$15,470	133,026,300
Other I/P Revenue	\$23,299	<u>6,989,600</u>	\$23,299	<u>6,989,600</u>	\$23,299	<u>6,989,600</u>
Total I/P Revenue		\$1,030,246,500		\$1,035,419,500		\$1,045,249,500
<u>Outpatient Revenue</u>	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>
Commercial MC	\$3,768	\$160,714,800	\$3,768	\$160,714,800	\$3,768	\$160,714,800
Medicare FFS	\$1,813	21,761,100	\$1,813	21,761,100	\$1,813	21,761,100
Medicare MC	\$1,777	22,511,100	\$1,777	22,511,100	\$1,777	22,511,100
Medicaid FFS	\$357	2,146,200	\$357	2,146,200	\$357	2,146,200
Medicaid MC	\$493	17,403,500	\$493	17,403,500	\$493	17,403,500
Other O/P Revenue	\$491	1,461,800	\$464	1,461,800	\$464	1,461,800
Total O/P Revenue:		225,998,500		225,998,500		225,998,500
Deductions Patient Revenue		<u>(17,107,800)</u>		<u>(17,178,122)</u>		<u>(17,311,751)</u>
Total I/P and O/P Revenue		<u>\$1,239,137,200</u>		<u>\$1,244,239,878</u>		<u>\$1,253,936,249</u>
<u>Other Revenues</u>						
Ancillary Services Revenue		\$2,226,700		2,226,700		2,226,700
Other Sources Revenue		<u>65,716,100</u>		<u>65,716,100</u>		<u>65,716,100</u>
Total Revenue		<u>\$1,307,080,000</u>		<u>\$1,312,182,678</u>		<u>\$1,321,879,049</u>

	<u>Current Year</u> <u>Enterprise (2023)</u>		<u>Year One</u> <u>Enterprise</u>		<u>Year Three</u> <u>Enterprise</u>	
<u>Inpatient Expenses</u>						
Operating	\$24,916.34	\$963,191,100	\$24,974.92	\$966,080,000	\$25,145.39	\$973,830,500
Capital	<u>\$1,712.59</u>	<u>66,203,600</u>	<u>\$1,743.34</u>	<u>67,436,048</u>	<u>\$1,741.27</u>	<u>67,436,048</u>
Total Expense:	\$26,628.93	\$1,029,394,700	\$26,718.27	\$1,033,516,048	\$26,886.66	\$1,041,266,548
<u>Outpatient Expenses</u>						
Operating	\$1,907,172	\$228,860,700	\$1,907,172	\$228,860,700	\$1,907,172	\$228,860,700
Capital	<u>131,086</u>	<u>\$15,730,400</u>	<u>131,086</u>	<u>\$15,730,400</u>	<u>131,086</u>	<u>\$15,730,400</u>
Total Expense	\$2,038,259	\$244,591,100	\$2,038,259	\$244,591,100	\$2,038,259	\$244,591,100
Total I/P and O/P Expenses	<u>\$1,273,985.800</u>		<u>\$1,278,107.148</u>		<u>\$1,285,857.648</u>	
Excess Revenues over Expenses	<u>\$33,094.200</u>		<u>\$34,075.530</u>		<u>\$36,021.401</u>	
Cost per Discharge	\$26,628.93		\$26,718.27		\$26,628.93	
Cost per Visit	\$2,038,259		\$2,038,259		\$2,038,259	
Total Discharges	38,657		38,682		38,728	
Total Visits	120,034		120,034		120,034	

The following is noted with respect to the operating budget:

- Other revenues include Risk Pool and Capitation payments, interest income for operation, and rent.
- The budget represented above is an enterprise budget for Long Island Jewish Hospital. The year-to-year change represents the impact of the 11 proposed BMT beds.
- Commercial rates are based on negotiated rates that the hospital currently has experienced in relation to existing bone marrow transplant beds.
- Medicare and Medicaid FFS rates are based on published rates for Bone Marrow Transplant DRGs.
- Expense assumptions are based on detailed variable direct cost model developed by Management staff at the hospital.
- Staffing assumptions are based on existing transplant programs at other Northwell hospitals.

Utilization broken down by payor source for inpatient and outpatient services is as follows:

<u>Inpatient</u>	<u>Current</u>	<u>Year One</u>	<u>Year Three</u>
Commercial MC	30.57%	30.57%	30.57%
Medicare FFS	19.76%	19.77%	19.78%
Medicare FFS	21.10%	21.10%	21.10%
Medicaid FFS	5.25%	5.25%	5.24%
Medicaid MC	22.21%	22.21%	22.20%
Charity Care	0.33%	0.33%	0.33%
Other	<u>0.78%</u>	<u>0.78%</u>	<u>0.77%</u>
Total	100.00%	100.00%	100.00%

<u>Outpatient</u>	<u>Current</u>	<u>Year One</u>	<u>Year Three</u>
Commercial MC	35.53%	35.53%	35.53%
Medicare FFS	10.00%	10.00%	10.00%
Medicare FFS	10.55%	10.55%	10.55%
Medicaid FFS	5.01%	5.01%	5.01%
Medicaid MC	29.40%	29.40%	29.40%
Charity Care	7.02%	7.02%	7.02%
Other	<u>2.48%</u>	<u>2.46%</u>	<u>2.48%</u>
Total	100.00%	100.00%	100.00%

Capability and Feasibility

Total project costs of \$18,950,111 will be funded with equity from Northwell Healthcare, Inc. BFA Attachment A and B show sufficient resources to meet this requirement. Working capital requirements are estimated at \$1,978,641, based on two months of third-year expenses and will be funded from on-going operations of Northwell.

The submitted enterprise budget projects a excess of revenues over expenses of \$34,075,530 and \$36,021,401 during Year One and Year Three after completion of the project. The budget appears reasonable.

BFA Attachment A, 2022-2023 Consolidated Statement of Financial Position - Northwell Health, shows the entity maintained an average positive working capital position, positive net asset position, and an excess of revenues over expenses of \$117,648,000 and \$197,702,000, in 2022 and 2023, respectively.

BFA Attachment B, September 20, 2024, Consolidated Internal Financial Statements – Northwell Health, shows that the entity maintained a positive working capital position, positive net asset position, and an excess of revenue over operating expenses of \$227,203,000.

Conclusion

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

Health Equity

Health Equity Impact Assessment Summary

The Applicant is proposing to open a new bone marrow transplant (BMT) and cellular therapy program in the main hospital's oncology building. The program will have 11 licensed beds to treat diseases like lymphoma, leukemia, and other conditions, as well as offer gene therapy for illnesses like diabetes and sickle cell anemia. The program aims to address the growing need for BMT services in Queens, Nassau, and Suffolk Counties, where there is currently a limited number of licensed beds. It will also reduce the need for patients to travel outside of the service area. For patients who access other services in the building, the new unit will enhance continuity of care for those individuals. The program will benefit low-income people by offering financial assistance on a sliding scale basis (including out-of-pocket expenses), and racial and ethnic minorities and LGBTQ+ people through implementation of a culturally sensitive care environment at the facility. For patients with mobility impairments, there will be no positive or negative impacts to architectural barriers. Finally, due to the current nationwide shortage of transplantation and cellular therapy physicians, the Applicant may face challenges in recruiting and maintaining sufficient staff.

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	2022-2023 Consolidated Statement of Financial Position - Northwell Health
BFA Attachment B	September 30, 2024 Consolidated Internal Financial Statements – Northwell Health
BFA Attachment C	Northwell Health, Inc. Organizational Chart
OHEHR Attachment	Health Equity Impact Assessment



Project # 251013-C
Montefiore Mount Vernon Hospital

Program: Hospital
Purpose: Construction

County: Westchester
Acknowledged: January 22, 2025

Executive Summary

Description

Montefiore Mount Vernon Hospital (MMV), (MHS), a voluntary, not-for-profit, 121-bed acute care hospital at 12 North 7th Avenue, Mount Vernon (Westchester County), requests approval to upgrade and expand their Emergency Department (ED), surgical department, and outpatient wellness center, as well as the lobby and support spaces. There will be no change in beds or services.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 21,111 Emergency Department visits in Year One and 33,711 visits in Year Three. Ambulatory surgery volume is expected to grow to 3,992 by Year Three. Inpatient discharges are projected at 2,427 in Year One and 3,200 in Year Three, with Outpatient visits expected at 108,640 in Year One and 124,669 by Year Three.

Program Summary

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

Financial Summary

Total project costs of \$45,708,832 will be funded with a \$41,112,704 Statewide Health Care Facility Transformation Program I grant and a \$4,596,128 intercompany loan from MHS for a term of 15-years at a rate of 6.10%.

<u>Incremental Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Incremental Revenues	\$10,811,000	\$36,425,000
Incremental Expenses	<u>13,573,922</u>	<u>\$36,640,415</u>
Incremental Loss	(\$2,762,922)	(\$215,415)

<u>Enterprise Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$72,564,000	\$98,160,091
Expenses	<u>\$107,120,922</u>	<u>\$130,187,415</u>
Net Income	(\$34,556,922)	(\$32,027,324)

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 final approval of the Statewide Health Care Facility Transformation Program I Grant, acceptable to the Department of Health. [BFA]
3. Submission of a bank loan from the Montefiore Health System that is acceptable to the Department of Health. [BFA]
4. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]
5. 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 **June 15, 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 **September 15, 2025**, and construction must be completed by **March 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

April 10, 2025

Need Analysis

Project Description

Montefiore Mount Vernon Hospital (MMV), a member of Montefiore Health System, Inc. (MHS), a voluntary, not-for-profit, 121-bed acute care hospital at 12 North 7th Avenue, Mount Vernon (Westchester County), New York is requesting to perform renovations to implement a master plan for the hospital, to transform the facility into a strong and sustainable hospital for its community. The project will include an expanded Emergency Department (ED), redesigned Operating Rooms (OR) and GI Suites, and renovated and modernized Primary Care, making upgrades to the lobby, exam rooms, ancillary and support spaces. The project will be funded primarily with a grant awarded through the Statewide Health Care Facility Transformation Program I.

Background and Analysis

The primary service area for this project is Mount Vernon City within Westchester County. The population of Westchester County is estimated to increase to 1,037,234 by 2030 per projection data from the Cornell Program on Applied Demographics, an increase of 4.04%. Demographics for the Primary Service area is noted below.

Demographics	Mount Vernon City, NY	Westchester County	New York State
Total Population	72,528	996,888	19,872,319
Hispanic or Latino (of any race)	18.3%	27.0%	19.6%
White (non-Hispanic)	14.8%	50.0%	53.4%
Black or African American (non-Hispanic)	58.0%	12.9%	13.6%
Asian(non-Hispanic)	2.2%	6.0%	8.8%
Other (non-Hispanic)	6.7%	4.1%	4.6%

Source: 2023 American Community Survey (5-Year Estimates Data Profiles)

In 2022, the population within the service area had health coverage as follows.

County	Mount Vernon City, NY	Westchester County
Health Coverage	93.2%	95.1%
Employer Plans	46.6%	56.1%
Medicaid	23.9%	14.1%
Medicare	11.4%	12.9%
Non-Group Plans	11.2%	11.6%
Military or VA	0.148%	0.326%

Source: Data USA

The applicant's payor mix is shown below.

Applicant Payor Mix						
Payor	Inpatient			Outpatient		
	Current Year	Year One	Year Three	Current Year	Year One	Year Three
Commercial	12.5%	12.3%	12.0%	9.30%	9.80%	10.6%
Medicare	35.1%	36.7%	38.8%	9.40%	9.95%	11.1%
Medicaid	44.0%	43.4%	42.7%	66.0%	65.0%	63.2%
Private Pay	2.77%	2.35%	1.78%	12.0%	11.2%	9.82%
All Other	5.54%	5.11%	4.53%	3.22%	3.94%	5.14%

Source: Applicant

The proposed project comprises the following components:

Emergency Department (ED)

Renovate and expand the existing ED by increasing the number of treatment bays from 15 to 27, adding 12 new spaces. The existing ED will be both renovated in place and expanded around the existing footprint. The table below shows the historical and projected utilization of the ED.

Emergency Department Utilization						
	2020	2021	2022	2023	Year 1*	Year 3*
Total Bays	15	15	15	15	27	27
Total Visits	13,818	15,254	16,881	15,111	21,111	33,711
Total Visits / Total Bays	921	1,017	1,125	1,007	782	1,249

Source: Applicant

*Projected data

The ED wait times from August 2024 through January 2025 based on applicant data are as follows:

- Door to Triage: 5 minutes
- Door to Provider Assigned: 21 minutes
- Discharge Length of Stay: 192 minutes
- Left Without Being Seen: 2%

Surgical and GI suites

MMV will renovate most of the 4th floor and expand the existing surgical department. The Surgical suite will consist of five (5) ORs and two (2) GI Procedure rooms with two (2) additional empty/shell spaces that can be used as ORs in the future should the need arise. The prep/recovery area will be expanded and function as a combined prep/recovery area. Due to the facility's use by corrections for the treatment of prisoners, a dedicated corrections prep/recovery suite is included as part of the scope of the project. The applicant projects the overall OR volume to increase. The table below shows the total historical and projected ambulatory surgery volume as well as the ambulatory GI procedures.

Surgical Volume						
Service	2020	2021	2022	2023	Year 1*	Year 3*
Ambulatory Surgery (Total)	674	909	890	793	1,359	3,992
Ambulatory GI Procedures	398	507	509	512	937	1,733

Source: Applicant

*Projected data

Inpatient Medical/Surgical Discharges

An increase in inpatient discharges is expected, especially with medical/surgical services. The applicant states they will streamline the transfer process across Montefiore Health System, which would lead to increased admissions. They plan to engage with the City of Mount Vernon to align the priorities of its community, which will lead to increased hospital visits from patients within the geographical area. They plan to develop clinical programs within the hospital that will allow for additional services to be offered and will lead to increased volume.

The applicant reports 2,059 inpatient discharges for the current year and projects an increase to 2,427 in Year One and 3,200 in Year Three and reports 101,399 outpatient visits for the current year and expects 108,640 in Year One and 124,669 in Year Three. They expect this project to result in a more stable and sustainable Montefiore Health System and Montefiore Mount Vernon, while also improving and enhancing the services available to the Mount Vernon community at this new site.

Family Health and Wellness Center

Minor renovations to the center located in the lower grade level of the hospital. No areas or functions will be modified as part of the scope of the project work.

Conclusion

Implementing this project supports projected volume growth with decreased patient wait times and improved patient experience.

Program Analysis

Project Proposal

Montefiore Mount Vernon Hospital (MMV), a member of Montefiore Health System, Inc. (MHS), a voluntary, not-for-profit, 121-bed acute care hospital at 12 North 7th Avenue, Mount Vernon (Westchester County), New York is seeking approval to renovate and revitalize the hospital's emergency department, operating rooms, GI suites, and primary/specialty ambulatory care. There will be no change in beds or services. It is the applicant's goal that this transformation project will improve and enhance the services available to the Mt. Vernon community and will result in a more stable and sustainable Montefiore Health System and Montefiore Mount Vernon Hospital.

Montefiore Mount Vernon Hospital proposes to enhance hospital services by developing a new model of care which will be based on the Level 3 Pt Centered Medical Home model. The Level 3 model will provide comprehensive primary and preventive healthcare, to enable services, care coordination and management, as well as integrate behavioral health care. To improve care, the new MMV ambulatory site will operate as a Patient Centered Medical Home, wherein a patient's Primary, Specialty and Mental Health (MH) care is coordinated by care managers and clinical staff to best manage the patient's needs.

All inpatient programs will remain in operation during construction.

MMV renovation plan will increase the ED number of treatment service areas from 15 to 27 with planned modifications to the Ambulance Drop-off vestibule, a new ED Walk-In Vestibule, two (2) Triage rooms, one (1) decontamination room, one (1) Trauma/Person space, eleven (11) treatment bays, one (1) treatment room, six (6) Low Acuity cubicles, one (1) Airborne Infection Isolation Treatment room, one (1) Gynecology (Gyn)/All (SAFE) room, two (2) Treatment rooms for corrections patients and four (4) behavioral health holding rooms.

Proposed renovations will also include a 4th floor expansion in the existing surgical department. The renovated surgical suite will consist of five (5) ORs and two (2) GI Procedure rooms with two (2) additional empty/shell spaces that can be used as operating rooms in the future should a need arise. The prep/recovery area will be expanded. Due to the facility's use by corrections agencies for medical or behavioral treatment of prisoners, a dedicated corrections prep/recovery suite will be included in the work scope of this project.

Once the renovations are completed on the 4th floor, there will be thirteen (13) Prep/Recovery Bays, four (4) future Prep/Recovery Bays, one (1) Prep/Recovery Isolation room and four (4) specific Prep/Recovery Bays for corrections agency patients. Plumbing, sprinkler, fire detection, mechanical and electrical systems upgrades will occur where needed.

As part of this project, support areas such as the Intensive Care Unit (ICU), will be relocated to accommodate an expanded prep/recovery area. Therefore, prior to starting renovations, MMV will relocate several services to other available areas within the existing hospital.

Montefiore Mount Vernon Hospital provides emergency services and is open twenty-four hours a day.

Staffing will increase by 38 FTEs. It is projected that there will be 434.0 FTEs in Year One and 472.0 FTEs by Year Three. The Medical Director of Montefiore Mount Vernon Hospital is Dr. Gary Ishkanian.

Affiliated Facilities Compliance:

- *The Department issued a Stipulation and Order (S&O) dated 11/25/2024, and fined **Nyack Hospital** \$14,000.00 based on deficiencies found during an allegation survey completed on 02/09/24. Deficient practices were found in the area(s) for patient rights and nursing services.*

- *The Department issued a Stipulation and Order (S&O) dated 12/13/2019, and fined **White Plains Hospital Center** \$10,000.00 based on deficiencies found during an allegation survey completed on 08/19/2019. Deficient practices were found in the area(s) for failure to conduct ongoing evaluation of patients.*
- *The Department issued a Stipulation and Order (S&O) dated 04/11/2017, and fined **Montefiore Medical Center Henry & Lucy** \$2,000.00 based on deficiencies. Survey completed on 05/19/2017. Deficient practices were found in the area(s) for patient rights and infection control.*
- *The Department issued a Stipulation and Order (S&O) effective date 08/17/2017, and fined **Montefiore Medical Center** \$2,000.00 based on deficiencies found; completed exit on 04/11/2017. Deficient practices were found in the area(s) for patients' rights.*
- *The Department issued a Stipulation and Order (S&O) dated 10/02/2017, and fined **Montefiore Mount Vernon Hospital** \$2,000.00 based on deficiencies found during an allegation survey completed on 10/17/2016. Deficient practices were found in the area(s) for patients' rights and restraints.*

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

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

Montefiore Mount Vernon Hospital (MMV), located in Westchester County, requests approval for the implementation of a hospital renovation plan. This project will transform the hospital by expanding their emergency department (ED), reforming primary care, and making facility improvements that will enhance health services for their community.

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

- Prevent Chronic Diseases
- Promote Healthy Women, Infants, and Children
- Prevent Communicable Diseases

The proposed project will advance the Prevention Agenda priorities of Preventing Chronic Diseases, Promoting Healthy Women, Infants, and Children, and Preventing Communicable Diseases by allowing MMV to enhance programs and services in chronic disease prevention and management, improving primary care and specialty care services for their patients and populations affected by health disparities. As per the latest available report, in 2022, MMV spent \$377,313 on community health improvement services, representing 0.43 % 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 renovation and moveable equipment are estimated at \$45,708,832, broken down as follows:

Renovation & Demolition	\$27,349,900
Design Contingency	2,615,366
Construction Contingency	2,615,366
Fixed Equipment	812,500
Planning Fees	169,120
Architect/Engineering Fees	2,581,240
Construction Manager Fees	1,799,303
Other Fees	608,280
Movable Equipment	5,392,224
Telecommunications Fees	1,513,520
Application Fee	2,000
Additional Fee for Projects	<u>250,013</u>
Total Project Costs	\$45,708,832

The applicant's financing plan is as follows:

SHCFTP I Grant Award	\$41,112,703
Intercompany Loan from MHS (15 years at a rate of 6.10%)	<u>\$4,596,128</u>
Total	\$45,708,831

Operating Budget

The applicant has submitted their current year (2023) and projected operating budgets for the first and third year after project completion summarized below:

Revenues:	<u>Current Year</u> <u>(2023)</u>	<u>Year One</u>	<u>Year Three</u>
Inpatient Revenues	\$35,167,998	\$40,974,213	\$53,832,554
Outpatient Revenues	24,678,002	29,700,787	42,438,537
Other Operation Rev.	1,879,000	1,879,000	1,879,000
Non-Operating Rev.	<u>10,000</u>	<u>10,000</u>	<u>10,000</u>
Total Revenues	\$61,735,000	\$72,564,000	\$98,160,091
Combined Expenses:			
Operating:	\$91,246,000	\$101,532,000	\$121,285,000
Capital:	<u>2,301,000</u>	<u>5,588,922</u>	<u>8,902,415</u>
Total Expenses:	\$93,547,000	\$107,120,922	\$130,187,415
Excess Revenues	(\$31,812,000)	(\$34,556,922)	(\$32,027,324)
Utilization:			
Inpatient (Discharges)	2,059	2,427	3,200
Outpatient (Visits)	101,399	108,640	124,669

The following is noted with respect to the operating budget:

- Expense and utilization assumptions were based on 2023 data with increased projections for emergency department and primary care services.
- Mount Vernon Hospital had 406 FTEs in the Current Year and increase to 434 FTEs in Year One and 472 FTEs in Year Three.

- Technician & specialist are projected to increase from 127 FTEs in the Current Year to 132 FTEs in Year One and 141 FTEs in Year Three.
- Registered nurses are projected to increase from 68 FTEs in the Current Year and to 86 FTEs in Year One and 114 FTEs in Year Three.
- As stated above, losses from this project will be absorbed by Montefiore Health System.
- 2023 operating losses can be attributed to extremely high expenses for supplies and labor, the low acuity of the patients at Montefiore Mount Vernon, the lack of volume, and the limited services and clinical programs able to operate.
- Beginning in mid-2023 the facility has begun taking on operational and clinical enhancements intended to improve access to care and long-term financial health at MMV.
 - Increasing Staffing
 - Moving Specialty procedures to MMV
 - Streaming care through the implementation of EPIC
 - Structural improvements for increased access
 - Implementation of revenue cycle initiatives.

Utilization broken down by payor source for the Current Year (2023), Year One and Year Three for inpatient and outpatient services are as follows:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Inpatient:			
Commercial FFS	7.14%	7.00%	6.84%
Commercial MC	5.44%	5.36%	5.22%
Medicare FFS	13.06%	13.51%	14.13%
Medicare MC	22.05%	23.20%	24.75%
Medicaid FFS	14.86%	14.01%	12.84%
Medicaid MC	29.14%	29.46%	29.91%
Private Pay	2.77%	2.35%	1.78%
Other	<u>5.54%</u>	<u>5.11%</u>	<u>4.53%</u>
Total	100.00%	100.00%	100.00%
Outpatient:			
Commercial FFS	4.74%	4.99%	5.44%
Commercial MC	4.56%	4.81%	5.24%
Medicare FFS	2.86%	3.00%	3.32%
Medicare MC	6.54%	6.95%	7.80%
Medicaid FFS	11.16%	11.00%	10.72%
Medicaid MC	54.84%	54.04%	52.53%
Private Pay	12.07%	11.27%	9.82%
Other	<u>3.22%</u>	<u>3.94%</u>	<u>5.14%</u>
Total	100.00%	100.00%	100.00%

Capability and Feasibility

Total project cost of \$45,708,832 will be funded from Statewide Grant Funding 1 for \$41,112,704 and an intercompany loan agreement with Montefiore Health System, Inc. in the amount of \$4,596,128 for a term of 15-years at a rate of 6.10%. The Chief Financial Officer of Montefiore Health System, Inc signed a letter stating to support the operating and capital needs of the Hospital.

Total working capital is estimated at \$6,106,736 based on two months of third-year incremental expenses. Montefiore Health System, Inc. will support working capital from its system operations. BFA Attachment A, 2022-2023 MHS System, Inc. Certified Financial Statements indicates sufficient resources to meet the project's equity requirements.

The submitted budget projects an excess of revenues over expenses of (\$34,556,922) and (\$32,027,324) in Years One and Year Three, respectively. The CFO of MHS has submitted a letter of intent to absorb losses related to this project. The applicant has stated that implementing this project and maintaining Montefiore Mount Vernon Hospital services, including inpatient programs, will move MMV towards improved financial sustainability. This project is intended to contribute to the long-term sustainability of

Montefiore Mount Vernon and will improve the financial health of the hospital. The budget appears reasonable.

BFA Attachment A, 2022-2023 MHS System, Inc. Certified Financial Statements, shows an average positive working capital, average positive net asset position, and operating losses of (\$93,902,000) in 2022 and (\$93,902,000) in 2023. The loss in 2022 was the result of rolling historical losses and the impacts of the COVID pandemic. The applicant has implemented the following steps to improve operations including ongoing discussions with the NYSDOH and other governmental agencies related to the availability of additional rate enhancements, federal improvements through key areas of the organization by targeting multi-year initiatives on revenue growth and expense management, as well as affiliates including Albert Einstein College of Medicine.

BFA Attachment B, 2023 Certified Financial Statements and December 2024 Internal Financial Statements of Mount Vernon Hospital, show the hospital had a negative working capital position, a negative net asset position, and losses during the periods shown. The applicant has indicated that the losses are attributable to ongoing negative impacts from the COVID pandemic, high expenses for supplies and labor, low acuity of patients at the hospital and the lack of volume. The applicant is working towards implementing steps to improve operations such as, increasing staffing including nurses and physicians, moving specialty procedures to the hospital, migration to EPIC electronic medical records system, and implementation of revenue cycle initiatives to support continuous improvement in all revenue cycle procedures.

Conclusion

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

Attachments

BFA Attachment A	2022-2023 Montefiore Health System, Inc. Certified Financial Statements
BFA Attachment B	2023 Certified Financial Statements and December 2024 Internal Financial Statements of Mount Vernon Hospital.



Department of Health Public Health and Health Planning Council

Project # 242333-C Endoscopy Center of Western New York, LLC

Program: Diagnostic and Treatment Center
Purpose: Construction

County: Erie
Acknowledged: January 17, 2025

Executive Summary

Description

Endoscopy Center of Western New York, LLC (ECWNY or The Center) operates a single specialty (gastroenterology), freestanding ambulatory surgery center (FASC) at 60 Maple Road, Williamsville, New York. ECWNY is seeking approval to construct a single specialty (gastroenterology) extension clinic at 250 Windward Road, Suite 140, Orchard Park, New York, and change the Center's ownership to create two ownership divisions of the Center.

The extension clinic will have three (3) procedure rooms and will be named Endoscopy Center of Western New York - Orchard Park.

The Center currently has two (2) members: 60 Holdco, LLC (60.93%) and PE Healthcare Associates (PEHA) (39.07%). They are proposing to transfer ownership units from PEHA to 60 Holdco, add three (3) new individual members to 60 Holdco, and create two (2) ownership divisions within the Center. Their location at 60 Maple Road will be referred to as the Maple Road Division, and the new extension clinic will be referred to as the Center's Southtowns Division. The three new 60 Holdco, LLC members are John Hobel, Thomas Malikowski, M.D., and Elizabeth Gregory M.D.

Christopher J. Bartolone, M.D. will serve as the Medical Director of both locations. The Southtowns Division will have a transfer and affiliation agreement for backup and emergency services with South Buffalo Mercy Hospital, 6.1 miles and 12 minutes travel time from the extension clinic.

OPCHSM Recommendation

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

Need Summary

The applicant projects 8,802 procedures in Year One and 9,330 in Year Three, with Medicaid at 13.6% and Charity Care at 7.5% by the third year.

Program Summary

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

Financial Summary

Total project cost of \$5,960,171 will be met with \$422,724 in equity from ongoing operations, \$769,310 in equity from the landlord, and a bank loan of \$4,768,137 at an interest rate of 6.45% for a six-year term.

The purchase price for the membership in 60 Holdco, LLC is as follow: Elizabeth Gregory, M.D. \$272,659, Thomas Malikowski, M.D. \$272,659 and John Hobel \$29,590.

<u>Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$7,243,225	\$7,519,204
Expenses	<u>5,828,891</u>	<u>6,198,837</u>
Net Income	\$1,414,334	\$1,320,367

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 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 a bank loan commitment for the total project cost portion is acceptable to the Department of Health. [BFA]
3. Submission of a bank loan commitment for Thomas Malikowski's portion of the purchase price that is acceptable to the Department of Health. [BFA]
4. Submission of a bank loan commitment for Elizabeth Gregory's portion of the purchase price that is acceptable to the Department of Health. [BFA]
5. 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]
6. 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]
7. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
8. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]
9. 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 **October 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 annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]
4. The staff of the facility must be separate and distinct from 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/hospitals/docs/hcs_access_forms_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

April 10, 2025

Need Analysis

Project Description

Endoscopy Center of Western New York, LLC is seeking approval to establish a single-specialty freestanding ambulatory (FASC) surgery center extension clinic at 250 Windward Road, Orchard Park, 14127 in Erie County. The Center will specialize in gastroenterology. The facility plans to have three procedure rooms. Upon approval, the FASC will be named Endoscopy Center of Western New York – Orchard Park. Additionally, the applicant is seeking to change the ownership structure and create two ownership divisions within the Center.

Background and Analysis

The service area consists of Erie County. The population of Erie County is projected to decrease to 949,073 by 2030 based on Cornell Program on Applied Demographics estimates. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Erie County	New York State
Total Population-2023 Estimate	950,044	19,872,319
Hispanic or Latino (of any race)	6.3%	19.6%
White (non-Hispanic)	73.0%	53.4%
Black or African American (non-Hispanic)	12.3%	13.6%
Asian(non-Hispanic)	4.5%	8.8%
Other (non-Hispanic)	3.9%	4.6%

Source: 2023 American Community Survey (5-year Estimates Data Profiles)

Of note, the population cohort aged 45 to 75 years old was 37% of the total population in 2023. This cohort is more likely to utilize the Center's services in line with the current colorectal screening guidelines from the Centers for Disease Control and the American Cancer Society recommendation that adults aged 45 to 75 years old be screened for colorectal cancer. By 2030, Cornell PAD estimates this cohort will be 35% of the total population, a decrease of 2%.

In 2022, 97.1% of the population of Erie County had health coverage as follows:

Employer Plans	49.7%
Medicaid	20.6%
Medicare	13.8%
Non-Group Plans	12.1%
Military or VA	0.947%

Source: Data USA

Ambulatory Surgery within a 10-Mile Radius of Proposed Center

Facility Name	Type	Patient Visits		
		2021	2022	2023
Sterling Surgical Center, LLC	ASC	4,442	4,772	3,861
Center for Ambulatory Surgery LLC	ASC	Unavailable	8,490	11,522
Sisters of Charity Hospital – St. Joseph Campus	Hospital	9,070	5,267	4,703
Premier Ambulatory Surgery Center	ASC	1,760	2,167	3,203
Buffalo General Medical Center	Hospital	17,059	20,780	19,794
Mercy Hospital of Buffalo	Hospital	7,977	7,803	8,479
Total Visits		40,308	49,279	51,562

Source: HFIS and SPARCS

All the facilities listed above provide single-specialty or multi-specialty ambulatory gastroenterology surgical services.

Per the applicant, Endoscopy Center of Western New York, LLC, a licensed single-specialty FASC located at 60 Maple Road, Williamsville, in Erie County currently provides gastrointestinal services to patients in the Buffalo and Niagara Falls region. The applicant is seeking to certify and construct an extension clinic to be known as Endoscopy Center of Western New York – Orchard Park to be located at 250 Windward Road, Suite 140, Orchard Park, and which will be identified as the Center's Southtowns Division to address the significant decline in accessible gastroenterology services in Erie County. The Maple Road site will be the main site for the ASC and the Southtowns Division will be the extension clinic for the ASC. Endoscopy Center of Western New York – Orchard Park will have a Transfer and Affiliation Agreement for backup and emergency services with South Buffalo Mercy Hospital.

The Maple Road site is in the process of hiring new doctors who will bring their own procedures to the main site, which will offset some of the surgeons relocating to the proposed Southtowns Division extension clinic. In addition, a few of the physicians who will practice at the Southtowns Division are currently performing their procedures in private, office-based surgical practices. None of the projected extension clinic procedures are currently being performed in hospitals.

The number of projected procedures is 8,802 in Year One and 9,330 in Year Three, with Medicaid at 13.6% and Charity Care at 7.5%. 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.

Payor	Year One		Year Three	
	Volume	%	Volume	%
Commercial FFS	4,179	47.48%	4,285	45.93%
Commercial MC	0	0.00%	0	0.00%
Medicare FFS	657	7.46%	697	7.47%
Medicare MC	2,240	25.45%	2,375	25.46%
Medicaid FFS	0	0.00%	0	0.00%
Medicaid MC	1,210	13.75%	1,270	13.61%
Private Pay	2	0.02%	4	0.04%
Charity Care	514	5.84%	699	7.49%

The Center initially plans to obtain contracts with the following Medicaid Managed Care Plans: Fidelis Medicaid, Univera Medicaid, CHAMPVA, Tricare, Independent Health – Medisource, Blue Cross Blue Shield - Amerigroup (now known as Wellpoint), and VA CNN OPTUM. The Center is working to develop a relationship with Neighborhood Health Center, a Federally Qualified Health Center, to provide endoscopy services. The Center has developed a financial assistance policy with a sliding fee scale to be utilized when the center is operational.

The Center is developing an ASC-focused educational series to expand community outreach and plans to increase community engagement in 2025 through events and health screening education aimed at promoting preventive care. The Center is developing relationships with CINQCARE, Sassi, Value Network, and People Inc., which are community-based organizations in Western New York that provide services and care for disabled, poor, and underserved members of the community. The Center is actively working on an educational initiative with the Arab American Community Center for Economic and Social Services of Western New York, to educate Yemeni and Arab immigrants in the community about colon cancer screening and the treatment of other gastrointestinal issues, while offering services as needed.

The hours of operation will be Monday through Friday, 6:30 AM – 4:30 PM. As the Center matures, it is expected that an expanded operating schedule will be maintained to accommodate the needs of both patients and physicians. Weekend and/or evening procedures will be made available, if needed, to accommodate patient scheduling issues.

Conclusion

Approval of this project will increase access and expand gastroenterology services for the residents of Erie County.

Program Analysis

Project Proposal

Proposed Operator	Endoscopy Center of Western New York-Orchard Park
Site Address	250 Windward Road, Suite 140, Orchard Park, NY 14127 (Erie County)
Surgical Specialties	Ambulatory Surgery- Single Specialty-Gastroenterology
Procedure Rooms	3
Hours of Operation	Monday through Friday, 6:30 a.m. to 4:30 p.m. As the extension clinic matures, it is expected that an expanded operating schedule will be maintained to accommodate the needs of both patients and physicians. Weekend and/or evening procedures will be made available, if needed, to accommodate patient scheduling issues.
Staffing (1st Year / 3rd Year)	53 FTEs / 55.5 FTEs
Medical Director(s)	Christopher J. Bartolone, M.D.
Emergency, In-Patient, and Backup Support Services Agreement and Distance	To be provided by: South Buffalo Mercy Hospital 6.1 Miles / 12 minutes

Endoscopy Center of Western New York, LLC (ECWNY) d/b/a Endoscopy Center of Western New York-Orchard Park, operates a single-specialty (gastroenterology) freestanding ambulatory surgery center (FASC) at 60 Maple Road, Williamsville (Erie County), New York 14221 (the Center). ECWNY is submitting this Certificate of Need (C.O.N.) application seeking approval to certify and construct a single-specialty (gastroenterology) extension clinic of the Center at 250 Windward Road, Suite 140, Orchard Park (Erie County), New York 14127 and change the Center's ownership to create two (2) ownership divisions within the Center.

The extension clinic will occupy 8,655 square feet of leased space (8,098 square feet of usable space) in an existing building and have three (3) procedure rooms. It will be named Endoscopy Center of Western New York – Orchard Park and will be identified as the Center's Southtowns Division. The extension clinic will provide gastroenterological surgical services to its patients and will be certified as a single-specialty (gastroenterology) FASC extension clinic.

The Southtowns Division will have a Transfer and Affiliation Agreement for backup and emergency services with South Buffalo Mercy Hospital, 6.1 miles and 12 minutes travel time from the extension clinic.

The Center currently has two (2) members: 60 Holdco, LLC (60 Holdco; 60.93%); and PE Healthcare Associates, LLC (PEHA; 39.07%). The Center is seeking approval to change the Center's ownership, as follows:

Transfer ownership units from PEHA to 60 Holdco; add three (3) new individual members to 60 Holdco; and create two (2) ownership divisions within the Center: The Maple Road Division and the Southtowns Division. The Center will continue to be owned by two (2) members: 60 Holdco (71.965%); and PEHA (28.035%).

Certain surgeons and procedures are relocating from the Center's existing main site to the proposed extension clinic. This project responds to and addresses a significant decline in accessible gastroenterology services in Erie County in recent years resulting from the closure of Lakeshore Medical Center, the discontinuation of gastroenterology services at Dunkirk Hospital, the closure of a competing practice, and the retirement and death of several local gastroenterologists.

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

Staffing	Year One	Year Three
Management and Supervision	1.0	1.0
Technician and Specialist	12.5	12.5
Registered Nurses	28.3	30.3
Clerical and Other Administrative	11.1	11.6
Total	53	55.5

Current Ownership:

Member Name	Interest
60 Holdco, LLC	60.93%
PE Healthcare Associates, LLC (PEHA)	39.07%
TOTAL	100%

Through this project, the Center will now have two divisions - the Maple Road Division (Class I units) and the Southtowns Division (Class II units). The Maple Road Division is the Center's main site, and the Southtowns Division will be the extension clinic.

Proposed Ownership, Maple Road Division:

Member Name	Proposed Interest
60 Holdco, LLC	63.93%
Christopher Bartolone (10.42%)	
David Garson (10.42%)	
Siddhartha Shah (10.42%)	
Yogesh Maheshwari (10.42%)	
Peter Bloom (9.16%)	
Stanely Pietrak (9.16%)	
Naima Mian (9.16%)	
Shahid Mehboob (7.71%)	
Ognian Pomakov (7.71%)	
Benjamin Schaus (3.71%)	
Craig Keller (4.69%)	
John Picano (2.35%)	
Thomas Malikowski (2.35%) - new member	
Elizabeth Gregory (2.35%) - new member	
PE Healthcare Associates, LLC (PEHA)	36.07%
Ann Sariago (33.33%)	
Rafael Axen (33.33%)	
Matthew Jenkins (33.33%)	
TOTAL	100%

Proposed Ownership, Southtowns Division:

Member Name	Proposed Interest
60 Holdco, LLC	80.00%
Christopher Bartolone (8.13%)	
David Garson (8.13%)	
Siddhartha Shah (8.13%)	
Yogesh Maheshwari (8.13%)	
Naima Mian (8.13%)	
Shahid Mehboob (8.13%)	
Ognian Pomakov (8.13%)	
Benjamin Schaus (8.13%)	
Craig Keller (8.13%)	
John Picano (8.13%)	
Thomas Malikowski (8.13%) - new member	
Elizabeth Gregory (8.13%) - new member	
John Hobel (2.50%) - new member	
PE Healthcare Associates, LLC (PEHA)	20.00%
Ann Sariego (33.33%)	
Rafael Axen (33.33%)	
Matthew Jenkins (33.33%)	
TOTAL	100%

Character and Competence

Christopher J. Bartolone, M.D., an existing member of the Center and the existing Medical Director of the Center, will be the Medical Director for the Maple Road Division and the Southtowns Division. Dr. Bartolone is an active staff member at the following facilities: Millard Fillmore Hospitals, Niagara Falls Memorial Hospital, Mount Saint Mary's Hospital, Kenmore Mercy Hospital, DeGraff Memorial Hospital, and Buffalo General Hospital. Dr. Bartolone graduated from the State University of New York at Buffalo with a Doctor of Medicine in 1989 and went on to complete an internship and medical residency at the State University of New York at Buffalo in 1992 and a fellowship at the University of Illinois in 1996. Dr. Bartolone is board-certified in Internal Medicine with a sub-certification in gastroenterology.

Elizabeth Gregory, M.D., has been a gastroenterologist and partner in Gastroenterology Associates LLP since 2023. Prior to this, Dr. Gregory was an instructor, tutor, and mentor at Kaplan Test Prep Inc. for pre-medical students from 2010-2018. Dr. Gregory graduated from the State University of New York at Buffalo with a Doctor of Medicine in 2017 and went on to complete an Internal Medicine Residency in 2020 and a Gastroenterology Fellowship in 2023. Dr. Gregory is board-certified in Internal Medicine.

John Hobel, CPA, has been the Chief Financial Officer for Gastroenterology Associates, LLP since 2018. Prior to this, Mr. Hobel was the Chief Financial Officer for TEAM Health Urgent Care Division from 2016-2018. Mr. Hobel also worked as the Vice President of Finance for TEAM Health Urgent Care Division from 2012-2015. Mr. Hobel graduated with a bachelor's in accounting from State University of New York Fredonia in 1995.

Thomas Malikowski, M.D., has been a gastroenterologist and partner of Gastroenterology Associates LLP since 2023. Prior to this, Dr. Malikowski was an Assistant Professor of Medicine at the Mayo Clinic from 2018-2020. Dr. Malikowski graduated with a Doctor of Allopathic Medicine from the State University of New York at Buffalo in 2015 and went on to complete an Internal Medicine Residency at Mayo School of Graduate Medical Education in 2018. Dr. Malikowski completed a Gastroenterology Fellowship at the University of Buffalo in 2023. Dr. Malikowski is board-certified in Internal Medicine with a sub-certification in Gastroenterology.

The following were undisclosed lawsuits naming Gastroenterology Associates, LLP:

SHERWOOD vs. TUOTI, MD, GASTROENTEROLOGY ASSOCIATES, LLP, NIAGARA MEDICINE, PC, LOGHMANEE M.D., FAZLOLLAH, MT. ST. MARY'S HOSPITAL AND HEALTH CENTER/ Niagara Supreme Court/ E152964/2014/ Tort-Medical, Dental, or Podiatric Malpractice. Per the applicant, this case has been placed on a long hold.

Westphal, Maria vs. Millard Fillmore Suburban Hospital, Buffalo Endovascular and Vascular Surgical Associates, Kaleida Health, Ahmad DO, Raheel, Dominguez MD, Ivan, Buffalo Medical Group, Millard Fillmore Suburban Hospital, Attuwaybi MD, Bashir O., Pomakov MD, Ognian, Infinity Medical of WNY, PC, Gastroenterology Associates LLP/Erie Supreme Court/ 812577/2018/ Tort-Medical, Dental, or Podiatric Malpractice. Per the applicant, this case alleged negligent care resulting in serious and permanent damage and complications post-surgery resulting in further surgery and is pending resolution.

Lovieno, Stacy L vs. Garson M.D., David S., Kurtz F.N.P., Kathy A., Gastroenterology Associates, LLP/Erie Supreme Court/810195/2021/ Tort-Medical, Dental, or Podiatric Malpractice. Per the applicant, this case includes allegations of failure to treat and diagnose diverticulitis in a timely manner allegedly leading to bowel resection, hernias, and a colostomy in a 49 female, and is pending resolution.

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.

Integration with Community Resources

The Center remains committed to serving all persons in need of surgical care without regard to ability to pay or other personal characteristics. The operating budget projects 11.5% Medicaid utilization and 2.0% Charity Care utilization. The Center is collaborating with Catholic Health to address the backlog of Medicare patients within the Catholic Health System by offering colon cancer screening. Additionally, the Center has developed a relationship with Neighborhood Health Center to provide endoscopy services. Furthermore, the Center is actively working on an education initiative with the Arab American Community Center for Economic and Social Services of Western New York, to educate Yemeni and Arab immigrants in the community about colon cancer screening and the treatment of other gastrointestinal issues, while offering services as needed. The Center is also developing an ASC-focused educational series to expand community outreach, with plans to increase community engagement through events and health screening education aimed at promoting preemptive and preventative care.

If a patient comes to the Center through a direct access program without a primary care provider, the Center provides several Primary Care Physician options to its patients. The Center communicates directly with Primary Care Physicians for those patients to identify Primary Care Physicians for patients during check-in or during the scheduling process. The same practice that is currently in place at the Center will be utilized at the extension clinic.

Provation Apex, which is the same Electronic Medical Record system currently utilized at the Center's main site, will be used at the extension site. An appropriate method and system for maintaining medical records will be initiated in conformance with applicable requirements, including Sections 755.7 and 751.7 of 10 NYCRR, and HIPAA. This will include the assurance of confidentiality of patients' records. In addition, the system will provide for prompt and efficient transfer of medical records to other practitioners and/or facilities upon patient request. The extension clinic will maintain a medical record for each patient.

Every record will be accurate, legible, and promptly completed, signed and dated. To fulfill the data-reporting requirements outlined in 10 NYCRR Section 755.10, the extension clinic will have a high-quality management information system on-site.

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, which is for new construction and the acquisition of moveable equipment, is estimated at \$5,960,171, further broken down as follows:

New Construction	\$2,428,644
Design Contingency	242,865
Construction Contingency	121,432
Architect/Engineering Fees	285,526
Other Fees (Consultant)	101,257
Moveable Equipment	2,537,570
Telecommunications	10,408
Financing Costs	95,363
Interim Interest Expense	102,515
CON Fee	2,000
Additional Processing Fee	<u>32,591</u>
Total Project Cost	\$5,960,171

The applicant's financing plan appears as follows:

Equity (Operations)	\$422,724
Equity (Landlord)	\$769,310
Bank Loan (6.45% for a five-year term)	<u>\$4,768,137</u>
Total	\$5,960,171

Operating Budget

The applicant has submitted an operating budget for the extension clinic site, in 2025 dollars, for the first and third years, summarized below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Proc</u>	<u>Total</u>	<u>Per Proc</u>	<u>Total</u>
<u>Revenues:</u>				
Commercial FFS	\$1,054	\$4,404,584	\$1,054	\$4,516,306
Medicare FFS	\$569	\$373,645	\$569	\$396,394
Medicare MC	\$773	\$1,731,524	\$773	\$1,835,879
Medicaid MC	\$605	\$732,649	\$605	\$768,979
Private Pay	\$412	<u>\$823</u>	\$412	<u>\$1,646</u>
Total		\$7,243,225		\$7,519,204
<u>Expenses:</u>				
Operating	\$543.57	\$4,784,538	\$559.79	\$5,222,872
Capital	<u>\$118.65</u>	<u>\$1,044,353</u>	<u>\$104.61</u>	<u>\$975,965</u>
Total Expenses	\$662.22	\$5,828,891	\$664.40	\$6,198,837
Net Income		\$1,414,334		\$1,320,367
Utilization: (Proc)		8,802		9,330

The following is noted with respect to the operating budget:

- Expense and utilization assumptions are based on the historical experience of the ASC.
- Revenues were based on current reimbursement methodologies for ambulatory surgery services.

Utilization broken down by payor source of the extension site for Year One and Year Three are as follows:

	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	47.48%	45.93%
Medicare FFS	7.46%	7.47%
Medicare MC	25.45%	25.46%
Medicaid MC	13.75%	13.61%
Charity Care	5.84%	7.49%
Private	<u>0.02%</u>	<u>0.04%</u>
Total	100.00%	100.00%

Purchase Agreements

The applicant has submitted an executed purchase agreement for the purchase of ownership interest, summarized below:

Date	November 15, 2024
Company	60 Holdco, LLC
Purchaser	Elizabeth Zoy Gregory, MD.
Purpose	To purchase from the Company, a total of eight and one hundred twenty-five thousand (8.125%) Company Southtown units, will correspond to a six and five-tenths (6.50%) indirect ownership in the ECWNY- Southtowns Equity. Also, to purchase a total of two and three thousand four hundredths sixty-two ten thousandths (2.3462) Company Maple Road Units.
Purchase Price	\$272,659.50 for ownership interests. Also, Dr. Gregory will purchase ownership interest in the Williamsville consulting entity for \$125,178.50. The total purchase price is \$397,838.
Payment of Purchase Price	Cash at Closing

Date	November 15, 2024
Company	60 Holdco, LLC
Purchaser	Thomas Malikowski, MD.
Purpose	To purchase from the Company, a total of eight and one hundred twenty-five thousand (8.125%) Company Southtown units, will correspond to a six and five-tenths (6.50%) indirect ownership in the ECWNY- Southtowns Equity. Also, to purchase a total of two and three thousand four hundredths sixty-two ten thousandths (2.3462) Company Maple Road Units.
Purchase Price	\$272,659.50. for ownership interests. Also, Dr. Malikowski, MD. will purchase ownership interest in the Williamsville consulting entity for \$125,178.50. The total purchase price is \$397,838.
Payment of Purchase Price	Cash at Closing

Date	November 15, 2024
Company	60 Holdco, LLC
Purchaser	John Hobel
Purpose	Two and five-tenths Company Southtown units will correspond to two percent (2.00%) indirect ownership in the ECWNY-Southtowns Equity.
Purchase Price	\$29,590
Payment of Purchase Price	Cash at Closing

The purchase prices will be met as follows:

John Hobel

Equity \$29,500

Thomas Malokowski, MD

Bank Loan (6.89% for 10-year term) \$397,838

Elizabeth Zoy Gregory, MD

Equity \$96,163

Bank Loan (6.89% for a 10-year term) \$301,675

Administrative Services Agreement

The applicant has submitted an executed administrative services agreement that they will enter into, summarized below:

Date	November 1, 2024
Purpose	To provide administrative and related services to outpatient medical facilities for the ambulatory surgery facilities located at 60 Maple Road, Suite 2, Williamsville, New York, and located at 250 Windward Road, Suite 140, Orchard Park, New York.
Company	Surgical Care Affiliates, LLC
Facility	Endoscopy Center of Western New York, LLC
Services Provided	Provide accrual-based financial statements and general ledger reporting and review, make recommendations to Company regarding personnel, space, equipment, information system, and other infrastructure items, recruit the administrator, employ all non-physician clinical support personnel and all non-clinical support personnel at the Facility, will make its Smart System application available to Company for use in connection with SCA Health's purchasing program, provide IT manage services, provide clinical support services, provide tax services and risk management and insurance services.
Term	5 years
Compensation	Year One- \$200,000 with a 3% increase each year thereafter.

Lease Rental Agreement

The applicant has submitted an executed lease rental agreement for the site that they will occupy, which is summarized below:

Date	March 11, 2024
Premises	8,655 rentable square feet located at 250 Windward Road, Orchard Park, New York.
Lessor	Sterling 45 LLC
Lessee	Endoscopy Center of Western New York, LLC
Term	10 years
Rental	Year One- \$276,960 annually with a 3% increase thereafter.
Provisions	The lessee shall be responsible for utilities, maintenance, and utilities.

The applicant has submitted an affidavit indicating that the lease agreement is an arm's length lease agreement. The applicant has submitted two real estate letters attesting to the reasonableness of the per-square-foot rental.

Capability and Feasibility

Total project cost of \$5,960,171 will be met with \$422,724 in equity from operations, \$769,310 in landlord equity, and a bank loan of \$4,768,137 at an interest rate of 6.45% for a six-year term. The applicant and landlord provided documentation of the availability of funds for the equity contribution. The following individuals will purchase ownership in the Center: Elizabeth Zoy Gregory, M.D. (\$272,659), Thomas Malikowski, M.D. (\$272,659), and John Hobel (\$29,590).

Working capital requirements are estimated at \$1,033,140, which is equivalent to two months of first year expenses. The applicant will fund the working capital requirement with \$422,724 from the operations of Endoscopy Center of Western New York and equity of \$610,416 from the operations of PE Healthcare Associates. BFA Attachment D, January 31, 2025, Internal Financial Statements of Endoscopy Center of Western New York and BFA Attachment E, 2024 Internal Financial Statements of PE Healthcare Associates, indicates the availability of sufficient funds for the equity contributions to meet the working capital equity contributions.

The submitted budget indicates a net income of \$1,414,334 and \$1,320,367 during the first and third years of the extension clinic, respectively. Revenues are based on current reimbursement methodologies for ambulatory surgery services. The submitted budget appears reasonable.

BFA Attachment C, 2022-2023 Certified Financial Statements of Endoscopy Center of Western New York, LLC, show the entity had an average positive working capital position, an average positive net asset position, and achieved an average net income of \$6,497,997 during the period.

BFA Attachment D, January 31, 2025 Internal Financial Statements of Endoscopy Center of Western New York, show that the entity had a positive working capital position, a positive net asset position, and a net income of \$525,036 for the period.

Conclusion

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

Health Equity

Health Equity Impact Assessment Summary

The Applicant intends to establish a second ambulatory surgery center (ASC) to enhance access to gastrointestinal (GI) services in Erie County. The establishment of the ASC stems from a notable population growth and rising patient demand in the area. The expansion seeks to address the region's decline of GI services which has been exacerbated by the discontinuation of services at both hospitals and medical practices, along with the retirement and passing of several GI physicians. This initiative aims to expand the availability of GI care, reduce travel burdens for patients, and ensure continued access to high-quality specialty care. The Applicant anticipates the ASC will reduce health disparities, improve early detection of GI conditions, and enhance health equity in the community. The Applicant serves various medically underserved populations, such as older adults who require GI cancer screenings and care. These groups will benefit from the closer proximity of the new location. Additionally, other medically underserved groups will benefit from the affordability and accessibility of the ASC, as the Applicant offers services regardless of the ability to pay. The Independent Entity did not identify any negative impacts as a result of the project.

Conclusion

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

Attachments

BHFP Attachment	Map
BFA Attachment A	Net Worth Statements - New Members
BFA Attachment B	Ownership structure of Endoscopy Center of Western New York after the proposed transaction.
BFA Attachment C	2022-2023 Certified Financial Statements of Endoscopy Center of Western New York
BFA Attachment D	January 31, 2025, Internal Financial Statements of Endoscopy Center of Western New York.
BFA Attachment E	2024 Internal Financial Statements of PE Healthcare Associates.
OHEHR Attachment	Health Equity Impact Assessment



Department of Health Public Health and Health Planning Council

Project # 251016-C Marquis Certified Home Care, LLC

Program: Certified Home Health Agency
Purpose: Construction

County: Albany
Acknowledged: January 15, 2025

Executive Summary

Description

Marquis Certified Home Care, LLC (Marquis), an existing New York limited liability company that operates a Certified Home Health Agency (CHHA), requests approval to acquire Community Health Center (CHC) d/b/a Community Health Center of St. Mary's Healthcare, a not-for-profit corporation, at 2-8 West Main Street, Johnstown (Fulton County). Upon approval of this application, CHC will dissolve the two operating certificates for their existing CHHA and Long-Term Home Health Care Program (LTHHCP) and Marquis will be the surviving CHHA serving the former patients of CHC.

Marquis currently provides CHHA services to the following counties: Albany, Columbia, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, and Washington. CHC currently serves Fulton, Hamilton, Herkimer, Montgomery, Saratoga, Schoharie, and Warren Counties. To serve all patients from CHC, Marquis proposes to add Hamilton and Herkimer to its geographic locations. Marquis will continue to operate out of its current office at 1762 Central Avenue, Albany (Albany County).

Marquis currently provides Baseline-CHHA, nursing, home health aide, medical social services, medical supplies-equipment, and appliances, nutritional, occupational therapy, speech-language pathology therapy, and physical therapy services. Additionally, they are requesting to add the services of Audiology, Homemaker, Housekeeper, Personal Care, and Respiratory Therapy to their Operating

Certificate, as these services are currently provided by CHC.

The current members of Marquis Certified Home Care, LLC are Eric E. Newhouse (67%) and Neil (Naftali) S. Zelman (33%).

OALTC Recommendation

Approval

Need Summary

The applicant projects a total of 53,396 visits in Year One and 67,064 in Year Three. This equates to a caseload of 4,854 patients in Year One and 6,096 in Year 3. The projected payor mix includes 16.3% Medicaid and 2.4% Charity Care in Years One and Three of operations.

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3606(2)(b).

Financial Summary

There are no project costs associated with this application. The purchase price for the CHHA assets is \$150,000 and has been paid in full by Marquis Certified Home Care, LLC.

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$10,350,254	\$12,420,538
Expenses	<u>\$ 9,417,555</u>	<u>\$10,843,809</u>
Net Income	\$ 932,699	\$1,576,729

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Public Health Law §2802-B.

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

April 10, 2025

Need Analysis

Project Description

Marquis Certified Home Care, LLC, an existing Certified Home Health Agency (CHHA), at 1762 Central Avenue, Albany, NY. 12205, is requesting to acquire the CHHA currently operated by Community Health Center of St. Mary's Healthcare and Nathan Littauer Hospital, Inc. (CHC) at 2-8 West Main Street, Johnstown, NY. 12095.

Through this acquisition, CHC is being closed and all services for CHC patients will be shifted to Marquis Certified Home Care, LLC. Marquis currently provides CHHA services to the following counties: Albany, Columbia, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, and Washington. As part of the acquisition, Marquis Certified Home Care, LLC requests to add to their services area, Herkimer and Hamilton Counties, which are served by CHC but are not currently listed on Marquis' operating certificate.

Marquis will continue to provide CHHA Baseline Services, Home Health Aide, Medical Social Services, Medical Supplies Equipment and Appliances, Nursing, Nutritional, Occupational Therapy, Physical Therapy, and Speech-Language Pathology Therapy. In addition, to be able to provide the continuation of all services that CHC patients have been receiving, Marquis is requesting the addition of Audiology, Homemaker, Housekeeper, Personal Care, and Respiratory Therapy services to their Operating Certificate.

Background and Analysis

The table below represents historic and projected visits for Marquis Certified Home Care LLC. The projected visits for Years One and Three include what the applicant expects for visits post-acquisition of CHC., including the increase of services expected in Herkimer and Hamilton Counties.

Historical and Projected Patient Volume							
	2019	2020	2021	2022	2023	Year 1*	Year 3*
Total patient admits	1,307	2,217	3,432	4,126	4,477	4,854	6,096
Total visits	24,957	32,344	37,273	44,150	47,903	53,396	67,064
Visits/patient	19	15	11	11	11	11	11

Source: Applicant

*Projected data post-acquisition

The applicant states that in addition, the projected increase in volume is a result of the applicant's successful hiring and staff retention programs in place, which will continue and expand. They also report that current contracts and referral sources will remain in place. Referrals will come from hospital discharge planners, rehab facilities, nursing homes, primary care providers, physicians' offices, and past and existing patients.

Demographics for the primary service area are noted below, including a comparison with New York State.

Demographics	Herkimer County	Hamilton County	New York State
Total Population	59,932	5,102	19,872,319
Hispanic or Latino (of any race)	2.7%	2.0%	19.6%
White (non-Hispanic)	91.6%	91.5%	53.4%
Black or African American (non-Hispanic)	1.0%	0.9%	13.6%
Asian(non-Hispanic)	0.7%	0.4%	8.8%
Other (non-Hispanic)	4.0%	5.2%	4.6%

Source: 2023 American Community Survey (5-Year Estimates Data Profiles)

The changes expected to the population of the service areas to be added (Herkimer and Hamilton Counties) including the population aged 65 and older, which are most likely to use the services, are noted below.

County	Total Population & Change Expected by 2030	Current Population of Aged 65+	Population of Aged 65+ & Expected Change by 2030
Herkimer County	60,367 (0.7% increase)	12,945	15,558 (20.2% increase)
Hamilton County	4,531 (11.2% decrease)	1,671	2,313 (38.4% increase)

Source: Cornell Program on Applied Demographics and 2023 American Community Survey Estimates

In 2022, the population of Herkimer and Hamilton Counties had health coverage as follows:

	Herkimer County	Hamilton County
With Health Coverage	95.3%	95.3%
Employer plans	43%	39.6%
Medicaid	21.6%	17.5%
Medicare	15.8%	22.1%
Non-group plans	13.4%	15.2%
Military or VA plans	1.54%	0.965%

Source: Data USA

The projected payor mix includes:

Applicant Projected Payor Mix		
Payor	Year One	Year Three
Commercial	46%	46.2%
Medicare	35.3%	35.1%
Medicaid	16.3%	16.3%
Private Pay	0%	0%
Charity Care	2.4%	2.4%
Other	0%	0%

Conclusion

This acquisition will result in the addition of Herkimer and Hamilton Counties to the service area of the applicant and continued services being provided to their existing counties. In addition, the project will add Audiology, Homemaker, Housekeeper, Personal Care, and Respiratory Therapy services to the applicant's Operating Certificate. These changes will result in the current CHC patients being able to continue to receive the services they are currently receiving post-acquisition.

Program Analysis

Project Proposal

Marquis Certified Home Care, LLC (Marquis) requests approval to acquire Community Health Center (CHC) d/b/a Community Health Center of St. Mary's Healthcare. Upon approval, CHC will close and Marquis will be the surviving CHHA providing services to the counties in their current service area, as well as, Herkimer and Hamilton Counties, which they are requesting to add to service the former CHC patients. The applicant states that CHC has submitted a closure plan to the NYSDOH Regional Office.

Marquis will continue to provide Baseline Services for a CHHA, Home Health Aide, Medical Social Services, Medical Supplies Equipment and Appliances, Nursing, Nutritional, Occupational Therapy, Physical Therapy, and Speech-Language Pathology Therapy. They are requesting to add the services currently being provided by CHC that are not on their current Operating Certificate, which are Audiology, Homemaker, Housekeeper, Personal Care, and Respiratory Therapy.

After the requested additions are made as proposed above, the lists below provide the counties and services that will be provided by the applicant.

The applicant will serve the residents of the following counties from an office at 1762 Central Avenue, Albany, New York 12205:

- Albany
- Columbia
- Fulton
- Hamilton
- Herkimer
- Montgomery
- Rensselaer
- Saratoga
- Schenectady
- Schoharie
- Warren
- Washington

The applicant will provide the following healthcare services:

- Audiology
- Baseline Services – CHHA
- 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

Marquis Certified Home Care, LLC is comprised of the following members:

Eric E. Newhouse, Esq.- 67%

Employment

- Chief Executive Officer, MedWiz Companies (2005 - Present)
- President, The Eliot Management Group, LLC (2005 - Present)
- President, Marquis Home Care, LLC (2015 - Present)
- President, Marquis Certified Home Care LLC (2020 - Present)
- President, Polaris HCS, LLC (2020 - Present)

Affiliations

- Marquis Home Care, LLC (LHCSA), (January 2015 - Present)
- Marquis Certified Home Care (CHHA), (January 2020 - Present)
- The Eliot at Erie Station (ACF/ALP), (January 2006 – Present)
- The Eliot at Troy (ACF/ALP), (January 2020 - Present)
- The Eliot at Catskill (ACF/ALP), (January 2012 - Present)
- The Eliot at New Rochelle (ACF/ALP), (May 2019 – Present)
- The Sentinel of Amsterdam (ACF/ALP), (January 2017- Present)
- The Sentinel at Port Jervis (ACF/ALP), (January 2018 - Present)
- The Sentinel of Mohegan Lake (ACF/ALP), (May 2019 - Present)
- The Sentinel of Rockland (ACF/ALP), (January 2020 - Present)
- Visiting Docs (Diagnostic and Treatment Center), (January 2020 - Present)

Neil (Naftali) S. Zelman- 33%

Employment

- Chief Executive Officer, Polaris Healthcare LLC (September 2006 - Present)

Affiliations

- Marquis Home Care, LLC (LHCSA), (January 2016 – Present)
- Marquis Certified Home Care, LLC (CHHA), (January 2020 – Present)
- The Eliot at Catskill (ACF/ALP), (August 2010 – Present)
- The Eliot at Erie Station (ACF/ALP), (January 2011 – Present)
- The Sentinel of Amsterdam (ACF/ALP), (January 2017 – Present)
- The Sentinel of Port Jervis (ACF/ALP), (January 2019 – Present)

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

Facility Compliance/Enforcement

The Center for Residential Surveillance reviewed the compliance history of the above-mentioned adult care facilities and reports as follows:

- The Sentinel at Amsterdam, LLC was fined a civil penalty of \$1,065 pursuant to a stipulation and order from a May 18, 2018 and August 15, 2018 survey for violations of Article 7 of Social Services Law and 18 NYCRR Part 487.8(d)(1-2).
- The Sentinel at Amsterdam, LLC was fined a civil penalty of \$50 pursuant to a stipulation and order from a December 13, 2020 survey for violations of Article 7 of Social Services Law and 18 NYCRR Part 485.11(b).
- The Sentinel at Amsterdam, LLC was fined a civil penalty of \$8,000 pursuant to a stipulation and order from a March 10, 2023 survey for violations of Article 7 of Social Services Law and 18 NYCRR Part 486.5(a)(40(v), 494(a), 487.7(f)(5), 487.7(g)(1)(ii-xiii), 487.7(d)(6)(ii), 487.9(c)(8) that constituted endangerment under 486.5(a)(4)(v).
- The Eliot at Erie Station was fined a civil penalty of \$250 pursuant to a stipulation and order from a May 18, 2018 and August 15, 2018 survey for violations of Article 7 of Social Services Law and 18 NYCRR Part 487.8(d)(1-2).

- The Eliot at Troy, LLC was fined a civil penalty of \$50 pursuant to a stipulation and order from an August 20, 2021 survey for violations of Article 7 of Social Services Law and 18 NYCRR Part 485.11(b).
- The Eliot at Troy, LLC was fined a civil penalty of \$6,000 pursuant to a stipulation and order from a February 13, 2023 survey for violations of Article 7 of Social Services Law and 18 NYCRR Part 487.4(a), 487.4(k), 487.4(m), 487.5(a)(3)(ix), 487.5(f)(16), 487.7(d)(1)(v), 487.7(f)(11)(iii), 487.8(e)(1), 487.9(c)(8), 487.9(h), and 487.11(k)(1-3), which constituted endangerment under 486.5(a)(4)(v).
- The Eliot at Troy, LLC was fined a civil penalty of \$3,000 pursuant to a stipulation and order from inspections dated January 10, 2024 and June 14, 2024 for violations of Article 7 of Social Services Law and 18 NYCRR Part 487.4(b)(5).

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.

The information provided by the Diagnostic and Treatment Surveillance Division 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.

A review of the Personal Qualifying Information indicates that the applicants have the required character and competence to operate a Certified Home Health Agency.

CHHA Quality of Patient Care Star Ratings*	
CHHA Name	Quality of Care Rating
Marquis Certified Home Care, LLC	3.5 out of 5 stars

* CMS data as of January 15, 2025. New York Average is 3 out of 5 and the National Average is 3.5 out of 5 stars.

Conclusion

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3606(2)(b).

Financial Analysis

Operating Budget

The applicant has provided an operating budget, in 2024 dollars, for the first and third years, subsequent to acquiring the CHHA from CHC. The Current Year represents Marquis CHHA service only. The budget is summarized below:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
<u>Revenues</u>	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>
Commercial FFS	\$171.51	\$175,452	\$194.50	\$199,944	\$186.93	\$240,200
Commercial MC	\$164.27	3,865,651	\$146.58	3,772,066	\$152.36	4,526,446
Medicare FFS	\$193.08	3,636,345	\$232.82	4,393,957	\$243.10	5,272,748
Medicaid FFS	\$198.70	1,733,496	\$242.80	2,120,614	\$233.33	2,544,738
Bad Debt.	-	<u>(\$137,507)</u>	=	<u>(\$136,327)</u>	=	<u>(\$163,594)</u>
Total Revenues	-	\$9,273,437	-	\$10,350,254	-	\$12,420,538
 <u>Expenses</u>						
Operating	\$172.70	\$8,835,548	\$175.53	\$9,392,062	\$160.61	\$10,818,313
Capital	<u>.48</u>	<u>25,493</u>	<u>.48</u>	<u>25,493</u>	<u>.38</u>	<u>25,493</u>
Total Expenses	\$173.18	\$9,182,085	\$176.01	\$9,417,555	\$160.99	\$10,843,809
Net Income		<u>\$91,352</u>		<u>\$932,699</u>		<u>\$1,576,729</u>
Visits*		52,764		53,396		67,064
Hours**		<u>255</u>		<u>255</u>		<u>295</u>
Average Cost:		\$173.18		\$176.01		\$160.99

*Visits are calculated for Nursing, PT/OT, Speech Pathology, Medical Social Services for Current Year, and, for Years One and Three, Homemaker, Audiology, and Respiratory Therapy in addition to the Current Year services.

**Hours are for Home Health Aide services in Current Year, and Home Health Aide and Housekeeper for years One and Three.

The following is noted with respect to the submitted budget:

- Revenue, expense, and utilization assumptions are based on the current 2023 reimbursement rates that Marquis Certified Home Care CHHA receives.
- The applicant's anticipated revenue increase is due to the enrollment of new patients by acquiring the book of business via the asset purchase sale and expanding to more counties.
- Expense increases are a result of increases in labor and supply costs.
- The buyers have submitted Medicaid affidavits representing Marquis Certified Home Care, LLC with respect to the time of acquiring its interest, without releasing Community Health Center of its liability and responsibility.

Utilization by payor source is as follows:

<u>Payor:</u>	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	1.94%	1.92%	1.92%
Commercial MC	44.60%	44.07%	44.30%
Medicare FFS	35.69%	35.27%	35.13%
Medicaid FFS	16.53%	16.34%	16.26%
Charity Care	<u>1.24%</u>	<u>2.40%</u>	<u>2.39%</u>
Total	100%	100%	100%

Asset Purchase Agreement

The applicant has submitted an executed APA for the operating interests of the CHHA. The APA will become effectuated upon the Public Health and Health Planning Council (PHHPC) approval of this application. The terms of the agreement are summarized below:

Date:	November 16, 2023
Buyer:	Marquis Certified Home Care, LLC
Seller:	Community Health Center of St. Mary's Healthcare and Nathan Littauer Hospital Inc.
Purchased Assets:	All of seller's right, title and interest in all furniture, fixtures, furnishings, equipment, appliances, tools, instruments, machinery, computers, computer equipment and hardware, office equipment, parts, supplies and other tangible personal property; all inventory and supplies; all contracts, agreements, leases, purchase orders; all policies and procedures manuals, operating manuals, training materials, marketing, sales and promotional materials, and all intellectual property; all rights to telephone and facsimile numbers used exclusively by the Seller and any websites and other advertising rights; certain administrative records and payroll records, including, as deemed appropriate, files, computer software, data or databases, correspondence, memoranda, notes and other documents or papers and other evidence thereof relating solely to the Assets; licenses, certificates, permits, waivers, consents, authorizations, variances, approvals, accreditations, covenants, commitments, warranties, deposits and reserves relating to the Assets; and goodwill.
Excluded Assets:	All cash and cash equivalents as of closing date; all accounts receivable prior to closing date; licenses, permits, and contracts not assignable or transferable; marketable securities; any government awarded grants; funds from all rate adjustments and appeals prior to closing date; and all employee benefit plans maintained by the seller.
*Purchase Price:	\$150,000 for the CHHA.
Payment of Purchase Price:	The purchase price has been paid in full.

Lease Agreement

The CHHA site will stay on the premises already approved by the Department for Marquis Certified Home Care, LLC with no changes to the lease agreement summarized below as background.

Date:	August 1, 2020 (Executed and Currently Operating as a CHHA site)
Premises:	Approximately 8,649 rentable square feet in the building located at 1762 Central Avenue, Albany, New York
Landlord:	1762 Central Avenue Associates
Tenant:	Marquis Certified Home Care LLC
Terms:	60 months commencing on execution of the lease (August 1, 2020) with option to renew for an additional 5 years commencing August 1, 2025, and ending July 31, 2030.
Rental:	Monthly rent years 1 – 5: \$10,090.50; Monthly rent years 5 – 10 - \$11,099.55
Provisions:	Liability Insurance

The landlord is responsible for utilities and maintenance, but the tenant is obligated to pay additional rent over and above normal usage, if applicable, per the lease.

Capability and Feasibility

There are no project costs associated with this application. The purchase price for the CHHA assets is \$150,000, which has been paid in full and a bill of sale has been provided. The working capital requirements for this application are estimated at \$1,568,593, representing two months of the first year's expenses, and will be funded from ongoing operations. The submitted budget projects a net income of \$932,699 and \$1,576,729 for Year One and Year Three, respectively.

BFA Attachment A, 2023 Certified Financial Statements of Marquis Certified Home Care, LLC, shows Marquis has maintained a positive working capital position, net asset position and net income of \$91,352.

BFA Attachment B, Internal Financial Statement of Marquis Certified Home Care LLC as of December 31, 2024, indicates Marquis has maintained a positive working capital position, and net asset position and had a net income of \$1,532,659.

BFA Attachment C, Pro-Forma Balance Sheet as of the first day of operation, indicates a positive members' equity of \$1,316,275 for the operation.

BFA Attachment D is the Post Organization Chart of Marquis Certified Home Care, LLC after PHHPC approval with no change in Marquis Certified Home Care, LLC membership.

Conclusion

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

Attachments

BFA Attachment A	Marquis Certified Home Care, LLC – Compilation 2023 Certified Financial Statement
BFA Attachment B	Marquis Certified Home Care, LLC. – Internal Financial Statements as of 12/31/2024
BFA Attachment C	Pro Forma Balance Sheet
BFA Attachment D	Post Organizational Chart – Marquis (CHHA)



Project # 242221-B

Ambulatory Surgery Center of Williamsburg

Program: Diagnostic and Treatment Center

County: Kings

Purpose: Establishment and Construction

Acknowledged: November 13, 2024

Executive Summary

Description

Ambulatory Surgery Center of Williamsburg, LLC (the Center) is seeking approval to establish and construct an Article 28 multi-specialty Freestanding Ambulatory Surgery Center (FASC) on the 1st floor of leased space at 1 Maspeth Avenue a/k/a 378-390 Humboldt Street, Brooklyn (Kings County). The Center will provide Cardiology, limited to subcutaneous implantation of loop recorders, artery embolization for fibroids and prostate, Pain Management, Breast Surgery (oncology-related), and General surgery in the proposed two (2) operating rooms.

CON 242263-B, is concurrently under review to establish and construct an Article 28 Diagnostic and Treatment Center (D&TC) on the 2nd floor of the same building.

Ownership of the operations is as follows:

Proposed Operator	
Ambulatory Surgery Center of Williamsburg, LLC	
<u>Member:</u>	
*Moustafa Elsheshtawy, M.D.	100%
<i>*Sole Member and Manager</i>	

Moustafa Elsheshtawy, M.D. is Board Certified in Internal Medicine and Cardiology and will serve as the Center's Medical Director. The Center will enter into a transfer agreement for backup and emergency services with Maimonides Medical Center 9.3 miles or approximately 30 minutes away from the proposed Center.

Four (4) doctors have submitted commitment letters to provide services to the Center. They have also provided patient volume letters indicating their current procedure volume at various facilities.

OPCHSM Recommendation

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

Need Summary

The applicant projects 1,680 procedures in Year One and 1,915 procedures in Year Three, with Medicaid at 55% 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

Total project cost of \$1,406,865 will be funded with member equity of \$140,686 and a \$1,266,179 landlord-tenant improvement allowance to be repaid through extra rent payments spread over a 10-year term at a 0% interest rate.

Funding to purchase and renovate the building at 1 Maspeth Avenue (CON 242263) and the FSAC (CON 242221) is estimated at \$8,284,700 and consists of member equity of \$828,470 and an SBA 504 1st Lien Loan of \$4,142,350, and SBA 2nd Lien Loan of \$3,313,880. The SBA loan for \$3,313,880 is expected to fund the landlord's

portion of the buildouts associated with CON 242263 and a CON 242221.

<u>Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$1,624,331	\$1,874,568
Expenses:	<u>1,152,230</u>	<u>1,584,292</u>
Income/(Loss)	\$472,101	\$290,276

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 loan agreement between Ascent RE Management, LLC, and Ambulatory Surgery Center of Williamsburg, LLC, acceptable to the Department of Health. [BFA]
3. Submission of an executed real property 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 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]
7. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]
8. 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 **January 15, 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 **October 15, 2025**, and construction must be completed by **October 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 annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]
4. The staff of the facility must be separate and distinct from 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]
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 of enrolling 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

April 10, 2025

Need Analysis

Project Description

Ambulatory Surgery Center of Williamsburg, LLC (the Center) is seeking approval to establish and construct a multi-specialty Freestanding Ambulatory Surgery Center (FASC) on the first floor of a building at 1 Maspeth Avenue (a/k/a 378-390 Humboldt Street), Brooklyn, NY 11211 in Kings County. The Center will provide cardiology (limited to the implantation of loop recorders subcutaneously and to artery embolization for fibroids and prostate), pain management, breast surgery (oncology-related), and general surgery. The Center will have two (2) operating rooms.

Background & Analysis

The relevant service area is Kings County. The Center expects many of its patients to come from the following neighborhoods: Williamsburg (11211) and the surrounding areas of Greenpoint (11222) and Bushwick/Bedford-Stuyvesant/Williamsburg (11206). The Center will serve people who live in these areas and to a larger extent Kings County.

The population of Kings County is estimated at 2,646,306 based on 2023 American Community Survey data and is projected to increase to 2,863,996 by 2030 per projection data from the Cornell Program on Applied Demographics (PAD), an increase of 8.2%. Demographics for the primary service area are noted below, including a comparison with New York State:

Demographics	Primary Service Area (ZC 11211, 11222, 11206)	Kings County	New York State
Total Population – 2023 Estimate	196,340	2,646,306	19,872,319
White (non-Hispanic)	50.5%	36.2%	53.4%
Hispanic or Latino (of any race)	28.6%	18.9%	19.6%
Black or African American (non-Hispanic)	10.0%	27.5%	13.6%
Asian (non-Hispanic)	6.5%	12.0%	8.8%
Other (non-Hispanic)	4.4%	5.4%	4.6%

Source: 2023 American Community Survey (5-year Estimates Data Profiles)

The population aged 45 and over was 37.9% of the total population in Kings County in 2023. According to the applicant, this cohort is more likely to utilize the Center's services. By 2030, Cornell PAD estimates this cohort will be 38.4% of the total population, an increase of 0.5%.

In 2022, 93.7% of the population of Kings County had health coverage as follows:

Employer Plans	40.9%
Medicaid	33.0%
Medicare	8.2%
Non-Group Plans	11.4%
Military or VA	0.278%

Source: Data USA

The table below shows the public health insurance coverage for the primary service areas of Williamsburg and the surrounding areas of Greenpoint and Bushwick/Bedford-Stuyvesant/Williamsburg. The primary service area has a higher reliance on public health insurance coverage, particularly Medicaid.

Public Health Insurance Coverage			
Payor(s)	ZC 11211	ZC 11222	ZC 11206
Medicaid alone	29.7%	14.1%	42.1%
Medicare alone	3.1%	3.4%	2.9%

Source: 2023 American Community Survey (5-year Estimates Data Profiles), Table S2704

The table below shows the number of patient visits for relevant ambulatory surgery in Kings County for 2021 through 2023:

Ambulatory Surgery within a 4 Mile Radius of Proposed Center				
Facility Name	Type	Patient Visits		
		2021	2022	2023
Woodhull Medical & Mental Health Center	Hospital	4,788	4,342	5,135
Wyckoff Heights Medical Center	Hospital	4,488	4,889	5,061
Interfaith Medical Center	Hospital	1,539	1,684	2,307
Brooklyn Hospital Center – Downtown Campus	Hospital	8,665	7,517	7,779
Total Visits		19,480	18,432	20,282

Source: SPARCS

All of the facilities listed above provide multi-specialty services. In addition, there are two multi-specialty ambulatory surgery centers recently approved by the Department, Bridge Street ASC (CON 232010) and ASC of Brooklyn (CON 241082) in Kings County, both with services including pain management and orthopedic services. Bridge Street ASC is approximately 3.3 miles away and 23 23-minute drive from this site. ASC of Brooklyn is about 4.2 miles away and 34 34-minute drive from this site.

The applicant projects 1,680 procedures in the first year and 1,915 in the third with Medicaid at 55% and Charity Care at 2%. These projections are based on the current private practices of the participating surgeons. The applicant states that all the procedures moving to this center are currently being performed in different settings. The applicant estimated nearly 85% of the patients received surgical services in the physicians' private, office-based surgical practices and about 10% of the patients received surgical services from other FASCs in Queens and New York Counties.

A small portion (5% or 84 of the 1,680 procedures the ASC is proposing in Year One) of the physicians' patients receive surgical services at hospitals in New York and Kings Counties. These include Wyckoff Heights Medical Center, NYU Langone Medical Center, Lenox Hill Hospital, Mount Sinai Hospital, and the Brooklyn Hospital.

All the physicians maintain strong relationships with the surrounding and affiliated hospitals and will continue to refer complex patients who require specific equipment or services only available in those facilities. They will also continue to be on call at the hospitals they currently serve and see patients at the hospitals which they are affiliated with.

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

Payor	Year One		Year Three	
	Volume	%	Volume	%
Commercial FFS	67	4%	77	4%
Commercial MC	84	5%	77	4%
Medicare FFS	319	19%	365	19%
Medicare MC	218	13%	248	13%
Medicaid FFS	34	2%	40	2%
Medicaid MC	890	53%	1,015	53%
Private Pay	34	2%	53	3%
Charity Care	34	2%	40	2%

Source: Applicant

The Center expects to contract with the following Medicaid Managed Care plans: Fidelis Care; Metro Plus Health Plan; Healthfirst; Well Care; Molina Healthcare; United Healthcare Community Plan; Blue Cross Blue Shield; and VNS Health. The Center will work collaboratively with local Federally Qualified Health Centers (FQHC) and others to provide service to the under-insured in their service area. The Center will develop a financial assistance policy with a sliding fee scale to be utilized when the Center is operational.

Conclusion

Approval of this project will provide improved access to surgical services in an outpatient setting for the residents of Kings County.

Program Analysis

Project Proposal

Proposed Operator	Ambulatory Surgery Center of Williamsburg, LLC
To Be Known As	Ambulatory Surgery Center of Williamsburg
Site Address	1 Maspeth Avenue, Brooklyn, NY 11211 (Kings County)
Specialties	Ambulatory Surgery- Multispecialty (Cardiology, Pain Management, Breast Surgery, General Surgery)
Hours of Operation	Monday through Friday from 7:00 a.m. to 5:00 p.m. As the Center matures, it is expected that an expanded operating schedule will be maintained to accommodate the needs of both patients and physicians. Weekend and/or evening procedures will be made available, if needed, to accommodate patient scheduling issues.
Operating Rooms	2
Procedure Rooms	0
Staffing (1 st Year / 3 rd Year)	8.5 FTEs / 9.5 FTEs
Medical Director(s)	Moustafa Elsheshtawy, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Maimonides Medical Center 9.3 miles / 30 minutes

The sole member of Ambulatory Surgery Center of Williamsburg, LLC is Moustafa Elsheshtawy, M.D. Dr. Elsheshtawy, who is Board-Certified in Internal Medicine and Cardiology, will serve as the Center's Medical Director.

Dr. Elsheshtawy is also submitting a separate Full Review Application to establish and construct an Article 28 Diagnostic and Treatment Center (D&TC) on the second floor of 1 Maspeth Avenue (a/k/a 378-390 Humboldt Street), Brooklyn (Kings County), New York 11211. The proposed D&TC will be in the same building as the FASC, in a separate and distinct space; these providers will complement each other and will create a one-stop location for patients to receive multiple medical services, as needed.

Dr. Elsheshtawy and three (3) other non-member physicians have committed to perform procedures at the Center. All the patients treated by the surgeons at the Center will originate from each individual physician's private practice. The applicant estimates that approximately 85% of patients receive surgical services in the physicians' private, office-based surgical practices and approximately 10% of the patients receive surgical services in other FASCs in Queens and New York Counties. Since these patients live in Kings County, this project will provide more convenient access to care. A small portion of the physicians' patients receive surgical services at hospitals in New York and Kings Counties. This project will provide more convenient access to care to those patients as well. All the physicians maintain strong relationships with the surrounding and affiliated hospitals and will continue to refer complex patients who require specific equipment or services only available in those facilities. The applicant is projecting 1,680 procedures in Year One and 1,915 procedures in Year Three, as the Center ramps up operations.

The Center will enter into a transfer agreement for backup and emergency services with Maimonides Medical Center 9.3 miles or approximately 30 minutes away from the proposed Center.

Membership Structure:

Member	Ownership
Moustafa Elsheshtawy, M.D.	100%

Character and Competence:

Moustafa Elsheshtawy, M.D. is currently the President and Medical Director of New York Medical and Vascular Care and the President and Medical Director of Physicare MultiServices Ltd since 2020. Prior to this, he completed his Interventional Cardiology Fellowship at Mount Sinai St. Luke's-Beth Israel from 2019 to 2020. From 2016 to 2019, Dr. Elsheshtawy was involved in a Cardiovascular Fellowship at

Maimonides Medical Center. From 2013 to 2016, he completed his Internal Medicine Residency at Coney Island Hospital. Dr. Moustafa Elsheshtawy is Board-Certified in Internal Medicine and Cardiology. He graduated from Tanta University with a medical degree in 2011. Dr. Elsheshtawy is affiliated with Mount Sinai Health System, Maimonides Medical Center, and Lenox Hill Hospital.

The following table shows the proposed FTEs at the facility following Year One and Year Three of this project:

Position	Year One	Year Three
Management and Supervision	1.0	1.0
Technician and Specialist	1.0	1.0
Registered Nurses	2.0	3.0
Aides, Orderlies & Attendants	2.0	2.0
Physicians	1.0	1.0
Clerical and Other Administrative	1.5	1.5
Totals	8.5	9.5

Integration with Community Resources

The applicant will assume full responsibility for determining, implementing, and monitoring policies governing the Center's program and operation and for ensuring that these policies are administered in a manner that will provide high-quality health care in a safe environment, with equal access for all persons.

Based on the physicians' current payor mix, the applicant projects 55% Medicaid and 2% Charity Care. The Center will contract with the following Medicaid managed care plans: Fidelis Care; Metro Plus Health Plan; Healthfirst; Well Care; Molina Healthcare; United Healthcare Community Plan; Blue Cross Blue Shield; and VNS Health.

The proposed Center, through its architectural design, will also address the needs of handicapped persons, including persons with visual impairments (signs and forms in large print), hearing impairments (TTY, and sign-language interpreter service, if available in the local area) and other physical impairments (handicapped accessible entrances and toilets). Additionally, the proposed Center will enhance access through its location, which is easily reached by major roads and public transportation.

The proposed hours and days of operation should promote the opportunity to use this service for all persons in need of surgical procedures. Finally, admission for services will be based solely on medical needs; ability to pay will not be a factor.

The applicant has stated they are committed to seeking accreditation from either the Joint Commission on Accreditation of Healthcare Organizations 10 (JCAHO), the Accreditation Association for Ambulatory Health Care (AAAHC), or the American Association for the Accreditation of Ambulatory Surgery Facilities, Inc. (AAAASF) within two (2) years of becoming operational.

The Center plans to work closely with its patients to educate them regarding the availability of primary care services offered by local providers, including the broad array of outpatient primary care services offered in the community. 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. Prior to leaving the Center, each patient will be provided information concerning the local availability of primary care services. 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 \$1,406,865, broken down as follows:

Renovation & Demolition	\$907,427
Design Contingency	90,742
Construction Contingency	90,742
Architect/Engineering Fees	153,000
Construction Manager Fees	36,385
Other Fees	20,000
Movable Equipment	98,485
Application Fees	2,000
Additional Processing Fees	<u>7,684</u>
Total Project Cost	\$1,406,865

The applicant's financing plan is as follows:

Equity-Member Net-worth	\$140,686
Landlord Tenant Allowance (10-year term at 0% interest. (\$126,618 Annual)	<u>1,266,179</u>
Total	\$1,406,865

BFA Attachments A, Net Worth Summary for the sole member of Ambulatory Surgery Center of Williamsburg, LLC. shows sufficient resources to meet the equity requirement.

The applicant has submitted a letter of interest from Lincoln Capital Management, LLC to provide an SBA 504 Bridge Loan to Ascent Management LLC, (realty landlord) in the amount of \$3,313,880 to purchase and improve the property, and upon approval, the landlord would loan the tenant the stated funds to be paid back with extra rental payments over 10-years at 0% interest.

Operating Budget

The applicant has submitted the Year One and Year Three projected operating budgets, as summarized below:

<u>Outpatient Revenues:</u>	<u>Year One</u>		<u>Year Three</u>	
	Per Proc.	Total	Per Proc.	Total
Commercial FFS	\$1,487.16	\$99,640	\$1471.18	\$113,281
Commercial MC	\$1,212.35	101,837	\$1,212.91	92,624
Medicare FFS	\$1,133.20	361,491	\$1,244.50	454,242
Medicare MC	\$1,057.67	230,571	\$1,057.01	262,138
Medicaid FFS	\$898.18	30,538	\$898.18	35,927
Medicaid MC	\$846.68	753,546	\$846.68	859,381
Private Pay	\$1,373.76	<u>46,708</u>	\$1,075.00	<u>56,975</u>
Total Revenues:		<u>\$1,624,331</u>		<u>\$1,874,568</u>
Expenses:				
Operating	\$478.78	\$804,348	\$532.63	\$1,019,979
Capital	<u>\$207.07</u>	<u>347,882</u>	<u>\$294.68</u>	<u>564,313</u>
Total Expenses:	\$685.85	\$1,152,230	\$827.31	\$1,584,292
Net Income/(Loss)		<u>\$472,101</u>		<u>\$290,276</u>
Procedures		1,680		1,915
Cost Per Procedure		\$685.85		\$827.31

The following is noted regarding the ASC budget.

- The number and mix of staff are based on the experience of participating physicians currently providing surgical services in other facilities and industry experience in FASC centers.
- Projections are based on the current experience of each doctor. Revenues were determined based on the applicant's experience in providing ASC services and similar New York State facilities.
- Four (4) doctors have submitted commitment letters to provide services to the Center. They have also provided patient volume letters indicating their current procedure volume at various facilities.
 - Moustafa Elsheshtawy, M.D. currently performs approximately 1,100 surgical procedures per year.
 - Panagiotis Zenetos, M.D. estimated approximately 900 surgical procedures currently per year.
 - Darron Sachs, D.O. indicates approximately 300 procedures currently per year.
 - Panagiotis Manolas, M.D. estimates he performs approximately 350 surgical procedures per year.
- Operating expenses are based on the experience of the applicant's participating physicians providing ambulatory surgery services, as well as the projections and experience of other ASCs in New York State.
- Payor mix is based upon the primary service demographics in conjunction with the existing payor mix for the physicians who will treat patients at the ASC.

<u>Payor:</u>	<u>Year One</u>		<u>Year Three</u>	
Commercial FFS	67	4.0%	77	4.0%
Commercial MC	84	5.0%	77	4.0%
Medicare FFS	319	19.0%	365	19.1%
Medicare MC	218	13.0%	248	13.0%
Medicaid FFS	34	2.0%	40	2.1%
Medicaid MC	890	53.0%	1,015	53.0%
Private Pay	34	2.0%	53	2.8%
Charity Care	34	2.0%	40	2.1%
Total	1,680	100.0%	1,915	100.0%

Master Lease Rental Agreement

The applicant has submitted an executed Master Lease Agreement for the building in which the proposed site will lease space, the terms of which are summarized below:

Date:	May 15 th 2024
Premises:	3,617 sq. ft. located at 1 Maspeth Avenue, Brooklyn (Kings County)
Lessor:	Ascent RE Management LLC
*Lessee:	Doctor's Medical, P.C.
Term:	10 years with a renewal, one (5-year term extension).
Rental:	\$1,152,000 with 3% escalation every two years.
Provisions:	Tenant pays own utilities including water, sewer, gas, plumbing, and repairs.

The lease arrangement is a non-arms-length agreement. The applicant has submitted an affidavit attesting to the familial 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.

Sub-Lease Agreement

The applicant has submitted a draft Lease Agreement for the proposed site, the terms of which are summarized below:

Date:	September 18, 2024
Premises:	Suite #3 Office Space - located at 1 Maspeth Avenue (a/k/a 378-390 Humboldt Street), Brooklyn, NY 11211
Sub-Lessor:	Doctor's Medical, P.C.
Sub-Lessee:	AS of Williamsburg LLC
Landlord to Construct:	Construct all tenant improvements.
Rental:	\$27,967.00 per month with an annual escalation of 7%.
Term:	10-year term with option to renew for (5) years.
Provisions:	Tenant will pay own utilities including water, sewer, gas, plumbing and repairs.

The lease arrangement is a non-arms-length agreement. The applicant has submitted an affidavit attesting to the familial relationship between the landlord and the operator. As noted above, the applicant (Ambulatory Surgery Center of Williamsburg, LLC), will reimburse the landlord's construction cost via the lease over ten years at no interest.

Capability and Feasibility

The applicant and the landlord will fund the total project cost of \$1,406,865. The applicant's portion is \$140,686 and will be funded with equity. The landlord's portion for the FASC build-out is \$1,266,179 and will be funded by a U.S. Small Business SBA 504 2nd Bridge Loan with terms of 18 months + 6-month extension and interest at 11.5% (prime + 3%, floor 11.5%). Repayment will be interest only during the term. Lincoln Capital Management, LLC has provided a letter of interest.

On February 8, 2024, Ascent RE Management, LLC (a company solely owned by Dr. Elsheshtawy) received SBA approval to finance the entire project for \$8,284,700. This included purchasing the building at 1 Maspeth Avenue for \$5,950,000 and building out CON 242263 and CON 242221. On May 15, 2024, the building was purchased for \$1,807,650 in buyer's funds and a \$4,142,350 loan from Empire State Certified Development Corporation d/b/a Pursuit BDC. Following approval from the New York City Department of Building for the construction plans, \$3,313,880 will be financed by an authorized bridge loan through Lincoln Capital Management. After construction is complete and the SBA loan closing is planned, the SBA funds will be used to pay the Lincoln Capital Management Bridge Loan.

The working capital requirement is estimated at \$264,049, based on two months of third-year expenses, and will be funded by member equity. BFA Attachment A, Member Net Worth Summary, shows sufficient resources to meet equity requirements of this project, as well as CON 242263.

BFA Attachment B, Ambulatory Surgery Center of Williamsburg, LLC's Pro Forma Balance Sheet, shows operations will start with \$404,735 in member equity. The Center projects a net income of \$472,101 in Year One and \$290,276 in Year Three. 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	Member Net Worth Summary- Ambulatory Surgery Center of Williamsburg, LLC
BFA Attachment B	Ambulatory Surgery Center of Williamsburg, LLC, Pro Forma Balance Sheet
BFA Attachment C	Organizational Chart – Ambulatory Surgery Center of Williamsburg



Project # 242292-E

Crystal Run Ambulatory Surgery Center of Middletown

Program: Diagnostic and Treatment Center

County: Orange

Purpose: Establishment

Acknowledged: January 10, 2025

Executive Summary

Description

Crystal Run Ambulatory Surgery Center of Middletown, LLC (the Center), a multi-specialty, freestanding Ambulatory Surgery Center (ASC) at 95 Crystal Run Road, Middletown (Orange County), requests approval to transfer 40.10% membership interest from Crystal Run Healthcare LLP (CRH) to 18 individual physician members. CRH currently holds 50.01% membership interest in the Center and will continue to be an owner with a 9.91% membership interest.

The Center specializes in general surgery, gastroenterology, gynecology, orthopedics, otolaryngology, plastic surgery, urology, pain management, and dermatology. The Center is not proposing to add or change any services or to expand or renovate the facility.

Ownership before and after the transfer is as follows:

<u>Current Owners:</u>	
<u>Member</u>	<u>%</u>
Crystal Run Healthcare, LLP	50.10%
Ambulatory Partner Holding, LLC	49.99%

Proposed Owners:

<u>Member</u>	<u>%</u>
Ambulatory Partner Holding, LLC	49.99%
Crystal Run Health Care, LLP	9.91%
Dr. Sam Spinowitz	1.80%
Dr. Christian Roman-Rodriguez	1.80%
Dr. Tsai-Lung Tsai	1.80%
Dr. Michael Angeline	1.80%
Dr. Rachel Perl	1.80%
Dr. Katherine Wood	1.80%
Dr. Christopher Han	1.80%
Dr. Abigail Meigh	1.80%
Dr. Vincent Moscato	2.30%
Dr. Matthew Pomykala	2.30%
Dr. Mae Young	2.30%
Dr. Archit Patel	2.30%
Dr. Emmanuel Schenkman	2.30%
Dr. Bryan Kleinman	1.01%
Dr. Carl Kirchhoff	3.30%
Dr. John Hardcastle	3.30%
Dr. Daniel Tomilinson	3.30%
Dr. Thomas Booker	3.30%

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

There is no project costs associated with this application. The purchase price of \$1,002,500 for the 40.10% of Crystal Run Ambulatory Surgery Center of Middletown, LLC will be paid from the liquid resources of the proposed 18 new members.

<u>Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$13,712,443	\$14,042,031
Expenses	<u>\$13,603,908</u>	<u>\$13,796,613</u>
Net Income/(Loss)	\$108,535	\$245,419

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

April 10, 2025

Program Analysis

Project Description

Crystal Run Ambulatory Surgery Center of Middletown, LLC, a multi-specialty (general surgery, gastroenterology, gynecology, orthopedics, otolaryngology, plastic surgery, urology, pain management, and dermatology) freestanding ambulatory surgery center (the Center) at 95 Crystal Run Road, Middletown (Orange County), New York, is submitting this Certificate of Need Application to transfer a 40.10% membership interest in the Center to 18 individual physician members. Crystal Run Healthcare LLP (CRH) will continue to be an owner in the Center, with a 9.91% membership interest.

Original Membership Structure:

Member	Ownership
Crystal Run Healthcare LLP (CRH)	50.01%
Edward Croen, M.D. – 3.23%	
Deborah Spencer, M.D. - 3.23%	
Rosa Cirillo, M.D. – 3.23%	
Timothy Rydell, M.D. – 3.23%	
Lezode Kipliongo, M.D. – 3.23%	
Ilan Zedek, 2 M.D. – 3.23%	
Kevin Trapp, M.D. – 3.23%	
Howard Karpoff, M.D. – 3.23%	
Steven Rowe, M.D. – 3.23%	
Ralph Anderson – 3.23%	
Thomas Booker, M.D. – 3.23%	
Wico Chu, M.D. – 3.23%	
Felix Davelman, M.D. – 3.23%	
Jacqueline Todd, M.D. – 3.23%	
Alex Gershenhorn, M.D. – 3.23%	
John Juliano, M.D. – 3.23%	
Tapti Panda, M.D. – 3.23%	
Sandra Sacks, M.D. – 3.23%	
Daniel Tomlinson, M.D. – 3.23%	
Paul Eugenio, M.D. – 3.23%	
Aleksandr Guchinskiy, D.O. – 3.23%	
Pankaj Kaw, M.D. – 3.23%	
Robert Scoyni, M.D. - 3.23%	
Manan Shah, M.D. – 3.23%	
Lillian Kaminsky, M.D. – 3.23%	
Melissa Kubenik, M.D. – 3.23%	
Yong Ke, M.D. – 3.23%	
Seth Lessner, M.D. – 3.23%	
Olga Dobuzinsky – 3.23%	
Stephen Cestari, D.O. – 3.23%	
Min Guo, M.D. – 3.23%	
Ambulatory Partner Holdings, LLC (APH)	49.99%
Rafael Axen, M.D. -33.3%	
Ann Sariego – 33.3%	
Matthew Jenkins – 33.3%	
Total	100%

Proposed membership structure:

Member	Ownership
Crystal Run Healthcare LLP (CRH)	9.91%
Ambulatory Partner Holdings, LLC (APH)	49.99%
Michael Angeline, M.D.	1.80%
Thomas Booker, M.D.	3.30%
Christopher Han, M.D.	1.80%
John Hardcastle, M.D.	3.30%
Carl Kirchhoff, M.D.	3.30%
Bryan Kleinman, D.O.	1.00%
Abigail Meigh, M.D.	1.80%
Vincent Moscato, M.D.	2.30%
Archit Patel, M.D.	2.30%
Rachel Perl, M.D.	1.80%
Matthew Pomykala, M.D.	2.30%
Christian Roman Rodriguez, M.D.	1.80%
Emmanuel Schenkman, M.D.	2.30%
Sam Spinowitz, M.D.	1.80%
Daniel Tomlinson, M.D.	3.30%
Tsai-Lung Tsai, M.D.	1.80%
Katherine Wood, DPM	1.80%
Mae Young, M.D.	2.30%
Total	100%

Character and Competence:

Abigail Meigh, M.D. is the Medical Director for Crystal Run Ambulatory Surgery Center and has been in this role since January 2024. Dr. Meigh has also been employed by Optum/CareMount Medical as an Attending Anesthesiologist since 2021, also functioning as the Division Lead for the Orange/Rockland County Department of Anesthesiology since 2024. Prior to this, Dr. Meigh worked for North American Partners in Anesthesia at Garnet Health Medical Center as an Attending Anesthesiologist from 2017-2021. Dr. Meigh graduated from the University of Connecticut with a Bachelor of Science in Nursing in 2006, and from Touro College of Osteopathic Medicine with a Doctor of Osteopathic Medicine in 2012. Dr. Meigh completed a general surgery residency at St. Joseph's Regional Medical Center in 2013, followed by a residency in Anesthesiology completed in 2016, and completed a fellowship in Pediatric Anesthesiology at Montefiore Medical Center in 2017. Dr. Meigh is board-certified in Anesthesiology with a sub-certification in Pediatric Anesthesiology.

Michael Angeline, M.D. has been an Orthopaedic Surgeon at Crystal Run Healthcare since 2024. Prior to this, Dr. Angeline worked as an Orthopaedic Surgeon at Mercyhealth in Janesville, WI from 2012-2023. Dr. Angeline obtained a bachelor's degree from Boston College in 2002 and received a medical degree from Georgetown University School of Medicine in 2006. Dr. Angeline completed an internship at the University of Chicago Medical Center in 2007 and a residency in Orthopaedic Surgery in 2011, followed by a fellowship at the Hospital for Special Surgery from 2011-2012. Dr. Angeline is board-certified in Orthopaedic Surgery with sub-certification in Orthopaedic Sports Medicine.

Thomas Booker, M.D. has been a physician at Crystal Run Healthcare since 2008, providing pain management, physical medicine, and rehabilitation services. Dr. Booker graduated from New York University, College of Arts and Sciences with a Bachelor of Science in Computer Science in 1991 and graduated with a Doctor of Medicine in 2002 from New York University School of Medicine. Dr. Booker completed a general surgery internship at Brown University in 2003, followed by a residency at Tufts University in 2007 and a Pain Medicine Fellowship at Emory University- Emory University Hospital in 2008. Dr. Booker is board-certified in Physical Medicine and Rehabilitation with a sub-certification in Pain Medicine. Dr. Booker has disclosed a recent lawsuit from 2019 that was settled out of court and the case closed in 2022.

Christopher Han, M.D. has been employed as a Urology Physician with Crystal Run Healthcare since 2018. Dr. Han graduated from the University of Michigan with a bachelor's degree in 2005 and from Rush Medical College with a Doctor of Medicine in 2011. Dr. Han completed a General Surgery Internship at Rutgers Robert Wood Johnson University Medical School in 2013 and went on to complete a Urology Residency there in 2017. Dr. Han completed an Endourology Fellowship at Washington University School of Medicine in 2018. Dr. Han is board-certified in Urology.

John Hardcastle, M.D. has been employed by Crystal Run Healthcare as an Orthopaedic Surgeon since 2015. Dr. Hardcastle graduated from the University of Virginia with a bachelor's degree in 2005 and from the University of Maryland with a Doctor of Medicine in 2009. Dr. Hardcastle completed his residency in Orthopaedic Surgery at St. Luke's Roosevelt Hospital Center in 2014 and went on to complete a fellowship in Adult Reconstructive Surgery at the University of Pennsylvania in 2015. Dr. Hardcastle is board-certified in Orthopaedic Surgery.

Carl Kirchhoff, M.D. has been employed as a physician specializing in hand surgery at Crystal Run Healthcare since 2014. Dr. Kirchhoff graduated from Ludwig-Maximilians University of Medicine with a Doctor of Medicine in 1999 and went on to receive a graduate medical education at Graduate Hospital with a specialty in general surgery in 2005 and at the University of Chicago Medical Center with a specialty in hand surgery in 2006. Dr. Kirchhoff is board-certified in surgery. Dr. Kirchhoff disclosed the following lawsuit in which they have been named: Bona v Patel, Kirchhoff, etc Supreme Court State of New York, Orange County EF007618-2021.

Bryan Kleinman, D.O. has been employed as an Attending Gastroenterologist for Crystal Run Healthcare since July 2017, previously working as the Clinical Instructor, House Staff at the Ohio State University Wexner Medical Center from 2011-2014, and for the Educational Innovation Program Working Group, Inpatient Medicine Section from 2011-2014. Dr. Kleinman graduated from the University of Michigan with a Bachelor of Science in Psychology in 2007, and from the New York College of Osteopathic Medicine with a Doctor of Medicine in 2011. Dr. Kleinman completed a residency in the Department of Internal Medicine at The Ohio State University Wexner Medical Center in 2014 and a fellowship in Gastroenterology at Einstein Medical Center in 2017. Dr. Kleinman is board-certified in Internal Medicine with sub-certification in Gastroenterology. Dr. Kleinman was named in the following lawsuit that was not initially disclosed:

Delaney, Jean vs. Crystal Run Healthcare LLP, Marballi M.D., Abhishek, Kleinman D.O., Bryan, Nicoll M.D., Laura/ Orange County Supreme Court/ EF002499-2020 /Tort-Medical, Dental, or Podiatric Malpractice

Vincent Moscato, M.D. has been employed by Crystal Run Healthcare as an Ophthalmologist since 2020. Dr. Moscato graduated with a bachelor's degree from the State University of New York at Geneseo in 2012 and from the State University of New York at Buffalo with a Doctor of Medicine in 2016. Dr. Moscato completed a residency in ophthalmology at the Institute of Ophthalmology and Visual Science in 2020 and a medical internship at Icahn School of Medicine at Mount Sinai Beth Israel Hospital in 2017. Dr. Moscato is board-certified in Ophthalmology.

Archit Patel, M.D. has been employed by Crystal Run Healthcare as a Hand Surgeon since 2023 and previously in the same role from 2018-2022. Prior to this, Dr. Patel worked as a Hand Surgeon for Waterbury Health from 2022-2023 and for OrthoCT from 2013-2018. Dr. Patel graduated from Washington University in St. Louis with a bachelor's in biomedical engineering and chemical engineering in 2001, and with a Doctor of Medicine in 2005. Dr. Patel completed a surgical internship at the University of California in 2006 and an Orthopaedic Residency at Maimonides Medical Center in 2012, followed by the completion of a Hand and Upper Extremity Fellowship at the University of Chicago in 2013. Dr. Patel is board-certified in Orthopaedic Surgery. Dr. Patel was named in the following lawsuit that was not initially disclosed:

DESANTIS, RORI vs. PATEL MD, ARCHIT, et al/ Ulster Supreme Court/ EF2022-2512/Tort-Medical, Dental, or Podiatric Malpractice

Rachel Kenwood (Perl), M.D. is currently employed by Crystal Run Healthcare as a Podiatric Surgeon. Prior to this, Dr. Kenwood worked for Dr. Robert Landy as a Podiatric Surgeon from 2019-2021, and for the Advanced Foot Care Associates from 2014-2019. Dr. Kenwood completed a Podiatric Medical and Surgical residency at North Shore-Long Island Jewish Medical Center in 2014.

Matthew Pomykala, M.D. has been working as a Retinal Surgeon for Crystal Run Healthcare since 2016. Dr. Pomykala graduated from the University of Connecticut with a bachelor's degree in 2005 and from the University of New England College of Osteopathic Medicine with a Doctor of Osteopathic Medicine in 2009. Dr. Pomykala completed a residency in Family Medicine in 2011 at St. John's Episcopal Hospital and an Ophthalmology residency in 2014, followed by a fellowship at Associates in Ophthalmology in 2016. Dr. Pomykala is board-certified in Ophthalmology.

Christian Roman Rodriguez, M.D. has worked at Crystal Run Healthcare since 2017, mentoring and teaching Nurse Practitioner candidates at Mount Saint Mary and Certified Nurse Midwife candidates at Stony Brook University. Dr. Roman Rodriguez also currently works at Garnet Health Medical Center as a Credential Committee member, the Robotic Committee member, and Surgeon champion for the Enhance Recovery after Surgery Gynecology Committee and program, as well as works as a mentor for medical students and residents. Prior to this, Dr. Roman Rodriguez worked for Women and Infants' Care New England Medical Group from 2016-2017, was a Faculty Preceptor for Longitudinal Integrated Clerkship at the Warren Alpert Medical School, and from 2015-2016 worked at Women and Infants' Care Medical Group in several of their locations. Dr. Roman Rodriguez graduated from Boston College with a bachelor's degree in 2006 and from Ponce School of Medicine with a Doctor of Medicine in 2011. Dr. Roman Rodriguez completed a residency in Obstetrics and Gynecology at Nassau University Medical Center in 2015 and is board-certified in Obstetrics and Gynecology.

Emmanuel Schenkman, M.D. has been a staff urologist for Crystal Run Healthcare since 2014. Dr. Schenkman graduated from the Robert Wood Johnson Medical School with a Doctor of Medicine in 1992 and is board-certified in urology.

Sam Spinowitz, M.D. has worked as an Otolaryngologist at Crystal Run Healthcare since 2019. Dr. Spinowitz graduated from the University of Rochester with a bachelor's degree in 2010 and from the University of Rochester School of Medicine and Dentistry with a Doctor of Medicine in 2014. Following this, Dr. Spinowitz completed an Otolaryngology Internship at Albert Einstein College of Medicine in 2015, and an Otolaryngology-Head and Neck Surgery Residency at Albert Einstein School of Medicine IN 2019. Dr. Spinowitz is board-certified in Otolaryngology.

Daniel Tomlinson, M.D. has been an Orthopedic Surgeon for Crystal Run Healthcare since 2007 working as the Orthopedic Co-Division Lead. Dr. Tomlinson graduated from Ursinus College with a bachelor's degree in 1996 and from Jefferson Medical College with a Doctor of Medicine in 2001. Dr. Tomlinson is board-certified in Orthopaedic Surgery.

Tsai-Lung Tsai, M.D. has worked for Crystal Run Healthcare as an Attending Hand Surgeon since 2016. Prior to this, Dr. Tsai worked as a Hand Surgeon at a private medical practice, Charlottesville Orthopedic Center, from 2015-2016. Dr. Tsai graduated from Franklin and Marshall College with a bachelor's degree in 1999 and from the University of New England College of Osteopathic Medicine with a Doctor of Osteopathic Medicine in 2008. Dr. Tsai completed a residency at St. Joseph University Medical Center in 2014 and a fellowship at the University of Louisville School of Medicine in 2015. Dr. Tsai is board-certified in Orthopaedic Surgery. Dr. Tsai was named in the following lawsuit:

Yates, Thomas vs. Tsai D.O., Tsai-Lung, et al/ Orange Supreme Court/EF000619-2024/ Tort-Medical, Dental, or Podiatric Malpractice

Katherine Wood, DPM has worked for Crystal Run Healthcare as a Podiatrist since 2015. Dr. Wood also has privileges at Garnet Medical Center and St. Anthony's Community Hospital. Dr. Wood graduated from the University of Scranton with a bachelor's degree in 2008 and from New York College of Podiatric Medicine with a Doctor of Podiatric Medicine in 2012. Dr. Wood completed a Podiatric Medicine and Surgery Residency with Reconstructive Rearfoot and Ankle at New York Presbyterian Hospital in 2013. Dr. Wood was named in the following lawsuits:

CHRISTIAN, JUSTIN vs. GARNET HEALTH MEDICAL CENTER, CRYSTAL RUN HEALTHCARE PHYSICIANS LLP, WOOD D.P.M., KATHERINE D., CRYSTAL RUN HEALTHCARE LLP/ Orange Supreme Court/EF004038-2024/ Tort-Medical, Dental, or Podiatric Malpractice
Mugnano, Antonella vs. Garnet Health Medical Center, Wood DPM, Katherine, Pan MD, Lawrence, Hudson Valley Imaging, PC, Courville MD, Derrick, Radiologic Associates, PC, Barker, Cheryl A, Crystal Run Healthcare Physicians, LLP/ Orange Supreme Court/ EF006915-2024/Tort-Medical, Dental, or Podiatric Malpractice

Mae Young, M.D. has been employed as a physician with Crystal Run Healthcare since 2018. Prior to this, Dr. Young worked as a physician for Palmetto Health Orthopedics from 2015-2018. Dr. Young graduated from Washington University St. Louis School of Medicine with a Doctor of Medicine in 2009. Dr. Young is board certified in Orthopaedic Surgery with sub-certifications in Hand Surgery and Neuroradiology.

The following cases name Crystal Run Healthcare without naming the proposed new members individually:

McKenzie, Patrice vs. Jack D. Weiler Hospital, Montefiore Medical Center, Montefiore Medicine Academic Health System, Inc., Montefiore Health System, Inc., Van Arsdale MD, Anne R., Goldberg MD, Gary L., Klobocista MD, Merieme, Crystal Run Healthcare, LLP, Estler MD, Kimberly/ Bronx Supreme Court/ 22401/2016E /Tort-Medical, Dental, or Podiatric Malpractice

Sampson, Kadisha vs. Cestari, Stephen, Vassar Brothers Medical Center, Zolinika, Lawrence, Heller, Kimberly, Newburgh Health Center, St. Lukes Cornwall Hospital, Planned Parenthood of the Mid-Hudson Valley, Inc., Daly, Stephen, Crystal Run Healthcare LLP/Orange Supreme Court/ EF001735-2018 /Tort-Medical, Dental, or Podiatric Malpractice

Williams, Terance vs. Crystal Run Healthcare, Vohra, Anuj, Orange Regional Medical Center, Rosenberg, Sharon/Orange Supreme Court/ EF004153-2018 /Tort-Medical, Dental, or Podiatric Malpractice

Camera, Magalli vs. Eugenio MD, Paul L., Thomas PA., Julie, Crystal Run Healthcare, LLP., Montefiore Medical Center, Montefiore Health System, Inc., Orange Regional Medical Center/Bronx Supreme Court/ 26364/2020E /Tort-Medical, Dental, or Podiatric Malpractice

MacEwan, Scott vs. Sethi MD, Gurvinder, Crystal Run Healthcare, LLP, Garnet Health d/b/a Orange Regional Medical Center, Eanelli MD, Thomas/Orange Supreme Court/ EF001643-2020 /Tort-Medical, Dental, or Podiatric Malpractice

Cunningham, Emily vs. Day MD, Richard, Chu MD, Wico, Orange Anesthesia Services, P.C., North American Partners in Anesthesia, LLP, Crystal Run Healthcare, LLC, Orange Regional Medical Center/Orange Supreme Court/ EF004264-2020 /Tort-Medical, Dental, or Podiatric Malpractice

Muller, Kenneth vs. Patel, Kunjan, Orange Regional Medical Center, Crystal Run Healthcare, LLP, North American Partners in Anesthesia, LLP, Garey, Nicole Rose, Inzerillo, Christopher/Orange Supreme Court/ EF009983-2018 /Tort-Medical, Dental, or Podiatric Malpractice

Monroe, David vs. Marchione MD, Joseph, Hudson Valley Imaging, Agarwal MD, Ankush, Crystal Run Healthcare, Fishman MD, Olga, Montefiore St. Lukes Cornwall Hospital/Orange Supreme Court/ EF002408-2021 /Tort-Medical, Dental, or Podiatric Malpractice

Singleton, Frederick et. al. vs. Peng MD, Xiangmin, Crystal Run Healthcare, Erian MD, Andrew, Highland Medical, PC d/b/a Rockland Neurological Associates, Montefiore Nyack Hospital, Patel MD, Nimit, Ezzati, MD, Ali, Montefiore Medical Center, Ober, MD, David, Etienne, MD, Mill, Bon Secours Neurology/Bronx Supreme Court/ 804961/2022E/ Tort-Medical, Dental, or Podiatric Malpractice

Ricks, Maurice vs. Panozzo, Albert Andrew, Montefiore Medical Center, Gordon, Mathew Philip, Crystal Run Healthcare Physicians LLP, Crystal Run Healthcare LLP/Bronx Supreme Court/ 813660/2022E/ Tort-Medical, Dental, or Podiatric Malpractice

Franco, Hildegard vs. St. Lukes Cornwall Hospital, Montefiore St. Lukes Cornwall, Hospital, Acute Care Surgery Medical Group, Inc., Crystal Run Healthcare, LLP/Orange Supreme Court/ EF006148-2022/ Tort-Medical, Dental, or Podiatric Malpractice

Carrasquillo, Kelly et.al. vs. Anderson MD, Ralph G., Kaminsky MD, Lillian, Vazquez MD, Rafael, Siddiqui MD, Pervez, Racanelli MD, Josphe, Crystal Run Healthcare, LLP, Crystal Run IPA, Garnet Health Medical Center, Garnet Health Doctors, P.C., Radiologic Associates, P.C./Orange Supreme Court/ EF006148-2022/ Tort-Medical, Dental, or Podiatric Malpractice

Rivera-Ortiz, Cindy vs. Adams MD, Dumisa, Anderson MD, Ralph, Kaminsky MD, Lillian, Garnet Health Medical Center, Garnet Health, Crystal Run Healthcare LLP, Crystal Run Healthcare Physicians LLP/Orange Supreme Court/ EF006862-2021/Tort-Medical, Dental, or Podiatric Malpractice

Green, Kathleen vs. Catskill Regional Medical Center, St. Lukes Cornwall Hospital, Hudson River Healthcare, Crystal Run Healthcare, Phillip-King MD, Patrina Natasha, Panda MD, Tapti, Lazaroff MD, Florence/Orange Supreme Court/ EF007542-2019/ Tort-Medical, Dental, or Podiatric Malpractice

Sisco, Twyla et. al. vs. Donovan, Edmund, Lessner, Seth J., Crystal Run Healthcare, LLP, Nketiah, Emmanuel O., Garnet Health Medical Center, Vaidyalingman, Jothi, HRNC Operating, LLC/Westchester Supreme Court/ 65685/2022/ / Tort-Medical, Dental, or Podiatric Malpractice

Ortiz, Louse et. al. vs. Girardi M.D., Leonard, Singh M.D., Sandeep, New York Presbyterian Hospital, Crystal Run Healthcare, LLC/New York Supreme Court/ 805108/2023/ Tort-Medical, Dental, or Podiatric Malpractice

Housman, Yvonne G. et. al. vs. Garnet Health Medical Center, Sass D.O., Michael, Krishna M.D., Murali, Singh M.D., Sarabjit, Gilani M.D., Aamir, Middletown Medical, P.C., Ramaswamy M.D., Ravi, Gupta M.D., Isha, Marcelino D.O., Angela, Crystal Run Healthcare Physicians, P.C., Mir M.D., Sajid, Hnin M.D., Khin, Noa F.N.P., Maria, Brito M.D., Shawn, Smotra M.D., Sumeet, Shah M.D., Bhakti, Bele D.O., Mark/Sullivan Supreme Court/ E2022-888/ Tort-Medical, Dental, or Podiatric Malpractice

Mead, Caitlyn vs. Rydell MD, Timothy, Crystal Run Healthcare, LLP, Crystal Run Healthcare Physicians LLP, Crystal Run Healthcare IPA, LLC, Crystal Run Healthcare ACO, LLC, Marsh-Dinham MD, Keddie, Greater Hudson Valley Health System, Garnet Health Medical Center/Orange Supreme Court/ EF001357-2022/ Tort-Medical, Dental, or Podiatric Malpractice

Bruno, Philip A., et. al. vs. Ashraf DO, Wasik, Farrugia PA, Kimberly, Crystal Run Healthcare/Orange Supreme Court/ EF001806-2023/ Tort-Medical, Dental, or Podiatric Malpractice

Bonanno, Philip vs. Massih MD, Shawkat, Hmidi MD, Ali, Bezdicek MD, Petr, Crystal Run Healthcare LLP, Crystal Healthcare ACO LLC, Crystal Healthcare Physicians LLP, Crystal Healthcare IPA, LLC, Goshen Medical Associates, P.C, Garnet Health Medical Center/Orange Supreme Court/ EF001972-2023/ Tort-Medical, Dental, or Podiatric Malpractice

Segreti, Thomas vs. Gordon MD, Matthew, Crystal Run Healthcare, LLP, Montefiore St. Lukes Cornwall Hospital/Orange Supreme Court/ EF002447-2022/ Tort-Medical, Dental, or Podiatric Malpractice

Zwiebel-De Castano, Andrea vs. Kazi M.D., Rashek, Crystal Run Healthcare, LLP/Orange Supreme Court/ EF003430-2023/ Tort-Medical, Dental, or Podiatric Malpractice

Bartley, Alana et. al. vs. Munzer MD, Andrei B., Cohn DO, Inna, St. Lukes Cornwall Hospital, Crystal Run Healthcare LLP, Crystal Run Healthcare Physicians LLP, Montefiore Health System Inc/Orange Supreme Court/ EF003462-2023/ Tort-Medical, Dental, or Podiatric Malpractice

Bowens, Nathaniel vs. Walker MD, Charles N., Crystal Run Healthcare Physicians LLP, Crystal Run Healthcare LLP/Orange Supreme Court/EF003771-2023/ Tort-Medical, Dental, or Podiatric Malpractice

Flynn, Thomas et. al. vs. Choi MD, Lisa E., Crystal Run Healthcare Physicians, LLP/Orange Supreme Court/ EF003979-2023/ Tort-Medical, Dental, or Podiatric Malpractice

Marchesa, Jennifer vs. Vladu DD, Sorel, Crystal Run Healthcare, LLP/Orange Supreme Court/ EF005219-2022/Tort-Medical, Dental, or Podiatric Malpractice

Demosthene, Antonia vs. Crystal Run Healthcare Physicians LLP, Abfier, Jason K., Crystal Run Healthcare LLP/ Rockland Supreme Court/030330/2024/ Tort-Medical, Dental, or Podiatric Malpractice

Mandawe EST Of, Reynaldo et. al. vs. Bon Secours Charity Health System Inc, Parcare Community Health Network Inc-DBA, Ma, Kaiyu, Garnet Health Medical Center, Rambam Urgent Care, Crystal Run Healthcare Physicians LLP, Good Samaritan Hospital of Suffern NY, Westchester Medical Center Health Network, Crystal Run Healthcare LLP/Rockland Supreme Court/ 030770/2024/ Tort-Medical, Dental, or Podiatric Malpractice

Herman, Joshua vs. Crystal Run Healthcare Physicians LLP, Monaco, Domenic, Crystal Run Healthcare LLP, Vaidya, Noaman, Pan, Lawrence, Crystal Run Healthcare ACO LLC, Crystal Run Healthcare IPA LLC/Rockland Supreme Court/ 036018/2024/ Tort-Medical, Dental, or Podiatric Malpractice

Spordone, Joseph R. et. al. vs. Wu MD, Victor, Zhao MD, Quing-Hua, Trapp MD, Kevin, Crystal Run Healthcare, LLP, Garnet Health Medical Center/Westchester Supreme Court/ 59313/2024/ Tort-Medical, Dental, or Podiatric Malpractice

Phillips, Eileen, RN, a/k/a/ Cassidy, Eileen vs. Firas Bridges, MD, a/k/a Firas Hamdi MD, Garnet Health Medical Center f/k/a Orange Regional Medical Center, Crystal Run Healthcare, Optum/Crystal Run Healthcare/Suffolk Supreme Court/ 611611/2024/ Tort-Medical, Dental, or Podiatric Malpractice

Tabak, Rivke et. al. vs. Montefiore Nyack Hospital, Petreall MD, Michael, Crystal Run Healthcare LLP, Ahmad MD, Sami/Westchester Supreme Court/ 63138/2023/ Tort-Medical, Dental, or Podiatric Malpractice

O'Connor, Denis W. et. al. vs. Crystal Run Healthcare LLP, ABC Entities 1-5, Priester CCPHP LLC, Castle Connolly Private Health Partners, LLC, Crystal Run Healthcare Physicians LLP, Priester M.D., William D./New York Supreme Court/ 805199/2024 / Tort-Medical, Dental, or Podiatric Malpractice

Green, Beth vs. Crystal Run Healthcare IPA, LLC, Celzo-Vista MD, Florence, Crystal Run Healthcare Physicians LLP, Crystal Run Healthcare LLP, Crystal Run Health Group, LLC, Crystal Run Healthcare ACO, LLC, Optum Health Networks, Inc./New York Supreme Court/ 805439/2023/ Tort-Medical, Dental, or Podiatric Malpractice

Gaona, Deborah vs. Garnet Health Medical Center, Malhorra, Sandeep, Crystal Run Healthcare, LLP, Crystal Run Healthcare Physicians, LLP, Montefiore Medical Center/Bronx Supreme Court/ 819829/2023E// Tort-Medical, Dental, or Podiatric Malpractice

Palmiero, Karen, and Dominick vs. Crystal Run Healthcare LLP, Exact Sciences Corporation, Kaknis D.O., Megan, Subbiah M.D., Rajan/Orange Supreme Court/ EF000548-2024/ Tort-Medical, Dental, or Podiatric Malpractice

Toppel, James vs. Doti MD, Sandy W., Crystal Run Healthcare, LLP/ Orange Supreme Court/ EF002417-2023/ Tort-Medical, Dental, or Podiatric Malpractice

Neu, Edith vs. Rydell M.D., FACOG, Timothy, Crystal Run Healthcare Physicians, LLP, Caban M.D., Rebeca/Orange Supreme Court/ EF003053-2024/ Tort-Medical, Dental, or Podiatric Malpractice

Vasquez, Emmanuel vs. Crystal Run Healthcare, LLP, Crystal Run Health Group, LLC, Celzo-Vistam Florence, Sharma, Puja, Crystal Run Healthcare Physicians, LLP/Orange Supreme Court/ EF003844-2024/ Tort-Medical, Dental, or Podiatric Malpractice

Erickson, Jean et. al. vs. Fiorianti M.D., John A., Marden DO, Drake, Crystal Run Healthcare, LLP, Crystal Run Healthcare Physicians, LLP, Garnet Health Medical Center, Jane Doe, John Doe/Orange Supreme Court/ EF005739-2023/ Tort-Medical, Dental, or Podiatric Malpractice

Brengard, David vs. Markowitz MD, Mendel, Garnet Health Medical Center, John Doe Hospital Corp, Nair MD, Malloy, Crystal Run Healthcare, John Doe Crystal Run Corp, Feuer DDS, Stuart B., Genco MD, Salvatore, Maple Ave Dental/Orange Supreme Court/ EF006823-2023/ Tort-Medical, Dental, or Podiatric Malpractice

Echevarria, Ana vs. Bekele-Arcuri, Zewditu, Crystal Run Healthcare LLP, Hudson Valley Diagnostic Imaging, PLLC, Rodriguez Jr., Luis J., Crystal Run Healthcare Physicians LLP, Montefiore St. Lukes Cornwall Hospital/Orange Supreme Court/ EF006930-2024/ Tort-Medical, Dental, or Podiatric Malpractice

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

Operating Budget

The applicant submitted operating budgets, in 2025 dollars, for Year One and Year Three after approval of this application.

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Per</u>	<u>Total</u>	<u>Per</u>	<u>Total</u>	<u>Per</u>	<u>Total</u>
Revenues:	<u>Procedure</u>		<u>Procedure</u>		<u>Procedure</u>	
Medicare FFS	\$762.14	\$2,662,163	\$676.35	\$2,875,162	\$676.35	\$2,932,665
Medicare MC	\$851.13	\$865,598	\$700.31	\$310,938	\$700.13	\$317,157
Medicaid FFS	\$364.16	\$16,023	\$562.25	\$36,546	\$587.42	\$44,644
Medicaid MC	\$560.07	\$818,260	\$591.26	\$1,087,914	\$615.08	\$1,157,577
Comm FFS	\$1,217.66	\$8,230,192	\$1,029.96	\$8,539,411	\$1,030.07	\$8,710,267
Private Pay	\$1,155.62	\$353,619	\$1,027.31	\$476,672	\$1,025.75	\$486,206
Other	\$855.58	\$344,800	\$1,034.32	\$385,800	\$1,035.57	\$393,516
Misc. Income		<u>\$2,427</u>		<u>\$0</u>		<u>\$0</u>
Total Rev		\$13,293,082		\$13,712,443		\$14,042,031
Expenses:						
Operating	\$774.57	\$10,443,523	\$657.53	\$10,554,724	\$655.85	\$10,747,429
Capital	<u>\$226.15</u>	<u>\$3,049,184</u>	<u>\$189.96</u>	<u>\$3,049,184</u>	<u>\$186.07</u>	<u>\$3,049,184</u>
Total Exp:	\$1,000.72	\$13,492,707	\$847.49	\$13,603,908	\$841.92	\$13,796,613
Net Income		(\$199,625)		\$108,535		\$245,419
Utilization:		13,483		16,052		16,387

Utilization broken down by payor source for the respective years is as follows:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
Payor Source	<u>Procedures</u>	<u>%</u>	<u>Procedures</u>	<u>%</u>	<u>Procedures</u>	<u>%</u>
Comm FFS	6,759	50.13%	8,291	51.65%	8,456	51.60%
Medicare FFS	3,493	25.91%	4,251	26.48%	4,336	26.46%
Medicare MC	1,017	7.54%	444	2.77%	453	2.77%
Medicaid FFS	44	.33%	65	.41%	76	.46%
Medicaid MC	1,461	10.84%	1,840	11.46%	1,882	11.48%
Private Pay	306	2.27%	464	2.89%	474	2.89%
Other	403	2.98%	373	2.32%	330	2.32%
Charity	0	0%	324	2.02%	380	2.02%
Total	13,483	100.00%	16,052	100.00%	16,373	100.00%

The following is noted with respect to the submitted budget:

- Revenue, expenses, and utilization are based on 2023 Cost Report data, and the experience of the applicant and the participating physicians in providing the services outlined in this application for the community.
- The Center expects to increase its Medicaid utilization in Years One and Year Three due to planned initiatives aimed at increasing access for underserved patients and is therefore projecting that Medicaid patients will comprise approximately 11.9% of total utilization in Year One and 12% in Year Three.
- The Center established a Charity Care Committee in 2024 to develop new approaches for reaching Charity Care patients. The Charity Care Committee is in discussions with Cornerstone Family Healthcare, a Federally Qualified Health Center (FQHC), regarding a potential referral agreement and is developing an ASC-related educational series focused on health screening and preemptive and preventive care.
- The addition of physician owners is expected to have a positive impact on volume.
- The Center is pursuing managing staffing costs, supply chain savings, reducing costs through

consolidation and renegotiation of agreements and operational improvements. As of February 27, 2025, the facility had no outstanding Medicaid overpayment liabilities.

Investor Subscription Agreement

The applicant has submitted executed investor subscription Agreements, and summarized as follows:

Dates:	August 12,13, 30 and 31 and September 4, 5,6
Seller:	Crystal Run Healthcare, LLP
Subscribers	Dr. Sam Spinowitz(1.80%), Dr. Christian roman-Rodriguez (1.80%), Dr. Tsai-Lung Tsai (1.80%), Dr. Michael Angeline (1.80%), Dr. Rachel Perl (1.80%, Dr. Katherine Wood (1.80%), Dr. Christopher Han (1.80%), Dr. Abigail Meigh(1.80%), Dr. Vincent Moscato (2.30%), Dr. Matthew Pomykala (2.30%), Dr. Mae Young (2.30%), Dr. Archit Patel (2.30%), Dr. Emmanuel Schenkman,(2.30%), Dr. Bryan Kleinman (1.005), Dr. Carl Kirchhoff (3.30%), Dr. John Hardcastle (3.30%), Dr. Daniel Tomilinson (3.30%) and Dr. Thomas Booker (3.30%)
Purchase and Sale of Shares	40.10% transfer of ownership of
Purchase Price per percentage:	\$ 25,000
Total purchase price	\$1,002,500

Capability and Feasibility

The purchase price of \$1,002,500, for the 40.10% of Crystal Run Ambulatory Surgery Center of Middletown, LLC, will be covered from the liquid assets of the proposed 18 new members. BFA Attachment A, Net Worth Statements of Proposed Members, shows the proposed members have sufficient liquid resources to cover their individual portion of the purchase price.

BFA Attachment C, 2022-2023 Certified Financial Statements of Crystal Run Ambulatory Surgery Center of Middletown, LLC, shows the facility had an average negative working capital position and an average positive net asset position for these years. The entity had a net loss from operations of \$844,310 for 2022 and a loss of \$237,596 for 2023. The 2022 loss is due primarily to a decline in patient volume because of an exodus of physicians and rising labor costs in the post-COVID period. In 2023, the facility continued to see losses, but to a lesser extent. The Center has implemented a strategic plan to improves performance.

BFA Attachment D, Internal Financial Statements of Crystal Run Ambulatory Surgery Center of Middletown, LLC as of December 31, 2024, shows the entity had a negative working capital position, a positive net asset position, and achieved a net loss from operations of \$1,409,118. The 2024 loss is due to the Center experiencing a significant volume decrease between 2023 and 2024, reducing the revenues by over \$800,000. The Center also experienced significant expense increases due to the ownership change transaction proposed in this application, these expenses are one-time occurrences.

The submitted budgets indicate a net income of \$108,535 and \$245,419 during Year One and Year Three, respectively. Revenues are based on current reimbursement methodologies. The budgets appear to be reasonable.

Conclusion

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

Attachments

BFA Attachment A	Net Worth Statement of the proposed new members of Crystal Run ASC of Middletown, LLC
BFA Attachment B	Organizational Chart and Member Listing - Crystal Run ASC of Middletown, LLC
BFA Attachment C	2022 and 2023 Certified Financial Statements of Crystal Run ASC of Middletown, LLC
BFA Attachment D	Crystal Run ASC of Middletown, LLC Internal Financial Statements as of December 31, 2024



Project # 251014-B
Atrium Endoscopy

Program: Diagnostic and Treatment Center **County:** Suffolk
Purpose: Establishment and Construction **Acknowledged:** January 21, 2025

Executive Summary

Description

Atrium Endoscopy Management, LLC, d/b/a Atrium Endoscopy (Atrium), an existing limited liability company, requests approval to establish and construct a single-specialty Freestanding Ambulatory Surgery Center (FASC) specializing in gastroenterology. This project will convert two (2) existing private office-based surgical practices into a single-specialty Article 28 FASC with two (2) procedure rooms in leased space at 775 Park Avenue, Suite 125, Huntington, New York (Suffolk County).

Upon approval of this application, the surgical component of both private practices will close. The doctors' current private practices will continue to operate providing consults, follow-ups, and pre- and post- procedure appointments.

Dr. Noah T. Zinkin, who is board-certified in gastroenterology, will be the Medical Director. The applicant has a Transfer and Affiliation Agreement with Huntington Hospital, 1.9 miles away/6 minutes' driving distance from Atrium Endoscopy

The proposed ownership of Atrium Endoscopy Management, LLC will be:

Atrium Endoscopy Management, LLC

<u>Name</u>	<u>Ownership %</u>
Dr. Joshua Sisser	25%
Dr. Noah T. Zinkin	75%
Total	100%

OPCHSM Recommendation

Approval with conditions and contingencies with an expiration of the operating certificate five years from the date of its issuance.

Need Summary

The applicant projects 2,600 procedures in Year One and 2,759 in Year Three, with Medicaid at 6% and Charity Care at 2% by the third year.

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 \$1,971,794 will be met with \$197,794 in equity and a bank loan of \$1,774,000 at an interest rate of 6.98% for a 5-year term.

Budget:	<u>Year One</u>	<u>Year Three</u>
Revenues	\$2,048,997	\$2,173,780
Expenses	<u>1,839,308</u>	<u>1,821,713</u>
Net Income	\$209,689	\$352,067

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 a bank loan that is acceptable to the Department of Health. [BFA]
3. Submission of an executed building lease acceptable to the Department of Health. [BFA]
4. 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]
5. 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]
6. Submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
7. Submission of Engineering (MEP) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-01. [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 **October 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 annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]

4. The 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

April 10, 2025

Need Analysis

Project Description

Atrium Endoscopy Management LLC is seeking approval to establish a single-specialty freestanding ambulatory (FASC) surgery center to be located at 775 Park Avenue, Huntington, 11743 in Suffolk County. The center will specialize in gastroenterology. The facility plans to have two (2) procedure rooms.

Background and Analysis

The service area consists of Suffolk County. The population of Suffolk County is projected to decrease to 1,488,885 by 2030 based on Cornell Program on Applied Demographics estimates. Demographics for the primary service area are noted below, including a comparison with New York State.

Demographics	Suffolk County	New York State
Total Population	1,525,680	19,872,319
Hispanic or Latino (of any race)	22.2%	19.6%
White (non-Hispanic)	63.2%	53.4%
Black or African American (non-Hispanic)	6.8%	13.6%
Asian(non-Hispanic)	4.2%	8.8%
Other (non-Hispanic)	3.6%	4.6%

Source: 2023 American Community Survey (5-year Estimates Data Profiles)

Of note, the population cohort aged 45 to 75 years-old was 39% of the total population in 2023. This cohort is more likely to utilize the Center's services in line with the current colorectal screening guidelines from the Centers for Disease Control and the American Cancer Society recommendation that adults aged 45 to 75 years-old be screened for colorectal cancer. By 2030, Cornell PAD, estimates this cohort will be 37% of the total population, a decrease of 2%.

In 2022, 95.6% of the population of Suffolk County had health coverage as follows:

Employer Plans	57.5%
Medicaid	11.9%
Medicare	13.1%
Non-Group Plans	12.7%
Military or VA	0.449%

Source: Data USA

Based on the primary service area, within zip code 11743 of the Huntington area, the following data represents the public health coverage of the area:

Medicaid alone	4.00%
Medicare alone	5.20%

Source: 2023 American Community Survey (5-Year Estimates); Table S2704

Ambulatory Surgery within a 12-Mile Radius of Proposed Center

Facility Name	Type	Patient Visits		
		2021	2022	2023
St Catherine of Siena Hospital	Hospital	9,655	8,866	9,712
Progressive Surgery Center, LLC	ASC	2,092	1,855	1,141
Digestive Health Center of Huntington	ASC	4,591	4,074	4,502
North Shore Surgi-Center	ASC	6,215	5,841	5,521
Total Visits		22,553	20,636	20,876

Source: HFIS and SPARCS

All facilities listed above provide single specialty or multi-specialty ambulatory gastroenterology surgical services.

According to the Health Facilities Information System (HFIS), there are 19 existing ASCs in Suffolk County, nine (9) of which provide single-specialty gastroenterology services.

CON 251025 (Stony Brook Medicine) is currently under review to establish a multispecialty ASC in Suffolk County (gastroenterology is **not** a proposed service currently) that is 7 miles/19 minutes away.

Per the applicant, this project will combine two (2) private practices into a single FASC resulting in operational efficiencies while bringing together two local established Gastroenterologists. Upon approval of this application, the surgical component of the two (2) private practices will close, however, each practice will continue to provide consults, follow-up, and pre- and post-procedure appointments. One of the affiliated surgeons of the Center has a private practice in the same building as the proposed FASC, which will allow patients to complete their pre- and post-procedure appointments in the same location as their procedure. The other affiliated surgeon of the Center has an existing private practice located approximately 2.5 miles/five (5) minutes from the proposed FASC. After the Center is established, the participating physicians will continue to be on call at the hospital they are currently affiliated with (Huntington Hospital) and will continue performing inpatient and ambulatory procedures that are more appropriately performed in a general hospital setting. All procedures to be performed at the proposed FASC will originate from Suffolk County and there will be no procedures that come from local hospitals.

The number of projected procedures is 2,600 in Year One and 2,759 in Year Three, with Medicaid at 6% 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.

Payor	Year One		Year Three	
	Volume	%	Volume	%
Commercial FFS	1,820	70.0%	1,931	70.0%
Commercial MC	78	3.0%	83	3.0%
Medicare FFS	390	15.0%	414	15.0%
Medicare MC	104	4.0%	110	4.0%
Medicaid FFS	0	0.0%	0	0.0%
Medicaid MC	156	6.0%	166	6.0%
Private Pay	0	0.0%	0	0.0%
Charity Care	52	2.0%	55	2.0%

The Center initially plans to obtain contracts with the following Medicaid Managed Care Plans: Fidelis Care, Medicaid/Essential, Health Partners Plans, Healthcare Partners 3 IPA, and HIP Medicaid. The center will work collaboratively with Federally Qualified Health Centers such as Sun River Health and Charles Evans Center to provide services 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 Monday through Friday 7 AM – 5 PM. As the Center matures, it is expected that an expanded operating schedule will be maintained to accommodate the needs of both patients and physicians. Weekend and/or evening procedures will be made available, if needed, to accommodate patient scheduling issues.

Conclusion

Approval of this project will bring existing procedures that are being performed by the applicants' office-based gastroenterology surgical practices into the regulatory environment of Article 28 health care facilities, ensuring safe health care delivery for the residents of Suffolk County.

Program Analysis

Project Proposal

Proposed Operator	Atrium Endoscopy Management LLC
To Be Known As	Atrium Endoscopy
Site Address	775 Park Avenue, Suite 125, Huntington, New York 11743 (Suffolk County)
Specialties	Ambulatory Surgery - Single Specialty - Gastroenterology
Hours of Operation	Monday - Friday 7:00 a.m. to 5:00 p.m.
Staffing (1st Year / 3rd Year)	9.0 FTEs for Year One and Year Three
T&A: Emergency, In-Patient and Backup Support Services Agreement and Distance	Huntington Hospital 270 Park Avenue, Huntington, New York 11743 1.9 Miles away / 6 Minutes

No patient will be admitted to the Center for care unless the patient's physician is a member of the Center's medical staff. 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.

The applicant has a Transfer and Affiliation Agreement with Huntington Hospital, located 1.9 miles away / 6 minutes' drive distance from Atrium Endoscopy.

FTEs are expected to initially remain the same between Year One and Year Three.

Staffing Categories	Year One	Year Three
Management & Supervision	2.0	2.0
Technician and Specialist	2.0	2.0
Registered Nurses	3.0	3.0
Infection Control	1.0	1.0
Clerical and Administrative	1.0	1.0
Totals Numbers of Employees	9.0	9.0

It is anticipated that the Center's staff will come from Dr. Zinkin's and Dr. Gandolfo's existing office-based surgical practices. Anesthesiology services, when needed, will be provided.

The members of Atrium Endoscopy Management, LLC d/b/a Atrium Endoscopy are:

Name:	Ownership Interest
Joshua D. Sisser, M.D. / Owner-Member	25%
Noah T. Zinkin, M.D. / Owner-Member	75%
Total Membership Interest:	100%

Dr. Noah T. Zinkin, the proposed medical director, and Frederick Gandolfo, M.D., a non-member physician, have committed to perform procedures at Atrium Endoscopy. Both Dr. Zinkin and Dr. Gandolfo currently perform procedures in their respective private practices. Dr. Zinkin's practice is currently located on the second floor in the building of this proposed FASC. This will ensure a level of convenience and experience to Dr. Zinkin's patients by enabling them to complete pre- and post-procedure appointments in the same location as their procedure.

All cases to be performed at Atrium Endoscopy will originate from Dr. Zinkin's and Dr. Gandolfo's existing private practices with no procedures coming from local hospitals.

Character and Competency

Noah Todd Zinkin, MD, P.C. is board-certified in gastroenterology and has an established practice (aka Advanced Gastrointestinal and Liver Disease) since 2006 that provides gastroenterology services. Dr. Zinkin has a continuous certification from the American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF) for office-based procedures privileges at Huntington Hospital where he also provides gastroenterology services for his patients and for patients from the community.

Dr. Zinkin received a Doctor of Medicine (MD) degree from the University of Rochester School of Medicine in 2000, received a Bachelor's Degree from Harvard University in 1996, and received a Masters of Management Studies (MMS) degree from Harvard University / Massachusetts Institute of Technology in 2006. In 2006, Dr. Zinkin completed a fellowship at Beth Israel Deaconess Medical Center in Massachusetts in gastroenterology and hepatology; completed a Residency in Medicine at Brigham and Women's Hospital in Massachusetts in 2003 and completed an internship in medicine at Brigham and Women's Hospital in 2002.

Dr. Zinkin disclosed the five (5) malpractice lawsuits since becoming a physician:

1. Blanchard vs. Zinkin et. al. (State of Massachusetts) - dismissed by judge in 2010 a. Patient was admitted with a nosebleed and developed alcohol withdrawal. He aspirated blood and ultimately succumbed to hypoxic brain injury. The case was dismissed by the judge after the plaintiff's attorneys declined to pursue the case.
2. Appel vs. Zinkin (State of New York) - Dr. Zinkin won the jury trial 2013 a. Patient had an endoscopy for anemia. He was diagnosed with gastric cancer one (1) year later.
3. Casey vs. Zinkin (State of New York) - dismissed by the judge in 2021 a. Patient had advanced metastatic colon cancer and was then admitted with a severe cerebrovascular accident. Dr. Zinkin was asked to evaluate to place a naso-gastric tube for nutrition. I placed the tube without incident. Family later claimed the patient succumbed to malnutrition. Case was dismissed by judge.
4. Bobick vs. Zinkin (State of New York / **ACTIVE**) - case ongoing a. Patient had an indeterminate liver lesion and instructed to follow up for additional imaging. The patient did not follow up and later was diagnosed with unresectable cholangiocarcinoma. Family sued Dr. Zinkin and the radiologist. Case remains ongoing
5. Fabio vs. Zinkin (State of New York / **ACTIVE**) - case ongoing a. Patient admitted after bleeding from a kidney biopsy. Dr. Zinkin was asked to consult for a colonic ileus that developed several days later. Due to the persistent ileus, the patient underwent surgical resection. Patient sued and several other team members, claiming the team failed to diagnose colonic ischemia. The case remains ongoing.

Dr. Zinkin indicated no involvement in any other legal actions, civil or criminal, other than the above malpractice cases.

Joshua D. Sisser, M.D., is a board-certified Anesthesiologist. He received a Doctor of Medicine (M.D.) degree from the Albert Einstein College of Medicine in New York in 2005 and received a Bachelor's Degree from the Yeshiva University in 2001.

Dr. Sisser worked as an anesthesiologist and as an attending physician for eleven (11) years at Huntington Hospital, also worked in operating rooms at affiliated hospitals and at several ambulatory surgery centers. Currently, Dr. Sisser is employed by Spartan Anesthesia located in Fresh Meadows, NY.

One (1) legal case was disclosed by Dr. Sisser: In August 2020, Dr. Sisser's former employer / North American Partners in Anesthesia Llp (Napa) brought an action against Dr. Sisser for violating the noncompete clause in the employment contract when he changed jobs. The lawsuit was subsequently withdrawn and discontinued by the plaintiff.

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.

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

Total Project Cost and Financing

Total project cost, which is for renovations and the acquisition of moveable equipment, is estimated at \$1,971,794, further broken down as follows:

Renovation and Demolition	\$1,186,224
Design Contingency	118,622
Construction Contingency	118,622
Architect/Engineering Fees	118,622
Construction Manager Fees	29,656
Other Fees (Consultant)	20,000
Moveable Equipment	325,998
Interim Interest Expense	41,275
CON Fee	2,000
Additional Processing Fee	<u>10,775</u>
Total Project Cost	\$1,971,794

The applicant's financing plan appears as follows:

Equity	\$197,794
Bank Loan (6.98% for a 5-year term)	<u>1,774,000</u>
Total	\$1,971,794

M&T bank has provided a letter of interest for the above stated terms.

Operating Budget

The applicant has submitted an operating budget, in 2025 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	\$809.44	\$1,473,187	\$1,562,904	\$809.44
Commercial MC	\$809.45	\$63,137	\$809.45	\$66,982
Medicare FFS	\$952.29	371,392	\$952.29	\$394,009
Medicare MC	\$809.44	84,182	\$809.45	\$89,309
Medicaid MC	\$366.02	57,099	\$366.02	\$60,576
Total Revenues		\$2,048,997		\$2,173,780
Expenses:				
Operating	\$578.07	\$1,502,983	\$552.44	\$1,523,643
Capital	<u>\$129.36</u>	<u>\$336,325</u>	<u>\$108.07</u>	<u>298,070</u>
Total Expenses	\$707.43	\$1,839,308	\$660.51	\$1,821,713
Net Income		\$209,689		\$352,067
Utilization: (Procedures)		2,600		2,758

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

- Reimbursement rates are based off specific geographical rates and the experience of the applicant's individual members with commercial payers.
- Expense assumptions are based on the experience of the applicant and its members in providing ambulatory surgery services, as well as the projections and experience of other FASC's in New York State.

- Utilization assumptions are based on the current procedures performed by Dr. Zinkin's and Dr. Gandolfo's (Non owner Physician) current caseload. All procedures to be performed at the proposed FASC will originate from Suffolk County and there will be no procedures that come from local hospitals.

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

	<u>Years One and Three</u>
Commercial FFS	70%
Commercial MC	3%
Medicare FFS	15%
Medicare MC	4%
Medicaid MC	6%
Charity Care	2%
Total	100%

Lease Agreement

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

Premises	Suite 125 (5,000 sq. ft.) 775 Park Avenue, Huntington, NY
Landlord	Huntington Atrium Development, LLC
Tenant	Atrium Endoscopy Management, LLC
Term	12 yrs 10 months
Rental	Yr 1 \$125,040 with annual 2.5% increases

The applicant has submitted letters from real estate brokers attesting to the reasonableness of the per square foot rental. The applicant has submitted an affidavit that there is no relationship between them and the landlord.

Capability and Feasibility

The total project cost of \$1,971,794 will be met with \$197,794 in equity from the ownership of Atrium Endoscopy Management, LLC and a bank loan of \$1,774,000 at an interest rate of 6.98% for a 5-year term. M&T bank has provided a letter of interest for the project.

The working capital requirements are estimated at \$303,619, equivalent to two months of third-year expenses, and will be met with equity from the applicants. BFA Attachment A, Net Worth Statements of the Proposed Owners of Atrium Endoscopy Management, LLC, shows sufficient resources to fund the equity contribution.

BFA Attachment B, Pro Forma Balance Sheet of Atrium Endoscopy Management, LLC, indicates a positive net asset position of \$501,413 on the first day of operations.

The submitted budget indicates a net income of \$209,689 in Year One and \$352,067 in the Year Three. 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	Net Worth Statement
BFA Attachment B	Pro Forma Balance Sheet



Project # 242263-B
Medical Center of Williamsburg

Program: Diagnostic and Treatment Center **County:** Kings
Purpose: Establishment and Construction **Acknowledged:** December 9, 2024

Executive Summary

Description

Medical Center of Williamsburg, LLC (the Center), a New York limited liability company, requests approval to establish and construct an Article 28 diagnostic and treatment center (D&TC) on the 2nd floor of leased space at 1 Maspeth Avenue, a/k/a 378-390 Humboldt Street, Brooklyn (Kings County). The Center will be certified for Medical Services – Primary Care (internal medicine, family medicine), Medical Services – Other Medical Specialties including initial and follow-up non-surgical office visits for cardiology, pain management, oncology related breast surgery, general surgery, endocrinology, as well as physical and occupational therapy.

CON 242221-B, which is concurrently under review, seeks to establish and construct an Article 28 multi-specialty Freestanding Ambulatory Surgical Center (FASC) on the first floor of the same building as the Center.

Ownership of the operations is as follows:

<u>Proposed Operator</u>	
Medical Center of Williamsburg, LLC*	
<u>Member:</u>	<u>%</u>
Moustafa Elsheshtawy, M.D.	100%

**The current name of the entity is MC of Williamsburg, LLC, which will be amended to Medical Center of Williamsburg, LLC, upon approval of this application.*

Moustafa Elsheshtawy, M.D., board-certified in internal medicine and cardiology, will be the Center's Medical Director. The applicant is negotiating a transfer agreement for backup and emergency services with Maimonides Medical Center, 9.4 miles (30 minutes travel time) from the proposed Center.

OPCHSM Recommendation

Contingent Approval

Need Summary

The applicant projects 6,057 visits in Year One and 8,540 visits in Year Three, with Medicaid at 46.6% and Charity Care at 2.0%.

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 \$979,770 will be funded by \$97,977 Members' Equity. The landlord's portion for the D&TC build-out is \$881,793 and will be funded by a U.S. Small Business Administration (SBA) 504 2nd lien Bridge Loan.

Funding to purchase and renovate the building at 1 Maspeth Avenue (CON 242263) and the FSAC (CON 242221) is estimated at \$8,284,700 and consists of member equity of \$828,470 and an SBA 504 1st Lien Loan of \$4,142,350, and SBA 2nd Lien Loan of \$3,313,880. The SBA loan for \$3,313,880 is expected to fund the landlord's portion of the buildouts associated with CON 242263 and a CON 242221.

<u>Budget:</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$596,622	\$844,746
Expenses:	<u>569,082</u>	<u>805,836</u>
Net Income	\$ 27,540	\$38,910

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 State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-1.0 [AER]
3. Submission of Engineering (MEP) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-1.0 [AER]
4. Submission of an executed loan to cover the landlords build out acceptable to the Department of Health [BFA]

Approval conditional upon:

1. This project must be completed by **January 15, 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 **October 15, 2025**, and construction must be completed by **October 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

April 10, 2025

Need Analysis

Project Description

Medical Center of Williamsburg, LLC (the Center) is seeking approval to establish and construct an Article 28 Diagnostic and Treatment Center (D&TC) on the second floor of a building at 1 Maspeth Avenue (a/k/a 378-390 Humboldt Street), Brooklyn, NY 11211 in Kings County. The Center will be certified for: Medical Services – Primary Care, Medical Services – Other Medical Specialties, Therapy – Occupational O/P, and Therapy – Physical O/P.

Background & Analysis

The relevant service area is Kings County. The Center expects many of its patients to come from the following neighborhoods: Williamsburg (Zip Code (ZC) 11211) and the surrounding areas of Greenpoint (ZC 11222) and Bushwick/Bedford-Stuyvesant/Williamsburg (ZC 11206). The Center will serve people who live in these areas and to a larger extent Kings County.

The population of Kings County is estimated at 2,646,306 based on 2023 American Community Survey data and is projected to increase to 2,863,996 by 2030 per projection data from the Cornell Program on Applied Demographics (PAD), an increase of 8.2%. Demographics for the primary service area are noted below including a comparison with New York State:

Demographics	Primary Service Area (ZC 11211, 11222, 11206)	Kings County	New York State
Total Population – 2023 Estimate	196,340	2,646,306	19,872,319
White (non-Hispanic)	50.5%	36.21%	53.4%
Hispanic or Latino (of any race)	28.6%	18.9%	19.6%
Black or African American (non-Hispanic)	10.0%	27.5%	13.6%
Asian (non-Hispanic)	6.5%	12.0%	8.8%
Other (non-Hispanic)	4.4%	5.4%	4.6%

Source: 2023 American Community Survey (5-year Estimates Data Profiles)

The population aged 45 and over was 37.9% of the total population in Kings County in 2023. According to the applicant, this cohort is more likely to utilize the Center's services. By 2030, Cornell PAD estimates this cohort will be 38.4% of the total population, an increase of 0.5%.

In 2022, 93.7% of the population of Kings County had health coverage as follows:

Employer Plans	40.9%
Medicaid	33.0%
Medicare	8.2%
Non-Group Plans	11.4%
Military or VA	0.278%

Source: Data USA

The table below shows the public health insurance coverage for the primary service area of ZC 11211, ZC 11222, and ZC 11206. The primary service area has a higher reliance on public health insurance coverage, particularly Medicaid.

Public Health Insurance Coverage			
Payor(s)	ZC 11211	ZC 11222	ZC 11206
Medicaid alone	29.7%	14.1%	42.1%
Medicare alone	3.1%	3.4%	2.9%

Source: 2023 American Community Survey (5-year Estimates Data Profiles), Table S2704

The applicant projects 6,057 visits in Year One and 8,540 visits in Year Three with Medicaid at 46.6% and Charity Care at 2.0%. These projections are based on the current private practices of the participating surgeons.

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

Payor	Year One		Year Three	
	Volume	%	Volume	%
Commercial FFS	366	6.0%	516	6.0%
Commercial MC	305	5.0%	430	5.0%
Medicare FFS	1,464	24.2%	2,064	24.2%
Medicare MC	793	13.1%	1,118	13.1%
Medicaid FFS	79	1.3%	112	1.3%
Medicaid MC	2,745	45.3%	3,870	45.3%
Private Pay	183	3.0%	258	3.0%
Charity Care	122	2.0%	172	2.0%

Source: Applicant

The applicant also submitted CON 242221, a separate CON application that is currently under review, to establish and construct an Article 28 multi-specialty Freestanding Ambulatory Surgery Center (FASC) on the first floor of 1 Maspeth Avenue (a/k/a 378-390 Humboldt Street), Brooklyn, NY 11211 (Kings County). The proposed FASC will be in the same building as the D&TC, in a separate and distinct space. These providers will complement each other and will create a one-stop location for patients to receive multiple medical services, as needed.

In addition, there are three D&TCs currently under construction or approved by the Department, Bushwick Community Health Center of Excellence (CON 202004); ODA Primary Health Care Network (CON 232063) and Pesach Tikvah D&TC (CON 222250), approximately within 1.3 miles and 11 minutes drive from the applicant. These D&TCs will be providing one or more of the same services as the applicant in Kings County.

The hours of operation will be from Monday through Friday from 7:00 am to 5:00 pm. The Center will also have an After-Hours On-Call service available to patients 24 hours per day, 365 days per year. The Center has a transfer and affiliation agreement with Maimonides Medical Center, located approximately 9.4 miles and 43 minutes' drive from the Center, for emergency and backup services.

Prevention Quality Indicators (PQIs) are a set of measures that can be used to assess the quality of health care. These are conditions for which good outpatient care can potentially prevent the need for hospitalizations, or for which early intervention and treatment would prevent complications or severe disease. PQIs can also be used to identify areas with poor access to care. The table below provides information on PQI rates for 2022 related to this application.

Hospital Discharges per 100,000 Adults			
PQI Name	Primary Service Area (ZCs 11211, 11222, 11206)	Kings County	New York State
Diabetes Short-Term Complications	63	67	67
Diabetes Long-Term Complications	97	118	116
Chronic Obstructive Pulmonary Disease or Asthma	235	223	238
Hypertension	54	65	65
Heart Failure	289	362	359
Bacterial Pneumonia	46	56	92
Uncontrolled Diabetes	40	56	46
Prevention Quality Overall Composite	787	952	1021

Source: SPARCS Hospital Inpatient Prevention Quality Indicators (PQI) for Adult Discharges, 2022

Conclusion

Approval of this project will provide improved access to primary and specialty services for the residents of Kings County.

Program Analysis

Project Proposal

Proposed Operator	Medical Center of Williamsburg, LLC
To Be Known As	Medical Center of Williamsburg
Site Address	1 Maspeth Avenue, Brooklyn, NY 11211 (Kings County)
Specialties	Medical Services: Primary Care Medical Services: Other Medical Specialties O/P Occupational Therapy O/P Physical Therapy
Hours of Operation	7:00 a.m. to 5:00 p.m., Monday through Friday. The Center will also have an After-Hours On-Call Service available to patients 24 hours per day, 365 days per year. The Center may further expand its hours of operation to accommodate additional volume, as needed.
Staffing (1 st Year / 3 rd Year)	6.5 FTEs / 8.5 FTEs
Medical Director(s)	Moustafa Elsheshtawy, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Maimonides Medical Center 9.3 miles / 30 minutes

Membership Structure

Member	Ownership
Moustafa Elsheshtawy, M.D.	100%

Character and Competence

Moustafa Elsheshtawy, M.D. currently is the President and Medical Director of New York Medical and Vascular Care and the President and Medical Director of Physicare MultiServices Ltd. where he has worked in both roles since 2020. Prior to this, he was completing his Interventional Cardiology Fellowship at Mount Sinai St. Luke's-Beth Israel from 2019 to 2020. From 2016 to 2019, Dr. Elsheshtawy was involved in a Cardiovascular Fellowship at Maimonides Medical Center. From 2013 to 2016, he completed his Internal Medicine Residency at Coney Island Hospital. Dr. Moustafa Elsheshtawy is board-certified in internal medicine and cardiology. He graduated from Tanta University with a medical degree in 2011. Dr. Elsheshtawy is affiliated with Mount Sinai Health System, Maimonides Medical Center, and Lenox Hill Hospital.

The following are the proposed FTEs for Year One and Year Three following completion of this project:

Position	Year One	Year Three
Management and Supervision	1.0	1.0
Registered Nurses	1.0	1.0
Aides, Orderlies & Attendants	1.0	1.0
Physicians	0.5	1.0
Nurse Practitioners	1.0	1.5
Physical Therapists and PT Assistants	0.5	0.5
Occupational Therapists and OT Assistants	0.5	0.5
Clerical and Other Administrative	1.0	2.0
Totals	6.5	8.5

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

The total project cost for renovations and movable equipment is estimated at \$979,770, broken down as follows.

Renovation & Demolition	\$562,464
Design Contingency	56,247
Construction Contingency	56,247
Architect/Engineering Fees	153,000
Construction Manager Fees	61,279
Other Fees	20,000
Movable Equipment	63,185
Application Fees	2,000
Additional Processing Fees	<u>5,348</u>
Total Project Cost	\$979,770

The financing plan of the applicant and the landlord is as follows:

Equity-Applicant member	\$97,977
Loan - Landlord – SBA 504 2 nd Bridge Loan (18 months + 6 months extension)	
interest 11.5% (Prime + 3% with a floor of 11.5%), Interest only	<u>881,793</u>
Total	\$979,770

BFA Attachments A, Net Worth Summary- Proposed Member, shows sufficient resources to meet the equity requirements. Lincoln Capital Management, LLC has provided a letter of interest for the loan.

Operating Budget

The applicant has submitted the first and third-year operating budgets in 2025 dollars as summarized below:

	<u>Year One</u>		<u>Year Three</u>	
ASC Revenues:	<u>Per Visit.</u>	<u>Total</u>	<u>Per Visit.</u>	<u>Total</u>
Medicaid – FFS	\$89.80	\$7,094	\$89.30	\$10,002
Medicaid – MC	\$81.70	224,267	\$81.70	316,179
Medicare – FFS	\$109.78	160,719	\$110.22	227,489
Medicare – MC	\$102.46	81,251	\$ 103.27	115,452
Commercial – FFS	\$152.25	55,724	\$154.00	79,464
Commercial – MC	\$136.79	41,720	\$138.88	59,720
Private Pay	\$141.24	<u>25,847</u>	\$141.24	<u>36,440</u>
Total Revenues:		\$596,622		\$844,746
Expenses:				
Operating	\$66.37	\$402,031	\$68.46	\$584,613
Capital	<u>\$27.58</u>	<u>167,051</u>	<u>\$25.90</u>	<u>221,223</u>
Total Expenses:	\$93.95	\$569,082	\$94.36	\$805,836
Net Income (Loss)		<u>\$27,540</u>		<u>\$ 38,910</u>
Visits		6,057		8,540

The following is noted concerning the submitted ASC budget.

- Revenues were determined based on the applicant's sole member experience and industry norms for D&TC treatment services. Medicaid and Medicare rates are based on current and anticipated fee schedules. Commercial rates are based on a percent of the current Medicare rates.
- Staffing and expenses were determined based on the applicant's experience providing D&TC treatment services and industry norms for D&TC.
- Payor mix is based upon the primary service demographics in conjunction with the existing payor mix for the physicians who will treat patients at the D&TC.

Utilization by payor source for years one and three are summarized below:

Payor:	Year One		Year Three	
	Visits	%	Visits	%
Medicaid - FFS	79	1.30%	112	1.31%
Medicaid – MC	2,745	45.33%	3,870	45.32%
Medicare - FFS	1,464	24.17%	2,064	24.17%
Medicare – MC	793	13.09%	1,118	13.09%
Commercial - FFS	366	6.04%	516	6.04%
Commercial – MC	305	5.04%	430	5.04%
Private Pay	183	3.02%	258	3.02%
Charity Care	122	2.01%	172	2.01%
Total	6,057	100%	8,540	100%

Master Lease Agreement

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

Date:	May 15, 2024
Premises:	1 Maspeth Avenue (a/k/a 378-380 & 388) Humboldt Street), Brooklyn, NY 11211
Landlord:	Ascent RE Management LLC.
Lessee:	Doctor's Medical P.C.
Term:	10 Years and one (1) five extension
Rental:	\$1,152,000 with 3% escalation every two years
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 familial 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.

Sub-Lease Rental Agreement

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

Date:	September 18, 2024
Premises:	3,803 sq. ft. located at 1 Maspeth Avenue (a/k/a 378-380& 388 Humboldt Street), Brooklyn, NY 11211
Sub-Landlord:	Doctor's Medical P.C.
Sub-Lessee:	Medical Center of Williamsburg, LLC
Landlord to Construct:	Construct all tenant improvements.
Term:	10 Years and one (1) five-year renewal
Rental:	\$84,000 (\$22.08 per sq. Ft.) with an annual escalation of 7%
Reimburse Landlord for Construction	\$88,179 annually for ten years (88,179 X 10 = \$881,793). No interest charged
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 familial relationship between the landlord and the operator. As noted above, the applicant (Medical Center of Williamsburg, LLC) will reimburse the landlord's construction cost through the lease over ten years at no interest.

Capability and Feasibility

The applicant and the landlord will fund the total project cost of \$979,770. The applicant's portion is \$97,977 and will be funded with equity. The landlord's portion for the D&TC build-out is \$881,793 and will be funded by a U.S. Small Business Administration (SBA) 504 2nd Bridge Loan with a term of 18 months + 6-month extension and interest at 11.5% (prime + 3%, floor 11.5%). Repayment will be interest only during the term. Lincoln Capital Management, LLC has provided a letter of interest.

On February 8, 2024, Ascent RE Management, LLC (a company solely owned by Dr. Elsheshtawy) received SBA approval to finance the entire project for \$8,284,700. This included purchasing the building at 1 Maspeth Avenue for \$5,950,000 and building out CON 242263 and CON 242221. On May 15, 2024, the building was purchased for \$1,807,650 in buyer's funds and a \$4,142,350 loan from Empire State Certified Development Corporation d/b/a Pursuit BDC. Following approval from the New York City Department of Building for the construction plans, \$3,313,880 will be financed by an authorized bridge loan through Lincoln Capital Management. After construction is complete and the SBA loan closing is planned, the SBA funds will be used to pay the Lincoln Capital Management Bridge Loan.

The working capital requirement is estimated at \$134,306 based on two months of third-year expenses and will be funded with member equity. BFA Attachment A. Member Net Worth Summary, shows sufficient resources to meet this equity requirements as well as CON 242221.

BFA Attachment B, Medical Center of Williamsburg's Pro Forma Balance Sheet, shows operations will begin with \$232,283 in member equity. The Center projects a net income of \$27,540 in Year One and \$38,910 in Year Three. 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 – Proposed Member
BFA Attachment B	Pro Forma Balance Sheet – Medical Center of Williamsburg



Project # 231143-E

Western Region Health Corporation, Inc d/b/a Willcare

Program: Certified Home Health Agency
Purpose: Establishment

County: Erie
Acknowledged: May 2, 2023

Executive Summary

Description

Western Region Health Corporation, Inc. (WRHC) d/b/a Willcare, an existing Certified Home Health Agency (CHHA), is seeking to establish UnitedHealth Group Incorporated (UHG) as the 3rd level, great-grandparent of the CHHA.

LHC Group, Inc. (LHC), the indirect owner/parent corporation of Western Region Health Corporation d/b/a Willcare, signed an Agreement and Plan of Merger on March 28, 2022, with UnitedHealth Group Incorporated (UHG), a Delaware corporation authorized to do business in New York State. Following the consummation of the merger, LHC became a direct, wholly-owned subsidiary of UHG. UHG will not oversee, manage, or direct the operations of the CHHA, but rather serve in an entirely indirect ownership capacity.

Western Region Health Corporation (WRHC) serves Allegany, Chautauqua, and Erie Counties and has a main office at 346 Delaware Avenue, Buffalo, NY (Erie County). The services and operations of the agency will remain the same. All policies and procedures, staffing, and referral relationships will continue uninterrupted, and the leases will not change.

OALTC Recommendation

Approval

Need Summary

The applicant projects a total of 76,160 visits in Year One and 79,206 visits in Year Three. This equates to a caseload of 3,760 patients in Year One and 3,910 in Year Three. The projected payor mix includes 35.7% Medicare, and 0.9% Medicaid in Years One and Three of operations.

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3606(2)(b).

Financial Summary

There are no project costs associated with this application. As there were no changes to services or operations, a budget was not reviewed.

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Public Health Law §2802-B.

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

April 10, 2025

Need Analysis

Project Description

Western Region Health Corporation, Inc. (WRHC) d/b/a Willcare is seeking to establish UnitedHealth Group Incorporated (UHG) as the 3rd level, great-grandparent of the CHHA. UHG has acquired one hundred percent of the stock of LHC Group, becoming the ultimate parent company of LHC and the CHHA. LHC remains an indirect parent entity of the CHHA and there are no plans to make any material changes in the facility's business operations or corporate structure.

This project is a change of ownership above the grandparent level and is not expected to have an impact on services or the counties served by the CHHA. They will continue to provide Baseline Services – CHHA, Home Health Aide, Medical Social Services, Medical Supplies Equipment and Appliances, Nursing, Nutritional, Personal Care, Therapy – Occupational, Therapy – Physical, and Therapy - Speech Language Pathology.

Background and Analysis

The address of the CHHA is 346 Delaware Avenue, Buffalo, NY (Erie County). The service area includes Erie, Allegany, and Chautauqua Counties. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Erie County	Allegany County	Chautauqua County	New York State
Total Population (2022 Estimate)	950,044	47,027	126,329	19,872,319
Hispanic or Latino (of any race)	6.3%	2.1%	9.3%	19.6%
White (non-Hispanic)	73.0%	93.0%	84.3%	53.4%
Black or African American (non-Hispanic)	12.3%	1.5%	2.1%	13.6%
Asian (non-Hispanic)	4.5%	1.3%	0.6%	8.8%
Other (non-Hispanic)	3.9%	2.1%	3.7%	4.6%

Source: 2023 American Community Survey (5-Year Estimates Data Profiles)

In 2022, the population of the counties in the service area had health coverage as follows:

	Erie County	Allegany County	Chautauqua County
Total Health Coverage	97.1%	94.7%	94.5%
Employer Plans	49.7%	43.2%	38.9%
Medicaid	20.6%	20.7%	24.2%
Medicare	13.8%	13.3%	15.7%
Non-Group Plans	12.1%	16%	14.4%
Military or VA	0.947%	1.47%	1.37%

Source: Data USA

The changes expected to the population of the service areas including the population of individuals aged 65 and older, which are most likely to use the services, are noted below.

County	Total Population & Change Expected by 2030	Current Population of Aged 65+	Population of Aged 65+ & Expected Change by 2030
Erie County	949,073 (0.1% decrease)	178,676	215,483 (20.6% increase)
Allegany County	44,580 (5.2% decrease)	9,279	9,854 (6.2% increase)
Chautauqua County	119,116 (5.7% decrease)	27,424	29,167 (6.4% increase)

Source: Cornell Program on Applied Demographics and 2023 American Community Survey Estimates

The CHHA provides home health services to all eligible patients, regardless of socio-economic or health status, and has extensive experience in providing services to the elderly with chronic health conditions and accepts Medicaid patients.

Below is the applicant's projected payor mix.

Applicant Projected Payor Mix		
Payor	Year One	Year Three
Commercial	63.4%	63.4%
Medicare	35.7%	35.7%
Medicaid	0.9%	0.9%

There will be no change in services provided or service area covered. The table below represents projected visits only for the main provider and the branch offices.

Historical and Projected Patient Volume							
	2019	2020	2021	2022	2023	Year 1*	Year 3*
Patients	4,181	3,793	4,077	3,794	3,760	3,760	3,910
Visits	95,696	83,816	84,343	72,930	76,160	76,160	79,206
Visits/Patients	22.89	22.10	20.69	19.22	20.26	20.26	20.26

**Projected data*

Source: Applicant

Conclusion

This transfer of ownership at the 3rd level great grandparent level will not result in any changes to the services being provided by the CHHA to the residents of Erie, Allegany, and Chautauqua Counties.

Program Analysis

Project Proposal

Western Region Health Corporation, Inc. d/b/a Willcare, an existing Certified Home Health Agency (CHHA), is seeking to establish UnitedHealth Group Incorporated as the 3rd level, great-grandparent of the CHHA.

UnitedHealth Group Incorporated is acquiring 100% of the stock of LHC Group, Inc., the current 2nd level great grandparent of the CHHA. An affidavit of no control has been implemented above LHC Group, Inc. whereby all entities and persons above LHC Group, Inc. will refrain from exercising control over the CHHA 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 OALTC Attachments A and B for the organizational chart pre- and post-transaction.

The applicant will continue to serve the residents of the following counties from an office at 346 Delaware Avenue, Buffalo, New York 14202:

- Allegany
- Chautauqua
- Erie

The applicant will continue to provide the following healthcare services:

- Baseline Services-CHHA
- Home Health Aide
- Medical Social Services
- Medical Supplies, Equipment and Appliances
- Nursing
- Nutritional
- Personal Care
- Therapy- Occupational
- Therapy- Physical
- Therapy- Speech Language Pathology

Character and Competence Review

The Board of Directors of LHC Group, Inc. is comprised of the following individuals:

Keith G. Myers (Chairman of the Board)

Employment

- Chief Executive Officer, Emeritus and Chairman of the Board, LHC Group, Inc. (September 2000 - Present)

Affiliations

(Please see OALTC Attachment C for the complete list of healthcare affiliations)

Joshua L. Proffitt (Secretary)

Employment

- Chief Executive Officer and Secretary, LHC Group, Inc. (September 2008 - Present)

Affiliations

(Please see OALTC Attachment C for the complete list of healthcare affiliations)

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

Facility Compliance/Enforcement

The affiliated entities listed on OALTC Attachment C are from states that did not respond to the applicant's request for a Schedule 2D; therefore, the applicant submitted a notarized affidavit attesting that the agencies in the OALTC Attachment C are currently licensed and in compliance with all applicable federal and state regulations.

The applicant disclosed that Southwest Missouri HomeCare, LLC d/b/a Access Home Health Agency, which is wholly owned by the LHC Group, Inc. was fined \$670,733 in civil monetary penalties for the period of July 2017 through November 2017 for deficiencies and citation for immediate jeopardy. The management decided to voluntarily terminate the agency's participation in the Medicare program, surrender the agency's license, and cease operations.

A review of the Personal Qualifying Information indicates that the applicants have the required character and competence to operate a Certified Home Health Agency.

CHHA Quality of Patient Care Star Ratings*	
CHHA Name	Quality of Care Rating
Western Region Health Corporation d/b/a Willcare	4.5 out of 5 stars

** CMS data as of January 15, 2025. New York average is 3 out of 5 stars and the National average is 3.5 out of 5 stars.*

Conclusion

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3606(2)(b).

Financial Analysis

Financial Summary

No project costs are associated with this application and there are no proposed changes to the operating budgets. Based on a review of the current operating performance the applicant has demonstrated the capability to proceed in a financially feasible manner.

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

Capability and Feasibility

BFA Attachment A is the 2021-2022 Financial Summary of United Health Group. As shown, the entity has maintained negative working capital, a positive net asset position, and a positive net operating income of \$17,732,000 and 20,639,000 as of December 31, 2021, and 2022, respectively.

BFA Attachment B shows United Health Group's Financial Summaries for the year ending December 31, 2023, and September 30, 2024. As shown, the entity has maintained negative working capital, positive net asset positions for both periods, a net income of \$23,747,000 for the period ending December 31, 2023, and a net operating income of \$13,436,000 for the period September 30, 2024.

Conclusion

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

Attachments

BFA Attachment A	Financial Summary of United Health Group, as of December 31, 2021, and 2022
BFA Attachment B	Financial Summary of United Health Group, as of December 31, 2023, and September 30, 2024
OALTC Attachment A	Pre-Closing Organizational Chart
OALTC Attachment B	Post-Closing Organizational Chart
OALTC Attachment C	Health Care Affiliations



Project # 231144-E

Litson Certified Care, Inc. d/b/a Willcare

Program: Certified Home Health Agency
Purpose: Establishment

County: Orange
Acknowledged: May 2, 2023

Executive Summary

Description

Litson Certified Care, Inc. d/b/a Willcare, an existing Certified Home Health Agency (CHHA), is seeking to establish UnitedHealth Group Incorporated (UHG) as the 3rd level, great grandparent of the CHHA.

LHC Group, Inc. (LHC), the indirect owner/parent corporation of Litson Certified Care, Inc. d/b/a Willcare, signed an Agreement and Plan of Merger on March 28, 2022, with UnitedHealth Group Incorporated, a Delaware corporation authorized to do business in New York State. Following the consummation of the merger, LHC became a direct, wholly owned subsidiary of UHG. UHG will not oversee, manage, or direct the operations of the CHHA, but rather serve in an entirely indirect ownership capacity.

Litson Certified Care Inc. serves Dutchess, Greene, Orange, Putnam, Sullivan, Ulster, and Westchester Counties and has a main office located at 700 Corporate Boulevard, Newburgh (Orange County). The services and operations of the agency will remain the same. All policies and procedures, staffing, and referral relationships will continue uninterrupted. The leases will not change.

OALTC Recommendation

Approval

Need Summary

The applicant projects a total of 43,700 visits in Year One and 45,448 visits in Year Three. This equates to a caseload of 2,539 patients in Year One and 2,641 in Year Three. The projected payor mix includes 64.1% Medicare, and 4% Medicaid, in Year One and Year Three of operations.

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3606(2)(b).

Financial Summary

There are no project costs associated with this application. As there were no changes to services or operations, a budget was not reviewed.

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Public Health Law §2802-B.

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

April 10, 2025

Need Analysis

Project Description

Litson Certified Care, Inc. d/b/a Willcare is seeking to establish UnitedHealth Group Incorporated (UHG) as the 3rd level, great grandparent of the CHHA. UHG has acquired one hundred percent of the stock of LHC Group, becoming the ultimate parent company of LHC and the CHHA. LHC remains an indirect parent entity of the CHHA and there are no plans to make any material changes in the facility's business operations or corporate structure.

This project is a change of ownership above the grandparent level and is not expected to have an impact on services or the counties served by the CHHA. They will continue to provide Baseline Services –CHHA, Home Health Aide, Medical Social Services, Medical Supplies Equipment and Appliances, Nursing, Therapy – Occupational, Therapy – Physical, and Therapy - Speech Language Pathology.

Background and Analysis

The address of the CHHA is 700 Corporate Boulevard, Newburgh, NY 12550 (Orange County). The service area includes Orange, Dutchess, Greene, Putnam, Sullivan, Ulster, and Westchester Counties. Demographics for the counties served are noted below.

Demographics	Orange County	Dutchess County	Greene County	Putnam County	Sullivan County	Ulster County	Westchester County
Total Population (2023 estimate)	403,840	297,144	47,554	97,988	79,147	182,109	996,888
Hispanic or Latino (of any race)	23.2%	14.9%	6.6%	19.1%	18.4%	11.8%	27.0%
White (non-Hispanic)	59.2%	67.2%	83.5%	72.4%	67.1%	73.5%	50.0%
Black or African American (non-Hispanic)	10.5%	9.4%	4.2%	3.0%	7.9%	5.7%	12.9%
Asian (non-Hispanic)	2.8%	3.4%	1.1%	2.3%	2.0%	2.0%	6.0%
Other (non-Hispanic)	4.3%	5.1%	4.6%	3.2%	4.6%	7.0%	4.1%

Source: 2023 American Community Survey (5-Year Estimates Data Profiles)

In 2022, the following counties had health coverage as follows:

	Orange County	Dutchess County	Greene County	Putnam County	Sullivan County	Ulster County	Westchester County
Total Health Coverage	95.1%	95.7%	96.5%	96.5%	94.4%	93.8%	95.1%
Employer Plans	49%	55.1%	44.9%	59.8%	39.4%	45.7%	56.1%
Medicaid	22.6%	13.3%	19.6%	10.1%	26.2%	19.5%	14.1%
Medicare	10.5%	13.8%	17.9%	14.2%	14.6%	15.8%	12.9%
Non-Group plans	11.7%	12.8%	12.2%	11.9%	13%	12%	11.6%
Military or VA	1.26%	0.651%	1.84%	0.39%	1.13%	0.858%	0.33%

Source: Data USA

The changes expected to the population of the service areas including the population of individuals aged 65 and older, which are most likely to use the services, are noted below.

County	Total Population & Change Expected by 2030	Current Population of Aged 65+	Population of Aged 65+ & Expected Change by 2030
Orange County	397,598 (1.5% decrease)	57,945	72,792 (25.6% increase)
Dutchess County	290,338 (2.3% decrease)	55,363	70,123 (26.7% increase)
Greene County	45,392 (4.5% decrease)	11,149	13,652 (22.5% increase)
Putnam County	100,199 (2.3% increase)	18,321	21,896 (19.5% increase)
Sullivan County	74,720 (5.6% decrease)	15,058	18,189 (20.8% increase)
Ulster County	176,893 (2.9% decrease)	37,807	45,436 (20.2% increase)
Westchester County	1,033,428 (4% increase)	176,628	223,887 (26.8% increase)

Source: Cornell Program on Applied Demographics and 2023 American Community Survey Estimates

The CHHA provides home health services to all eligible patients, regardless of socio-economic or health status, and has extensive experience in providing services to the elderly with chronic health conditions and accepts Medicaid patients.

Below is the applicant's projected payor mix.

Applicant Projected Payor Mix		
Payor	Year One	Year Three
Commercial	31.9%	31.9%
Medicare	64.1%	64.1%
Medicaid	0.4%	0.4%

There will be no change in services provided or service area covered. The table below represents projected visits only for the main provider and the branch offices.

Historical and Projected Patient Volume							
	2019	2020	2021	2022	2023	Year 1*	Year 3*
Patients	5,327	4,882	4,244	2,690	2,539	2,539	2,641
Visits	115,768	100,008	88,137	51,153	43,700	43,700	45,448
Visits/Patients	21.73	20.49	20.77	19.02	17.21	17.21	17.21

*Projected data

Source: Applicant

Conclusion

This transfer of ownership at the 3rd level great grandparent level will not result in any changes to the services being provided by the CHHA to the residents of Orange, Dutchess, Greene, Putnam, Sullivan, Ulster, and Westchester Counties.

Program Analysis

Project Proposal

Litson Certified Care, Inc. d/b/a Willcare, an existing Certified Home Health Agency (CHHA), is seeking to establish UnitedHealth Group Incorporated as the 3rd level, great grandparent of the CHHA.

UnitedHealth Group Incorporated is acquiring 100% of the stock of LHC Group, Inc., the current 2nd level great grandparent of the CHHA. An affidavit of no control has been implemented above LHC Group, Inc. whereby all entities and persons above LHC Group, Inc. will refrain from exercising control over the CHHA 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 OALTC Attachment A and B for the Pre- and Post Organizational Chart.

The applicant will continue to serve the residents of the following counties from an office at 700 Corporate Boulevard, Newburgh, New York 12550:

- Dutchess
- Greene
- Orange
- Putnam
- Sullivan
- Ulster
- Westchester

The applicant will continue to provide the following healthcare services:

- Baseline Services-CHHA
- Home Health Aide
- Medical Social Services
- Medical Supplies Equipment and Appliances
- Nursing
- Therapy- Occupational
- Therapy- Physical
- Therapy- Speech Language Pathology

Character and Competence Review

The Board of Directors of LHC Group, Inc. is comprised of the following individuals:

Keith G Myers (Chairman of the Board)

Employment

- Chief Executive Officer, Emeritus and Chairman of the Board, LHC Group, Inc. (September 2000 - Present)

Affiliations

(Please see OALTC Attachment C for the complete list of healthcare affiliations)

Joshua L. Proffitt (Secretary)

Employment

- Chief Executive Officer and Secretary, LHC Group, Inc. (September 2008 - Present)

Affiliations

(Please see OALTC Attachment C for the complete list of healthcare affiliations)

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

Facility Compliance/Enforcement

The affiliated entities listed on OALTC Attachment C are from states that did not respond to the applicant's request for a Schedule 2D; therefore, the applicant submitted a notarized affidavit attesting that the agencies in the OALTC Attachment C are currently licensed and in compliance with all applicable federal and state regulations.

The applicant disclosed that Southwest Missouri HomeCare, LLC d/b/a Access Home Health Agency, which is wholly owned by the LHC Group, Inc. was fined \$670,733 in civil monetary penalties for the period of July 2017 through November 2017 for deficiencies and citation for immediate jeopardy. The management decided to voluntarily terminate the agency's participation in the Medicare program, surrender the agency's license, and cease operations.

A review of the Personal Qualifying Information indicates that the applicants have the required character and competence to operate a Certified Home Health Agency.

CHHA Quality of Patient Care Star Ratings*	
CHHA Name	Quality of Care Rating
Litson Certified Care, Inc. d/b/a Willcare	4.5 out of 5 stars

**CMS data as of January 15, 2025. New York average is 3 out of 5 stars and the National average is 3.5 out of 5 stars.*

Conclusion

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3606(2)(b).

Financial Analysis

Financial Summary

No project costs are associated with this application and there are no proposed changes to the operating budgets. Based on a review of the current operating performance, the applicant has demonstrated the capability to proceed in a financially feasible manner.

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

Capability and Feasibility

BFA Attachment A is the 2021-2022 Certified Financial Statements of United Health Group. As shown, the entity has maintained negative working capital, a positive net asset position, and a positive net operating income of \$17,732,000 and \$20,639,000 as of December 31, 2021, and 2022, respectively.

BFA Attachment B shows United Health Group's Financial Summaries for the year ending December 31, 2023, and September 30, 2024. As shown, the entity has maintained negative working capital, positive net asset positions for both periods, a net income of \$23,747,000 for the period ending December 31, 2023, and a net operating income of \$13,436,000 for the period September 30, 2024.

Conclusion

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

Attachments

BFA Attachment A	Financial Summary of United Health Group, as of December 31, 2021, and 2022
BFA Attachment B	Financial Summary of United Health Group, as of December 31, 2023, and September 30, 2024
OALTC Attachment A	Pre-Closing Organizational Chart
OALTC Attachment B	Post-Closing Organizational Chart
OALTC Attachment C	Health Care Affiliations



Project # 231220-E

CLRNC Operating, LLC d/b/a Clinton County Nursing Home

Program: Residential Health Care Facility
Purpose: Establishment

County: Clinton
Acknowledged: June 8, 2023

Executive Summary

Description

CLRNC Operating, LLC, a New York limited liability company, requests approval to be established as the new operator of Clinton County Nursing Home (CCNH). CCNH is an 80-bed municipal corporation, Article 28 residential health care facility (RHCF) at 16 Flynn Avenue, Plattsburg (Clinton County). Upon approval, the facility will be named Clinton Rehabilitation and Nursing Center.

On February 7, 2023, the County of Clinton entered into an Operations Transfer and Surrender Agreement (OTA) with CLRNC Operating, LLC, which will assume the RHCF operations. On September 11, 2024, the parties to the Agreement executed an Amendment to OTA, eliminating the Stay Bonus under Section 2.5 (d). Concurrently, the County of Clinton entered into a Contract of Sale with CLRNC Realty LLC to sell and acquire the real property for \$5,500,000. On September 19, 2024, the parties to the Agreement executed an Amendment to the Contract of Sale, reducing the purchase price to \$2,000,000 under Section 2.1 (a). The applicant will lease the premises from CLRNC Realty, LLC through a non-arms-length agreement.

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

Current Operator

County of Clinton
(A Municipal Corporation)

Proposed Operator

CLRNC Operating, LLC

Members:

Lisa Kaplewicz*	50%
Israel Ostrovitsky	50%

* *Managing Member*

The applicant members are currently under review seeking approval to acquire the operating interest in Wells Nursing Home, Inc., a 100-bed RHCF with a 22-slot ADHCP in Fulton County (CON 232241).

OALTC Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services as a result of this application. As of February 5, 2025, the facility reported 88.4% occupancy of staffed beds and Clinton County had 95.7% occupancy of staffed beds.

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 project costs associated with this application. There is no purchase price for the operations. CLRNC Realty, LLC will purchase the real property for \$2,000,000, funded with \$500,000 in members' equity and a \$1,500,000 fixed-rate loan for 5 years with a 5-year option at 8% amortized over 25 years. The proposed budget is as follows:

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$7,089,117	\$7,474,612
Expenses:	<u>7,102,324</u>	<u>7,102,324</u>
Net Income:	(\$13,207)	\$372,288

Health Equity Impact Assessment

A Health Equity Impact Assessment was not required for this project under Public Health Law §2802-B, as it was received by the Department on May 5, 2023.

Recommendations

Long-Term Care Ombudsman Program

The LTCOP recommends Approval (See LTCOP Attachment A)

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 commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Submission of an executed building lease agreement acceptable to the Department of Health [BFA]
3. Submission of an executed real property 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 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

April 10, 2025

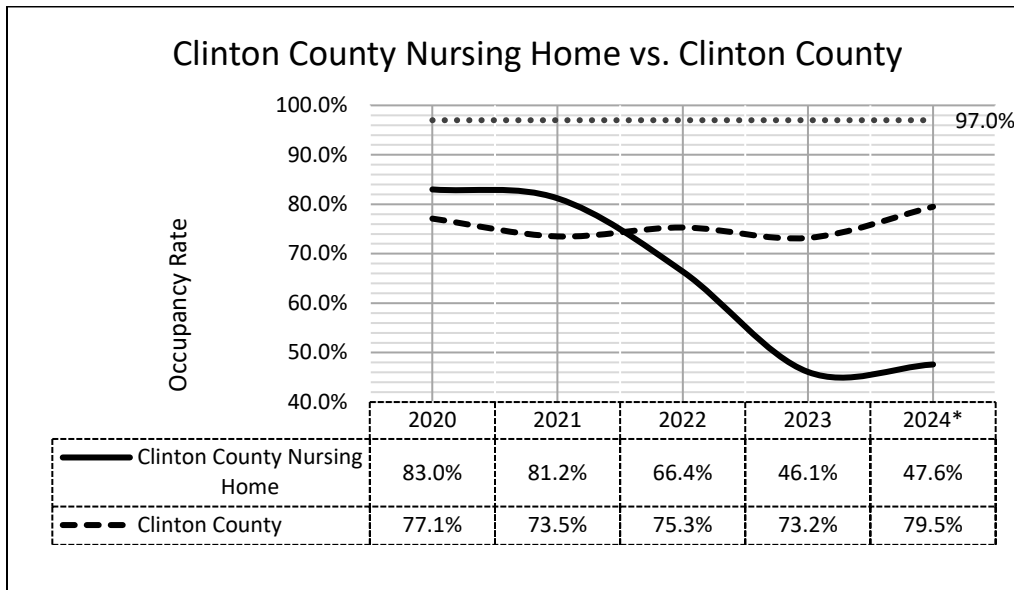
Need Analysis

Background and Analysis

The primary service area is Clinton County, which has a population projected to increase to 81,292 by 2030 based on Cornell Program of Applied Demographic estimates. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Clinton County	New York State
Total Population (2023 Estimate)	78,961	19,872,319
Hispanic or Latino (of any race)	3.4%	19.6%
White (non-Hispanic)	89.1%	53.4%
Black or African American (non-Hispanic)	2.90%	13.6%
Asian(non-Hispanic)	1.40%	8.8%
Other (non-Hispanic)	3.0%	4.6%

Source: ACS 5-Year Estimates Data Profiles



*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHCF cost reports.

Based on weekly census data, the facility reported that 53.8% of their 80 licensed beds are staffed and 47.5% occupied as of February 5, 2025, for an 88.4% occupancy of staffed beds. Clinton County had 82.2% of the county's 490 licensed beds staffed and 79.4% occupied for a 95.7% occupancy of staffed beds.

According to the applicant, the decrease in occupancy during 2022 and 2023 is due to the facility putting a hold on new admissions related to staffing issues and focusing on selling the facility. The applicant is planning to hire staff and begin taking new admissions. The new operator anticipates improvements in occupancy by improving the clinical care programs and increasing the overall level of care on an ongoing basis.

The table below shows the CMS Rating and the utilization of the closest RHCFs to Clinton County Nursing Home in New York State. The next three closest RHCFs are located in Vermont.

Facility Name	CMS Overall Rating	Number of Beds	Distance from other RHCFS	Occupancy			
	As of 1/2025		Miles/Time	2021	2022	2023	2024*
Clinton County Nursing	2	80	0 miles/0 mins	81.2%	66.4%	46.1%	47.6%
Plattsburgh Rehab	1	89	0.4 miles/1 min	76.9%	82.9%	89.1%	90.6%
Champlain Valley	4	34	2.3 miles/7 mins	60.6%	98.6%	98.6%*	98.1%
Meadowbrook Healthcare	1	287	2.5 miles/7 mins	72.7%	72.7%	75.8%	81.7%

Source: CMS and RHCf cost report

*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHCf's cost reports

The following table provides the Case Mix Index (CMI) for the facility and surrounding RHCFS, which reflects the relative resources predicted to provide care to a resident. The higher the case mix weight, the greater the resource requirement for the residents.

Case Mix Index	2021		2022		2023	
	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only
Clinton County Nursing	0.801	0.781	0.8152	0.8036	0.8345	0.82
Plattsburgh Rehab	1.354	1.27	1.315	1.4235	1.3332	1.3455
Champlain Valley	1.062	0.825	1.106	0.7739	1.2714	0.7597
Meadowbrook Healthcare	1.225	1.224	1.195	1.2457	1.2036	1.3879

Source: RHCf Cost Report

Medicaid Access

To ensure that the Residential Health Care Facility needs of the Medicaid population are met, 10 NYCRR §670.3 requires applicants to accept and admit a reasonable percentage of Medicaid residents in their service area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. This benchmark may be increased or decreased based on the following factors:

- the number of individuals within the planning area currently awaiting placement to a residential health care facility and the proportion of total individuals awaiting such placement that are Medicaid patients and/or alternate level of care patients in general hospitals.
- the proportion of the facility's total patient days that are Medicaid patient days and the length of time that the facility's patients who are admitted as private paying patients remain such before becoming Medicaid eligible;
- the proportion of the facility's admissions who are Medicare patients or patients whose services are paid for under provisions of the federal Veterans' Benefits Law;
- the facility's patient case mix based on the intensity of care required by the facility's patients or the extent to which the facility provides services to patients with unique or specialized needs;
- the financial impact on the facility due to an increase in Medicaid patient admissions.

An applicant will be required to make appropriate adjustments in its admission policies and practices to meet the resultant percentage. The facility's Medicaid admissions rate was above the threshold of 75% of the Clinton County rate for the years 2021 through 2023.

Medicaid Access	2021	2022	2023
Clinton County Total	19.7%	22.9%	33.3%
Clinton Threshold Value	14.8%	17.2%	25.0%
Clinton County Nursing Home	37.5%	70.8%	87.5%

Source: RHCf Cost Report

Conclusion

There will be no changes to beds or services as a result of this application. The facility reported 53.8% of its 80 licensed beds staffed and 47.5% occupied on February 5, 2025, for an 88.4% occupancy of staffed beds. Clinton County had 82.2% of the county's licensed beds staffed and 79.4% occupied for a 95.7% occupancy of staffed beds.

Program Analysis

Project Proposal

	Existing	Proposed
Facility Name	Clinton County Nursing Home	Clinton Rehabilitation and Nursing Center
Address	16 Flynn Avenue, Plattsburgh, New York 12901	Same
RHCF Capacity	80 beds	Same
ADHCP Capacity	N/A	N/A
Type of Operator	Municipal (County)	Limited Liability Company
Class of Operator	Public	Proprietary
Operator	County of Clinton	CLRNC Operating LLC <u>Membership:</u> Lisa Kaplewicz* 50% Israel Ostrovitsky 50% <i>*Managing Member</i>

Character and Competence

Israel Ostrovitsky lists employment as Controller at Personal Healthcare (PHC), a senior care management company, in Tarrytown, NY. Israel holds a bachelor's degree in accounting from Touro College and is a New York State licensed certified public accountant. Israel Ostrovitsky discloses the following healthcare facility ownership interest:

New York Nursing Home
Wells Nursing Home Inc (50%)

Pending

Lisa Kaplewicz lists employment as Corporate Director of Clinical Services at Personal Healthcare (PHC), a senior care management company, in Tarrytown, NY. In that role, Lisa also provides coverage as a Regional Nurse. Previously, Lisa was a Regional Nurse at Personal Healthcare and Director of Nursing Services at Tarrytown Hall Care Center, Tarrytown, NY. Lisa holds a master's degree in nursing from the University of Cincinnati and is a New York State licensed registered professional nurse. Lisa Kaplewicz discloses the following healthcare facility ownership interest:

New York Nursing Home
Wells Nursing Home Inc (50%)

Pending

A review was conducted to ensure that the applicants had adequate relevant experience. Lisa Kaplewicz has been the Corporate Director of Clinical Services at Personal Healthcare since September 2017 and oversees 21 facilities in that role. Previously, Lisa was Regional Nurse at Personal Healthcare from December 2011 to September 2017 and Director of Nursing Services at Tarrytown Hall Care Center from April 2006 to December 2011. Israel Ostrovitsky has been the Controller at Personal Healthcare since July 2012 and oversees 21 facilities in that role.

As per 10 NYCRR §600.2, regarding requisite experience, the applicant provided the following:

Lisa Kaplewicz, the Corporate Director of Clinical Services at Personal Healthcare (PHC) effectively manages the complex and overlapping responsibilities of overseeing 21 facilities, assuming increased duties as a Regional Nurse at times and will continue the strategies outlined below in handling the new challenges posed by the ownership of a financially struggling facility with a two-(2)-star CMS rating. Lisa Kaplewicz leverages data platforms like Point Click Care and Simple LTC to monitor, manage, and improve clinical operations across the 21 PHC facilities while balancing Regional Nurse duties when warranted and scheduling on-site visits. By focusing on real-time analytics, QAPI-driven initiatives, and

flexible in-person and virtual meetings, Lisa Kaplewicz ensures compliance, drives quality improvements, and facilitates the turnaround of the newly acquired facility.

As Controller, Israel Ostrovitsky is responsible for assisting with the business office operations of the above facilities, including collaborating with accounts receivable, accounts payable, payroll, and accounting departments, as well as reviewing reimbursement rates, analyzing financial statements, and dealing with financial institutions for loans and mortgages. These responsibilities do not include any involvement with clinical operations. Nevertheless, during his tenure, and through the use of standards of efficiency and coordination that Israel has put in place, a number of facilities that were economically troubled prior to the changes of ownership that brought them into the group of facilities with which Personal Healthcare is involved have stabilized, despite the severe challenges faced during COVID and generally given the rural/Upstate location of many of these facilities.

Quality Review

The proposed owners have been evaluated, in part, on the distribution of CMS Star ratings for their portfolios. For all proposed owners, the distribution of CMS star ratings for their facilities meets the standard described in state regulations.

CMS Star Rating Criteria					
		Duration of Ownership*			
		< 48 Months		48 months or more	
Proposed Owner	Total Nursing Homes	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating
Lisa Kaplewicz	0	0	N/A	0	N/A
Israel Ostrovitsky	0	0	N/A	0	N/A

*Duration of Ownership as of 4/10/2025

Data date: 01/2025

The proposed owners have disclosed they have no ownership interest in healthcare facilities. The following information is being presented for informational purposes related to the healthcare facilities in which the proposed owners have claimed experience as employees of Personal Healthcare LLC. The following information is not subject to star rating portfolio assessment under 10 NYCRR §600.2(b)(5)(iv).

New York. The proposed owners have experience with 18 facilities in New York. Six facilities have a CMS overall quality rating of average or higher. 12 facilities have a CMS overall quality rating of below average or much below average.

Dunkirk Rehab & Nursing Center and Salamanca Rehab & Nursing Center:

These facilities were acquired on January 1, 2023 by individuals with whom Lisa Kaplewicz is affiliated. Lisa covered as the Regional Nurse in the region where these facilities are for an extended period of time while the designated Regional Nurse was on a leave of absence.

Dunkirk's annual recertification survey was completed in December 2023, during the time Lisa Kaplewicz was covering for the Regional Nurse; the survey resulted in two (2) low-level scope/severity deficiencies (D Level). The Health Inspection domain continues to reflect deficiencies identified during the 2021 and 2022 annual inspection surveys, prior to acquisition by individuals with whom Lisa Kaplewicz is affiliated. The current Health Inspection rating reflects these deficiencies which are heavily weighted due to their scope and severity, despite improved survey outcomes under Lisa Kaplewicz's direct guidance. As described above, the Health Inspection rating significantly impacts the Overall star rating for the facility.

Salamanca's annual recertification survey was completed in September 2023 and resulted in five (5) low-level scope/severity deficiencies, two (2) of which were not related to Lisa Kaplewicz's involvement. One (1) deficiency was related to paper compliance and there were two (2) isolated clinical deficiencies that

resulted in no negative impact on the resident involved. The current Health Inspection rating of two (2) stars continues to reflect the health inspection surveys under the previous ownership. A full-time Nurse Practitioner was recently hired to collaborate with the clinical team and ensure the highest standards of care.

Delhi Rehab & Nursing Center:

This facility was acquired in January 2018 by individuals with whom Lisa Kaplewicz is affiliated. The facility is currently pending a health inspection survey; the last survey was on February 2, 2022. During Lisa Kaplewicz's period of involvement at Delhi, the facility recently hired a new Administrator with an excellent reputation who lives local to the facility. The new leadership is expected to significantly aid in the recruitment and retention of staff, addressing the challenges associated with being a very rural facility, and a favorable health inspection is anticipated.

Ghent Rehab & Nursing Center:

This facility was acquired in January 2020 by individuals with whom Lisa Kaplewicz is affiliated. The annual recertification survey was completed in September 2023 and resulted in low-level scope/severity deficiencies; three (3) of six (6) deficiencies were not related to clinical administration. Lisa Kaplewicz has helped to hire and train a new Regional Nurse to guide the facility and provide on-site quality assurance, risk assessment, and support to the Director of Nursing/clinical team. The Health Inspection rating has been significantly impacted by annual and complaint health inspection surveys that occurred during the tenure of leadership that are no longer present. In addition to the Regional Nurse, a new Administrator, Director of Nursing, Regional Nurse, Medical Director, and Nurse Practitioner have been hired.

Alpine Rehabilitation & Nursing Center:

This facility was acquired in July 2009 by individuals with whom Lisa Kaplewicz is affiliated. The facility recently hired a new Administrator who, in collaboration with the Director of Nursing and Regional Nurse, is utilizing standards and initiatives, similar to those implemented in Tarrytown, to improve the star ratings. The facility maintains favorable Health Inspection and Quality Measure ratings of three (3) stars. The new Administrator is focused on the recruitment and retention of staff, which is expected to result in a more favorable Staffing rating.

Auburn Rehab & Nursing Center:

This facility was acquired in February 2016 by individuals with whom Lisa Kaplewicz is affiliated. The facility's most recent survey was completed in February 2023 and resulted in six (6) low-level, isolated deficiencies that had no negative impact on residents. A new Director of Nursing with an excellent reputation was recently hired. With Lisa Kaplewicz's guidance, the Regional Nurse is working closely with the Director of Nursing to ensure the highest quality of care and services. The facility has implemented different strategies to mitigate healthcare personnel staffing shortages. The facility is predicted to increase its Quality Measures rating to two (2) by the end of the quarter. Lisa Kaplewicz continues to work with the Regional Nurse to address all Quality Measures categories in an effort to maintain the upward trend.

Gowanda Rehab & Nursing Center:

This facility was acquired in June 2018 by individuals with whom Lisa Kaplewicz is affiliated. The facility had a survey in July 2023 that resulted in a deficiency with IJ level scope and severity deficiencies. Since the IJ deficiency, there were two (2) complaint surveys that resulted in the complaints being unsubstantiated. The IJ deficiency continues to have significant implications on the current Health Inspection star rating and will continue to impact the facility despite improved outcomes. A new Director of Nursing was hired following the IJ in July 2023. The Regional Nurse is working closely with the Director of Nursing to address the issues that led to the IJ and to ensure the highest quality of care and services. Lisa Kaplewicz continues to work with the Regional Nurse to address all Quality Measures categories as well as healthcare personnel staffing shortages.

Highland Rehab & Nursing Center:

This facility was acquired in February 2013 by individuals with whom Lisa Kaplewicz is affiliated. The facility's most recent survey was completed in August 2023 and resulted in 10 low-level deficiencies that had no negative impact on residents. Five (5) of the deficiencies were paper compliance, two (2) were related to environment, two (2) were related to dietary services and one (1) was an isolated concern

related to one resident's treatment order. A new Administrator, Medical Director, and full-time Nurse Practitioner have been hired to collaborate with the clinical team and to ensure the highest standards and quality of care.

Massena Rehab & Nursing Center:

This facility was acquired in April 2019 by individuals with whom Lisa Kaplewicz is affiliated. The facility had a survey in June 2023 that resulted in two (2) deficiencies with G level scope and severity deficiencies. This was an isolated concern that continues to greatly impact the Health Inspections rating and Overall rating. Another survey was done in December 2023 and resulted in low-level deficiencies, with only one (1) of the deficiencies related to clinical administration. Massena is a rural facility, which presents inherent challenges in recruiting staff due to its location. To address these challenges, the facility has implemented aggressive measures, including partnering with a vendor to secure international nurses. Despite these efforts, the recruitment process remains difficult due to the limited local talent pool and the remote nature of the area.

Plattsburgh Rehab & Nursing Center:

This facility was acquired in January 2016 by individuals with whom Lisa Kaplewicz is affiliated. The facility is currently pending a survey; its most recent survey was completed in September 2021, which resulted in four low-level scope and severity deficiencies with no actual harm. A new position of Nurse Practitioner was recently established and filled and a new Medical Director was hired. These new hires are actively addressing quality measures with the clinical team. It is anticipated that these efforts will result in better survey outcomes.

Sodus Rehab & Nursing Center:

This facility was acquired in February 2016 by individuals with whom Lisa Kaplewicz is affiliated. The facility is currently pending a health inspection survey; the last annual recertification survey health inspection was on November 2, 2022. The facility had a survey on October 3, 2022 that resulted in a deficiency with IJ level scope and severity deficiencies. This was an isolated concern that continues to greatly impact the Health Inspection rating. A new Administrator, Director of Nursing, Medical Director, Nurse Practitioner, and Regional Nurse were hired subsequent to the last survey to work in collaboration with the clinical team to address issues in the facility that led to the IJ deficiency. It is anticipated that improvements made by these new hires will be reflected in the outcome of the pending survey.

Utica Rehabilitation & Nursing Center:

This facility was acquired in February 2015 by individuals with whom Lisa Kaplewicz is affiliated. The facility's most recent health inspection survey was in March 2023 and resulted in deficiencies with low-level scope and severity with no harm or negative impact on residents. Two (2) deficiencies were related to paper compliance, one (1) deficiency was related to the pest control program, three (3) deficiencies were related to the dietary department, and one (1) deficiency was related to the storage/labeling of medication for one (1) resident. A new Medical Director and attending physician have been hired to collaborate with the clinical team and to ensure the highest standards and quality of care. The facility maintains a favorable Quality Measure domain rating of three (3) stars.

Massachusetts. The proposed owners have experience with three facilities in Massachusetts. One facility has a CMS overall quality rating of average or higher. Two facilities have a CMS overall quality rating of below average or much below average.

Medford Rehabilitation & Nursing Center:

This facility was acquired in January 2012 by individuals with whom Lisa Kaplewicz is affiliated. Lisa Kaplewicz is working with the Regional Nurse and the Director of Nursing and will allocate time as needed for an on-site auditing/mock survey to prepare for future health inspection surveys, and to ensure continued improvements to maintain or increase the Quality Measures rating, currently at four (4) stars.

The Rehabilitation & Nursing Center at Everett:

This facility was acquired in January 2013 by individuals with whom Lisa Kaplewicz is affiliated. Lisa Kaplewicz is working with the Regional Nurse and is planning to allocate time for an on-site auditing/mock survey and to work on a plan to ensure the highest standards and quality of care; favorable outcomes are anticipated.

Facility	Corporate Director of Clinical Services/Controller Since*	Overall	Health Inspection	Quality Measure	Staffing
New York					
Clinton County Nursing Home	Subject Facility	**	**	**	****
Alpine Rehabilitation and Nursing Center	Current	**	**	***	***
	07/2012 (PHC acquired 07/2009)	***	***	*	****
Norwich Rehabilitation & Nursing Center	Current	***	****	***	*
	07/2012	**	**	****	***
Tarrytown Rehabilitation and Nursing Center	Current	***	***	****	***
	07/2012	****	****	****	**
Highland Rehabilitation and Nursing Center	Current	*	**	***	*
	02/2013	*	**	***	*
Plattsburgh Rehabilitation and Nursing Center	Current	*	**	***	*†
	01/2016	*	**	*	***
Utica Rehabilitation & Nursing Center	Current	*	*	****	**
	02/2015	**	*	**	****
Auburn Rehabilitation & Nursing Center	Current	*	*	**	**
	03/2016	**	*	***	****
Sodus Rehabilitation & Nursing Center	Current	*	*	*	***
	02/2016	***	***	****	***
Delhi Rehabilitation and Nursing Center	Current	*	*	**	**
	01/2018*	*	*	*	*
Yorktown Rehabilitation & Nursing Center	Current	***	***	****	***
	04/2018	*****	*****	*****	**
Gowanda Rehabilitation and Nursing Center	Current	*	*	****	***
	06/2018	*	**	****	*
Orchard Rehabilitation & Nursing Center	Current	****	***	*****	**
	06/2018	*	*	****	*
Massena Rehabilitation & Nursing Center	Current	*	*	**	*
	04/2019	*	*	*	****

Facility	Corporate Director of Clinical Services/Controller Since*	Overall	Health Inspection	Quality Measure	Staffing
Ghent Rehabilitation & Nursing Center	Current	*	*	***	***
	01/2020	*	*	****	***
Dunkirk Rehabilitation & Nursing Center	Current	**	*	*****	*****
	01/2023	**	*	*****	*
Eden Rehabilitation & Nursing Center	Current	*****	*****	**	****
	01/2023	****	****	***	**
Houghton Rehabilitation & Nursing Center	Current	**	**	**	***
	01/2023	**	***	***	*
Salamanca Rehabilitation & Nursing Center	Current	**	**	****	***
	01/2023	*	*	**	*
Massachusetts					
Cambridge Rehabilitation & Nursing Center	Current	****	****	***	***
	07/2012	**	**	**	***
Medford Rehabilitation and Nursing Center	Current	*	*	**	****
	07/2012	*	*	****	***
The Rehabilitation & Nursing Center at Everett	Current	**	**	***	****
	01/2013	**	*	****	****

Data Date: 01/2025

*Please Note: Lisa Kaplewicz and Israel Ostrovitsky serve as the Corporate Director of Clinical Services and Controller, respectively, not the operator, of these facilities and are not subject to star portfolio assessment under 10 NYCRR §600.2(b)(5)(iv).

*Newly built facility; data available starting 04/2019.

†This facility reported a high number of days without a registered nurse on site.

End-Dated Facilities					
Facility	Regional Nurse/Director of Nursing Services*	Overall	Health Inspection	Quality Measure	Staffing
New York					
End-Dated as Regional Nurse					
Tarrytown Hall Care Center	09/2017	****	****	****	***
	12/2011	***	***	****	***
Norwich Rehabilitation & Nursing Center	09/2017	**	**	**	***
	12/2011	****	***	*****	**

End-Dated Facilities					
Facility	Regional Nurse/Director of Nursing Services*	Overall	Health Inspection	Quality Measure	Staffing
Alpine Rehabilitation and Nursing Center	09/2017	**	**	**	***
	12/2011	**	**	**	**
End-Dated as Director of Nursing Services					
Tarrytown Hall Care Center	12/2011	***	***	****	***
	04/2006 (CMS ratings started 01/2009)	**	***	****	*

**Please Note: Lisa Kaplewicz served as the Regional Nurse/Director of Nursing Services, not the operator, of these End-Dated Facilities.*

Enforcement History

New York

A review of the operations of Tarrytown Hall Care Center for the time period indicated above, while Lisa Kaplewicz was the Regional Nurse/Director of Nursing Services reveals the following:

- The facility was assessed a federal CMP on 03/19/2007 under F309 (Quality of Care) at a G level.

A review of the operations of Tarrytown Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

A review of the operations of Alpine Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Regional Nurse/Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$650 on 07/19/2021 under F884 at an F level for failure to report COVID data.
- The facility was fined \$12,000 pursuant to Stipulation and Order NH-22-034 for surveillance findings on 05/29/2020. Deficiencies were found under 10 NYCRR §415.4(b)(2) – Staff Treatment of Residents and §415.12(h)(1) and (2) – Quality of Care, Accident-Free Environment. The facility failed to ensure that alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, are reported immediately to the Department of Health in accordance with §2803-d of the Public Health Law. In addition, the facility failed to ensure the resident environment remained as free of accident hazards as possible, and that each resident received adequate supervision to prevent accidents. The facility was also assessed a federal CMP of \$7,433 on 05/29/2020 under F689 at a G level.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-16-036 for surveillance findings on 03/06/2014. Deficiencies were found under 10 NYCRR §415.26 – Administration.

A review of the operations of Norwich Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Regional Nurse/Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$2,000 for surveillance findings on 12/03/2024. Deficiencies were found under 10 NYCRR 400.21(c) – Advance Directives. The facility failed to ensure compliance with the requirements of the law governing advance directives. The facility was also assessed a federal CMP of \$15,590.25 under F578 at a J level.
- The facility was assessed federal CMPs of \$4,938 on 02/20/2024, \$4,938 on 02/12/2024, \$4,938 on 01/08/2024, and \$4,587 on 01/02/2024, \$3,645 on 04/18/2022, \$3,314 on 02/14/2022, \$2,982 on 01/31/2022, \$2,620 on 12/20/2021 (offset to FL), \$2,293 on 08/30/2021 (offset to FI), \$1,965

on 08/09/2021, \$1,625 on 07/05/2021, \$1,300 on 05/17/2021, \$975 on 03/01/2021 and \$655 on 06/08/2020 under F884 at a F level for failure to report COVID data.

- The facility was assessed federal CMPs of \$14,813 (offset to FL) on 02/06/2024, 01/30/2024, and 01/22/2024 as well as \$13,410 on 12/26/2023, 12/18/2023, and 12/11/2023 under F884 at a F level for failure to report COVID data.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-21-159 for surveillance findings on 07/09/2021. Deficiencies were found under 10 NYCRR §400.2 – Other laws, codes, rules, and regulations and 415.19(a)(1) and (2) – Infection Control. The facility failed to maintain an infection control program by failing to implement and practice required hand hygiene upon interaction with residents (5 violations at \$2,000). The facility was also assessed a federal CMP of \$5,060 on 07/09/2021 under F880 at a D level.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-21-142 for surveillance findings on 12/21/2020. Deficiencies were found under 10 NYCRR §400.2 – Other laws, codes, rules, and regulations and 415.19(a)(1-2) – Infection Control and Governor's Executive Order 202.11.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-17-055 for surveillance findings on 09/12/2017. Deficiencies were found under 10 NYCRR §415.12 – Quality of Care. The facility was also assessed a federal CMP of \$7,023 on 09/12/2017 under F309 at a G level.

A review of the operations of Highland Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$658 on 01/17/2022 under F884 at an F level for failure to report COVID data.

A review of the operations of Plattsburgh Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$650 on 11/15/2021 under F884 at an F level for failure to report COVID data.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-17-014 for surveillance findings on 02/29/2016. Deficiencies were found under 10 NYCRR §415.12 – Quality of Care Highest Practicable Potential.

A review of the operations of Utica Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-23-072 for surveillance findings on 03/08/2023. Deficiencies were found under 10 NYCRR §415.19(b)(4) – Infection Control - Handwashing. The facility failed to establish and maintain an infection prevention and control program with regard to a resident's alleged treatment.
- The facility was assessed federal CMPs of \$1,300 on 07/05/2021, \$983 on 06/28/2021, and \$655 on 06/21/2021 under F884 at an F level for failure to report COVID data.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-21-232 for surveillance findings on 09/23/2021. Deficiencies were found under 10 NYCRR §415.19(a) – Infection Control. Specifically, a CNA reported feeling ill when self-screened at the beginning of their shift and was permitted to remain at the facility and provide care to residents. This CNA was observed on COVID-19 exposed, COVID-19 positive, and on COVID-19 negative units. This CNA tested positive for COVID-19 after an antigen test (point of care, rapid test) was completed four hours after beginning work.
- The facility was fined \$4,700 pursuant to Stipulation and Order NH-23-030 for surveillance findings for the period 12/10/2020 to 04/20/2021. Deficiencies were found under 10 NYCRR §415.19(f) – Infection Control. The facility failed to possess and maintain a 60-day supply of all necessary items of personal protective equipment (PPE) on ninety-four days during the period December 10, 2020 to April 20, 2021.

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-19-021 for surveillance findings on 12/21/2018. Deficiencies were found under 10 NYCRR §415.4(b)(1)(i) – Resident behavior and facility practices (staff treatment of residents). The facility was also assessed a federal CMP of \$115,388 on 12/21/2018 under F600 at a G level for failure to protect each resident from all types of abuse such as physical, mental, sexual abuse, physical punishment, and neglect by anybody.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-19-010 for surveillance findings on 09/18/2018. Deficiencies were found under 10 NYCRR §415.12(c)(2) – Quality of Care – Pressure Sores with Admission. The facility was also assessed a federal CMP of \$41,340 on 09/18/2018 under F686 at a G level for failure to provide appropriate pressure ulcer care and prevent new ulcers from developing.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-18-040 for surveillance findings on 07/18/2018. Deficiencies were found under 10 NYCRR §415.12(h)(2) – Quality of Care – Accident-Free Environment. The facility was also assessed a federal CMP of \$13,150 on 07/18/2018 under F689 at a G level.
- The facility was fined \$6,000 pursuant to Stipulation and Order NH-18-001 for surveillance findings on 06/30/2017, 12/21/2016, and 03/25/2016. Deficiencies were found under 10 NYCRR §415.4(b)(3) – Resident behavior and facility practices (staff treatment of residents/investigate violations). The facility was also assessed a federal CMP of \$11,732 on 06/30/2017 under F490 at a K level for failure to make sure that the facility is administered in an acceptable way that maintains the well-being of each resident as well as under F323 at a K level for failure to ensure that a nursing home area is free from accident hazards and provide adequate supervision to prevent avoidable accidents.
- The facility was assessed a federal CMP on 03/25/2016 under F314 at a G level for failure to give residents proper treatment to prevent new bed (pressure) sores or heal existing bed sores.

A review of the operations of Auburn Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$17,000 pursuant to Stipulation and Order NH-22-107 for surveillance findings on 04/28/2022. Deficiencies were found under 10 NYCRR §2.61 – Prevention of COVID-19 transmission by covered entities and 415.19 – Infection Control. Specifically, the facility permitted CNA #16, who is not fully vaccinated against COVID-19, to work sixteen days. TNA #17, likewise not fully vaccinated, was observed working at the facility and in proximity to residents on 04/28/2022.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-19-081 for surveillance findings on 06/05/2019. Deficiencies were found under 10 NYCRR §415.12(k)(6) – Quality of Care, Special Needs (Respiratory Care). The facility was also assessed a federal CMP of \$7,036 on 06/05/2019 under F695 at a G level.

A review of the operations of Sodus Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-23-027 for surveillance findings on 10/03/2022. Deficiencies were found under 10 NYCRR §415.4(b)(1)(i) – Resident behavior and facility practices (staff treatment of residents). Specifically, the facility failed to protect each resident from physical abuse in that it failed to appropriately and timely: investigate and report a report of abuse; and remove abusive staff from assignments. The facility was also assessed a federal CMP of \$76,128 on 10/03/2022 under F600 at a K level for failure to protect each resident from all types of abuse such as physical, mental, sexual abuse, physical punishment, and neglect by anybody.
- The facility was assessed a federal CMP of \$650 on 06/21/2021 under F884 at an F level for failure to report COVID data.
- The facility was fined \$8,000 pursuant to Stipulation and Order NH-21-099 for surveillance findings on 06/17/2020. Deficiencies were found under Executive Order 202.18. Specifically, the facility failed to notify family members or next of kin within 24 hours when staff were diagnosed with COVID-19.

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-20-073 for surveillance findings on 09/23/2020. Deficiencies were found under 10 NYCRR §415.19(a)(3) Infection Control.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-19-036 for surveillance findings on 03/14/2019. Deficiencies were found under 10 NYCRR §415.12(c)(1) Quality of Care – Pressure Sores – Prevention. The facility was also assessed a federal CMP on 03/14/2019 (in conjunction with the 02/15/2019 CMP) under F686 at a G level for failure to provide appropriate pressure ulcer care and prevent new ulcers from developing.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-19-041 for surveillance findings on 02/15/2019. Deficiencies were found under 10 NYCRR §415.12 Quality of Care. The facility was also assessed a federal CMP of \$57,885 on 02/15/2019 under F684 at a G level for failure to provide appropriate treatment and care according to orders, residents' preferences, and goals.

A review of the operations of Delhi Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$9,750 on 01/07/2022 for multiple deficiencies including failure to provide and implement an infection prevention and control program under F880 at a D level.
- The facility was fined \$16,000 pursuant to Stipulation and Order NH-21-156 for surveillance findings on 12/12/2021 and 12/11/2020. Deficiencies were found under 10 NYCRR §415.19(a)(1) and (2) Infection Control. The facility failed to maintain an infection control program by failing to enforce PPE and hand hygiene requirements for entering and exiting "droplet precaution" areas of the facility and by failing to enforce required PPE use (N95 Mask) while performing staff testing.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-20-015 for surveillance findings on 09/18/2019. Deficiencies were found under 10 NYCRR §415.12 Quality of Care – Highest Practicable Potential. The facility was also assessed a federal CMP of \$47,554 on 09/18/2019 under F684 at a G level.

A review of the operations of Yorktown Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

A review of the operations of Gowanda Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-24-025 for surveillance findings on 07/25/2023. Deficiencies were found under 10 NYCRR §415.12(h)(2) – Quality of Care. The facility failed to provide adequate supervision to prevent accidents. Specifically, the facility failed to properly supervise a resident with a history of unsafe wandering. As a result, the resident had eight (8) documented falls from 03/04/2023 to 07/21/2023. Changes to the plan have been ineffective. The facility was also assessed a federal CMP of \$61,162 on 07/25/2023 under F689 at a J level.
- The facility was fined \$6,000 pursuant to Stipulation and Order NH-21-152 for surveillance findings on 12/04/2020. Deficiencies were found under 10 NYCRR §415.19(a)(1) – Infection Control and 10 NYCRR 400.2 – Other Laws, Codes, Rules and Regulations. The facility failed to obtain COVID-19 specimen results within 48 hours for three staff members and failed to document facility efforts to obtain the delayed COVID-19 specimen results (3 citations at \$2,000/each).
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-19-044 for surveillance findings on 06/26/2019. Deficiencies were found under 10 NYCRR §415.4(b)(1)(i) – Abuse. The facility failed to prevent verbal, mental, sexual, or physical abuse, including corporal punishment, or involuntary seclusion of residents. The facility was also assessed a federal CMP of \$7,036 on 06/26/2019 under F600 at a G level.

A review of the operations of Orchard Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$22,000 pursuant to Stipulation and Order NH-21-089 for surveillance findings on 02/02/2021. Deficiencies were found under 10 NYCRR §415.19(a)(1) and (2) Infection Control. The facility failed to maintain an infection control program by allowing employees to work shifts at the facility in excess of 12 hours who were not screened for COVID-19 and the facility also failed to observe transmission-based precautions by failing to change PPE following interactions with COVID positive residents.

A review of the operations of Massena Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed federal CMPs of \$14,813 (Offset to FL) on 02/12/2024, 02/06/2024 and 01/30/2024, \$13,636 on 01/02/2024, 12/26/2023 and 12/18/2023 as well as \$5,292 (Offset to FI) on 05/15/2023, 05/08/2023 and 05/02/2023 under F884 at a F level for failure to report COVID data.
- The facility was assessed federal CMPs of \$4,938 on 01/08/2024, \$4,235 on 06/26/2023, \$3,882 (Offset to FL) on 06/20/2023, \$3,529 on 06/12/2023, \$3,176 on 06/05/2023, \$2,823 on 05/30/2023, \$2,470 on 05/23/2023, \$987 on 03/28/2022 and \$650 on 07/13/2020 under F884 at a F level for failure to report COVID data.
- The facility was fined \$20,000 pursuant to Stipulation and Order NH-23-098 for surveillance findings on 06/28/2023. Deficiencies were found under 10 NYCRR §415.12 Quality of Care and 10 NYCRR §415.12(c)(2) Quality of Care – Pressure Sores. Specifically, the facility failed to ensure a resident with a diabetic ulcer wound received treatment and care in accordance with professional standards of practice. The resident developed an osteomyelitis infection in the foot bone that worsened requiring hospitalization and was considered for possible amputation of the foot. In addition, the facility failed to ensure two residents with pressure ulcers on the feet received treatment and care in accordance with professional standards of practice. One resident's injuries worsened requiring hospitalization for osteomyelitis infection in the bone on both feet. Another resident's injuries worsened to coccyx pressure ulcers and deep tissue injuries. The facility was also assessed a federal CMP of \$46,742 on 06/28/2023 under F684 at a G level and F686 at a G level.
- The facility was fined \$4,000 pursuant to Stipulation and Order NH-21-102 for surveillance findings on 01/21/2021. Deficiencies were found under 10 NYCRR §415.19(b)(4) Infection Control – Hand Hygiene. The facility failed to ensure staff members performed hand hygiene before and after all resident contact, and before putting on and after removing PPE.

A review of the operations of Ghent Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$20,000 pursuant to Stipulation and Order NH-24-055 for surveillance findings on 10/27/2022. Deficiencies were found under 10 NYCRR §415.12(c)(1) Quality of Care – Pressure Ulcers and §415.12(m)(2) Quality of Care – No Significant Medication Errors. For §415.12(c)(1), the facility failed to ensure that a resident who was admitted with an open wound was not properly monitored or treated. Shortly after admission, the resident developed a new wound that was likewise not monitored or treated. These failures resulted in the resident expiring from septic shock. For §415.12(m)(2), the facility failed to ensure that a resident received prescribed medication to prevent blood clots. This failure resulted in the resident suffering a stroke, which resulted in actual harm to the resident. The facility was also assessed a federal CMP of \$67,746 on 10/27/2022 under F686 at a G level and F760 at a G level. The facility failed to provide appropriate pressure ulcer care and prevent new ulcers from developing and failed to ensure that residents are free from significant medication errors.
- The facility was assessed federal CMPs of \$3,289 on 02/28/2022, \$2,960 on 01/24/2022, \$2,621 on 08/30/2021, \$2,293 on 08/23/2021, \$1,950 on 08/16/2021, \$1,625 on 06/21/2021, \$1,300 on 03/01/2021, \$983 on 02/22/2021 and \$655 on 01/25/2021 for failure to report COVID data under F884 at a F level.

- The facility was fined \$10,000 pursuant to Stipulation and Order NH-21-131 for surveillance findings on 02/16/2021. Deficiencies were found under 10 NYCRR §415.12(h)(1) & (2) Quality of Care – Accident-Free Environment. The facility failed to ensure the resident environment remains as free of accident hazards as possible and that each resident receives adequate supervision and assistive devices to prevent accidents. Specifically, the facility failed to protect a resident from serious injury when it failed to properly assess the resident's risk of elopement, and, when it failed to ensure that door alarms, which could have alerted staff when opened, were on and working properly. As a result, the resident was able to exit the facility undetected and was later found with hypothermia from the prolonged exposure to freezing temperatures. The facility was also assessed a federal CMP of \$7,345 on 02/16/2021 under F689 at a G level.

A review of the operations of Dunkirk Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

A review of the operations of Eden Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

A review of the operations of Houghton Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$111,200 on 10/27/2024 under F600 at a G level for failure to protect each resident from all types of abuse such as physical, mental, sexual abuse, physical punishment, and neglect by anybody.

A review of the operations of Salamanca Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

Massachusetts

A review of the operations of Cambridge Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$3,250 on 04/07/2022. The facility failed to provide and implement an infection prevention and control program under F880 at a D level.
- The facility was assessed federal CMPs of \$3,645 on 01/24/2022, \$3,276 on 09/20/2021, \$2,948 on 08/30/2021, \$2,621 on 08/23/2021, \$2,293 on 08/16/2021, \$1,965 on 08/09/2021, \$1,625 on 08/02/2021, \$1,310 on 07/26/2021, \$975 on 07/19/2021 and \$655 on 04/19/2021 for failure to report COVID data under F884 at a F level.

A review of the operations of Medford Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$15,593 on 05/25/2023 for multiple deficiencies including the following: The facility failed to create and put into place a plan for meeting the resident's most immediate needs within 48 hours of being admitted under F655 at a G level; provide appropriate treatment and care according to orders, resident preferences and goals under F684 at a G level; ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents under F689 at a G level.
- The facility received a federal citation on 11/16/2022 for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents under F689 at a G level.
- The facility was assessed a federal CMP of \$9,770 on 10/12/2022 for multiple deficiencies including the facility's failure to provide appropriate treatment and care according to orders, resident's preferences, and goals under F684 at a D level.

- The facility was assessed a federal CMP of \$79,248 on 07/05/2022 for multiple deficiencies. The facility failed to ensure services provided by the nursing facility meet professional standards of quality under F658 at a J level; provide basic life support, including CPR, prior to the arrival of emergency medical personnel, subject to physician orders and resident's advance directives under F678 at a J level; provide safe, appropriate pain management for a resident who requires such services under F697 at a G level.
- The facility was assessed a federal CMP of \$9,750 on 02/03/2022. The facility failed to provide and implement an infection prevention and control program under F880 at an E level.
- The facility was assessed a federal CMP of \$95,498 and \$15,343 on 04/27/2021 for multiple deficiencies including the facility's failure to provide appropriate treatment and care according to orders, resident's preferences, and goals under F684 at a G level.

A review of the operations of The Rehabilitation & Nursing Center at Everett for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$34,886 and a payment denial on 08/11/2022. The facility failed to honor the resident's right to a safe, clean, comfortable, and homelike environment, including but not limited to receiving treatment and support for daily living safely under F584 at an F level.

Additional Information

Staffing and Occupancy

The applicants were asked to explain how they plan to retain current county nursing home staff members, as well as, recruit new nursing home staff members after the transaction closes. In addition, the applicants were asked to explain how they plan to increase occupancy since it is currently operating at approximately 50% capacity.

Retaining current county nursing home staff members. Using their experience in other facilities that have been successful in retaining and hiring staff, the members of the applicant plan to establish a good rapport with staff, embracing staff as part of the team and offering ongoing educational opportunities, as well as providing competitive payment packages.

Recruiting new nursing home staff members. The applicants will access employee referral programs and will utilize social media advertisements and online job placement sites. By offering hiring bonus incentives, ongoing educational opportunities, and a competitive benefits package, the members will use their experience in other facilities that have been successful in hiring and retaining staff. Clinton County Nursing Home is located in Plattsburgh, about 30 minutes south of the Canadian border. In the urban setting of Plattsburgh, there are opportunities for direct care worker training, including a Certified Nurse Aide (CNA) training program provided by the County, as well as CNA training provided by Plattsburgh Rehabilitation & Nursing Center, a facility that is in close proximity to Clinton County Nursing Home. Plattsburgh Rehabilitation & Nursing Center became part of the Personal Healthcare (PHC) network of facilities in 2016, a network that the members of the applicant are affiliated with. Being part of the same network will facilitate coordination between the two facilities for staffing and other operational efficiencies. In addition, the applicants are familiar with the community and are known in the community. The applicants plan to utilize existing hospital relationships and will hire marketing personnel to establish new hospital relationships and conduct community outreach, targeting CNA training programs to encourage entry-level candidates to complement existing, experienced staff.

Increase nursing home occupancy. The applicants state the County put a hold on all new admissions due in part to the facility's staffing levels. The applicants plan to immediately increase staffing and open the facility for new admissions. In addition, the applicants will utilize existing hospital relationships and will hire marketing personnel to establish new hospital relationships and conduct community outreach.

Conclusion

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

Financial Analysis

Operating Budget

The applicant has provided the current year (2023) results and the first- and third-year operating budgets after the change in ownership, in 2025 dollars, summarized as follows:

	<u>Current Year</u>		<u>First Year</u>		<u>Third Year</u>	
Revenues	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
Medicaid-FFS	\$199.63	\$2,569,599	\$174.43	\$3,180,204	\$174.43	\$3,356,877
Medicaid-MC	\$185.71	6,500	\$174.46	257,853	\$174.47	272,177
Medicare-FFS	\$706.10	14,122	\$625.02	1,945,069	\$625.00	2,053,125
Commercial-FFS		0	\$350.13	363,080	\$350.00	383,250
Private	\$355.87	185,766	\$379.93	919,802	\$380.00	970,900
Other*		285,394		150,000		150,000
Assessment		<u>0</u>		<u>273,109</u>		<u>288,283</u>
Total Revenues		\$3,061,381		\$7,089,117		\$7,474,612
<u>Expenses</u>						
Operating	\$546.98	\$7,356,365	\$241.71	\$6,352,132	\$228.99	\$6,352,132
Capital	<u>\$10.60</u>	<u>142,561</u>	<u>\$28.55</u>	<u>750,192</u>	<u>\$27.04</u>	<u>750,192</u>
Total Expenses	\$557.58	\$7,498,926	\$270.26	\$7,102,324	\$256.03	\$7,102,324
Net Income (Loss)		<u>(\$4,437,545)</u>		<u>(\$13,207)</u>		<u>\$372,288</u>
RHCF Patient Day		13,449		26,280		27,740
RHCF Utilization %		46.06%		90%		95%

*Other revenue \$150,000: Medicare revenue for therapy services that is not included in the Medicare rate.

The following is noted concerning the submitted RHCF operating budget:

- The current year reflects the facility's 2023 revenues and expenses.
- Medicaid revenue is based on the Department of Health's 2023 Regional Pricing Rate Sheets. Medicaid Managed Care rates are the same as the Fee-For-Service since they have not been negotiated yet.
- Clinton County Nursing Home typically receives Medicare revenue based on Medicare-eligible days resulting from residents' return from an acute hospital stay. The new operator plans to provide additional subacute services, resulting in more high-acuity, short-term residents.
- The new operator plans to accept Commercial Insurance and its projections are based on experience in other facilities.
- Current Year staffing is based on 2023 staffing levels. Years One and Three staffing is based on the anticipated increase in utilization and services. The applicant members have increased census at their other facilities post-acquisition.
- Expenses are based on 2023 operating expenses, adjusted for inflation, utilization, staffing, wages, operational efficiencies, and rent.
- The projected percentage of direct care staffing costs to projected facility revenues is 51.07% in Year One and 48.44% in Year Three, exceeding the 40% requirement in Public Health Law §2808.
- The percentage of direct resident care costs to projected facility revenue is 74.93% in Year One and 71.06% in Year Three, exceeding the 70% requirement in Public Health Law §2808.
- The facility's projected profit percentage is forecasted to be a loss of 0.19% in Year One and 4.98% profit in Year Three, less than the 5% maximum outlined in Public Health Law §2808.
- According to the applicant, the decrease in occupancy is due to the facility putting a hold on new admissions related to staffing issues and focusing on selling the facility. The applicant plans to hire staff and begin taking new admissions soon.
- The increase in Medicare days is based on the proposed new operator's plan to provide additional subacute services to the community, resulting in more high-acuity, short-term residents. They also plan on accepting Commercial Insurance.

- The applicant members have increased census at their other facilities post-acquisition.

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

<u>Payor</u>	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
Medicaid FFS	12,872	95.71%	18,232	69.38%	19,245	69.38%
Medicaid MC	35	0.26%	1,478	5.62%	1,560	5.62%
Medicare FFS	20	0.15%	3,112	11.84%	3,285	11.84%
Commercial FFS	0	0%	1,037	3.95%	1,095	3.95%
Private Pay	<u>522</u>	<u>3.88%</u>	<u>2,421</u>	<u>9.21%</u>	<u>2,555</u>	<u>9.21%</u>
Total	13,449	100%	26,280	100%	27,740	100%

- The facility's Medicaid admissions of 37.5% in 2021, 70.8% in 2022, and 87.5% in 2023 were above Clinton County's 75% threshold rate of 14.8% in 2021, 17.2% in 2022, and 25% in 2023.
- The breakeven utilization is projected at 95% in Year Three.

Operations Transfer and Surrender Agreement (OTA)

The applicant submitted an executed OTA to assume the operations associated with the RHCF, which will become effective upon PHHPC approval. The OTA was amended to eliminate the "Stay Bonus" that would have paid the transferor \$275,000 or \$200,000 if 70% or 60%, respectively, of the staff equivalent remained employed at closing. The final terms are summarized below:

Date:	February 7, 2023. Amended September 11, 2024
Transferor:	County of Clinton
Transferee:	CLRNC Operating, LLC
Asset Transferred:	Rights, title, and interest in the assets used in the operations. Includes furniture and equipment, computers, vehicles, parts, inventory, assumed contracts, manuals, owned software, telephone and facsimile numbers, books, records, permits, trust property, Goodwill, Medicare and Medicaid provider agreements, and third-party payor programs.
Excluded Assets:	Cash, marketable securities, grant awards, rate adjustments, accounts receivable, third-party payments, and intergovernmental transfer payments.
Assumption of Liabilities:	It is related to the period after closing.
Excluded Liabilities:	Any liability before the closing date
Purchase Price	None

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 surcharges, assessments or fees due from the transferor under Article 28 of the Public Health Law concerning the period before the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of November 27, 2024, the facility had no outstanding Medicaid liabilities.

Amendment to Contract of Sale

The applicant has submitted an executed amendment contract of sale for the RHCF's realty. The terms are summarized below: The Amendment reduced the purchase price from \$5,500,000 to \$2,000,000.

Date:	September 19, 2024.
Seller:	County of Clinton
Purchaser:	CLRNC Realty, LLC.
Asset Transferred:	Real Property and Other Property (fixtures and improvements) located at 16 Flynn Avenue, Plattsburgh, New York 12901
Excluded Assets	All assets transferred via OTA, 2019 Ford Super Duty F350, and 2007 John Deere 1128DE.
Purchase Price:	\$2,000,000
Payment of Purchase Price:	\$ 550,000 deposit at signing \$ 1,450,000 Balance due at Closing

The purchase price of the real property is proposed to be satisfied as follows:

Equity – CLRNC Realty, LLC	\$ 500,000
Loan – (5) five-year fixed rate with a 5-year option, 8%, 25-year amortization	<u>1,500,000</u>
Total	<u>\$2,000,000</u>

CIBC Bank USA has provided a letter of interest.

BFA Attachment A-2 shows CLRNC Realty, LLC members' net worth, which reveals sufficient resources to meet the equity requirement. There are adequate liquid resources to fund a balloon payment should acceptable financing not be available during refinancing. Ephraim Zagelbaum has provided an affidavit stating, the willingness to contribute resources disproportionate to ownership interest to cover any equity shortfall.

Lease Agreement

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

Premises:	An 80-bed RHCF located at 16 Flynn Avenue, Plattsburg, New York, 12901.
Landlord:	CLRNC Realty, LLC
Lessee:	CLRNC Operating, LLC
Term:	Ten Years - Automatically extends for twenty (20) one (1) year renewals.
Rent:	\$610,000 annual rent
Provisions:	Triple Net

The applicant attested that the lease arrangement is a non-arms-length agreement. The applicant has submitted two letters from New York Licensed Real Estate Brokers attesting that the lease cost is at fair market value.

Capability and Feasibility

There are no project costs associated with this application and no purchase price for the operations. CLRNC Realty, LLC will purchase the real property for \$2,000,000, funded with \$500,000 in members' equity and a \$1,500,000 fixed-rate loan for 5 years with a 5-year option at 8% amortized over 25 years. CIBC Bank USA has provided a letter of interest. CLRNC Realty, LLC members' net worth reveals sufficient resources to fund a balloon payment should acceptable financing not be available during refinancing.

The working capital requirement is estimated at \$1,183,721 based on two months of first-year expenses and will be funded with ongoing operations and members' equity where required. The total equity requirements for this project (CON 231220) and Wells Nursing Home (CON 232241) is \$2,823,568. Lisa Kaplewicz and Israel Ostrovitsky will use short-liquid resources to cover the working capital on both

projects, which are estimated to be \$1,370,751 and \$1,183,721, respectively. Lisa Kaplewicz has a letter of interest from Ephraim Zagelbaum for a \$1,500,000 loan, and Israel Ostrovitsky has a letter of interest from Alex Barth for a \$1,500,000 loan. Both loans are for ten years at a 5% interest rate (no repayment during the first three years).

The budget projects a (\$13,207) net loss in Year One and a net income of \$372,288 in Year Three. Revenues in Year One are expected to increase by \$4,027,736 as projected utilization climbs from 46.06% to 90%. Overall expenses are projected to decrease by \$396,602 in Year One, primarily from a \$1,543,342 reduction in employee benefits, offset by an increase in salaries and wages of \$326,887, \$610,000 in rent expenses, and a \$209,853 other net increases. BFA Attachment B is CLRNC Operating, LLC's pro forma balance sheet, which shows the entity will start with \$1,196,928 in members' equity on the first day of operations.

BFA Attachment C is Clinton County Nursing Home's financial summary for 2020 through 2023. During this time, the RHCF had average negative net assets, and average positive working capital, and suffered an average operating loss.

Conclusion

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

Attachments

LTCOP Attachment	Long-Term Care Ombudsman Program Recommendation
BHFP Attachment	Map
BFA Attachment A-1	Members' Net Worth of CLRNC Operating, LLC
BFA Attachment A-2	Members' Net Worth of CLRNC Realty, LLC
BFA Attachment B	Pro Forma Balance Sheet, CLRNC Operating, LLC
BFA Attachment C	Financial Summary Clinton County Nursing Home 2020-2023
BFA Attachment D	Real Property Organizational Chart



Project # 232241-E

WRNC Operating LLC d/b/a

Wells Rehabilitation and Nursing Center

Program: Residential Health Care Facility

County: Fulton

Purpose: Establishment

Acknowledged: February 7, 2024

Executive Summary

Description

WRNC Operating LLC d/b/a Wells Rehabilitation and Nursing Center, a New York limited liability company, requests approval to be established as the new operator of Wells Nursing Home, a 100-bed, voluntary not-for-profit corporation, Article 28 residential health care facility (RHCF) with a 22-slot Adult Day Health Care Program (ADHCP) at 201 West Madison Avenue, Johnstown (Fulton County). Upon approval, the facility will be renamed Wells Rehabilitation and Nursing Center.

Wells Nursing Home Inc., a New York State not-for-profit corporation is the current operator of the facility and the current real property owner. On May 17, 2023, Wells Nursing Home, Inc. entered into an Operations Transfer and Privatization Agreement (OTPA) with WRNC Operating, LLC for the acquisition of the RHCF's operations and certain other assets with no purchase price for the acquisition of operations. Concurrently, on May 17, 2023, Wells Nursing Home, Inc. and WRNC Realty, LLC entered into a Contract of Sale (COS) for the sale and acquisition of the RHCF's real estate for a purchase price of \$7,000,000. The applicant will lease the premises from WRNC Realty, LLC through a non-arms-length agreement.

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

Current Operator

Wells Nursing Home Inc.
(Not-for-Profit Corporation)

Proposed Operator

WRNC Operating LLC. d/b/a Wells Rehabilitation and Nursing Center

Members:

Israel Ostrovitsky	50.0%
Lisa Kaplewicz*	50.0%

**Managing Member of the facility.*

Concurrently under review, the applicant members are seeking approval to acquire the operating interest in Clinton County Nursing Home, an 80-bed, municipal corporation Article 28 RHCF located in Clinton County (CON 231220).

OALTC Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services as a result of this application. As of February 5, 2025, the facility reported 97.8% occupancy of staffed beds and Fulton County reported 95.4% occupancy of staffed beds.

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 project costs associated with this application and no costs associated with the acquisition of RHCF's operations. The purchase price for the real estate of \$7,000,000 will be funded with equity of \$1,750,000 from the proposed realty members and a loan of \$5,250,000 at 8.5% interest for a five-year term and a payout period of 25 years. CIBC Bank has provided a letter of interest for the respective loan at the stated terms. Ephraim Zagelbaum

submitted an affidavit indicating willingness to cover the balloon payment if re-financing is not available after the five-year term.

The proposed budget is as follows:

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$10,032,629	\$10,032,629
Expenses	<u>10,005,837</u>	<u>10,005,837</u>
Net Income	\$26,792	\$26,792

Health Equity Impact Assessment.

This project does not meet the requirements for a Health Equity Impact Assessment under Public Health Law §2802-B.

Recommendations

Long-Term Care Ombudsman Program

The LTCOP recommends Approval. (See LTCOP Attachment A)

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 two rent reasonable letters from New York State realtors acceptable to the Department of Health. [BFA]
2. Submission of an executed real property loan commitment acceptable to the Department of Health. [BFA]
3. Submission of an executed working capital loan commitment acceptable to the Department of Health. [BFA]
4. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]

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]
2. The proposed operator must provide notification to The Department of Health of any obligations arising from business transactions with persons acting as employees of or owners of Personal Healthcare LLC. [LTC]

Council Action Date

April 10, 2025

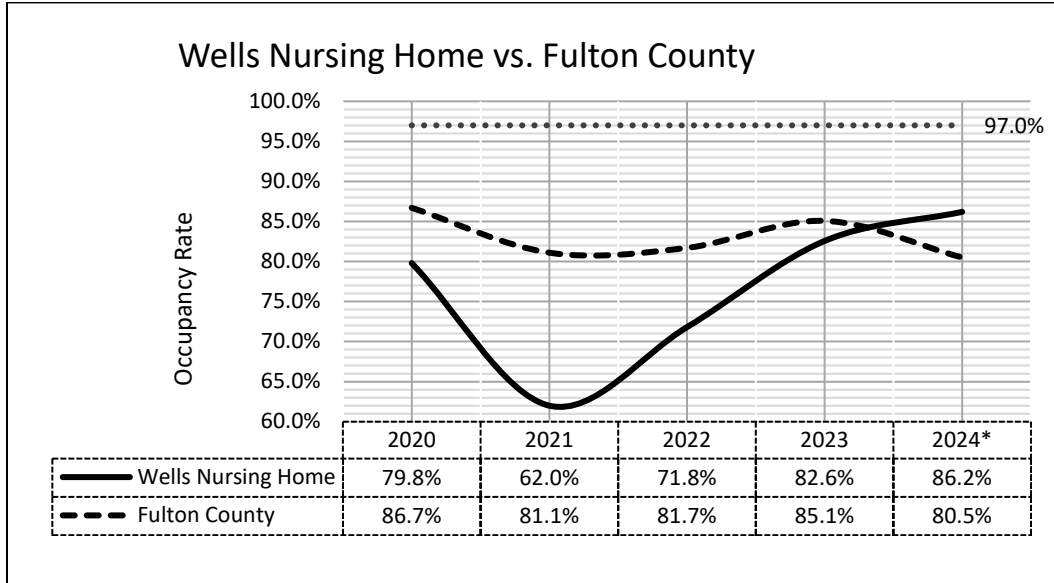
Need Analysis

Background and Analysis

The primary service area is Fulton County, which has a population projected to decrease to 51,294 by 2030 based on Cornell Program of Applied Demographic estimates. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Fulton County	New York State
Total Population (2023 Estimate)	52,787	19,872,319
Hispanic or Latino (of any race)	4.1%	19.6%
White (non-Hispanic)	88.8%	53.4%
Black or African American (non-Hispanic)	1.4%	13.6%
Asian(non-Hispanic)	0.9%	8.8%
Other (non-Hispanic)	4.8%	4.6%

Source: 2023 American Community Survey (5-year Estimates Data Profiles)



*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHCF cost reports.

Based on weekly census data, the facility reported that 90% of their 100 licensed beds are staffed and 88% occupied as of February 5, 2025, for a 97.8% occupancy of staffed beds. Fulton County had 87.1% of the county's 360 licensed beds staffed and 83.5% occupied for a 95.4% occupancy of staffed beds.

The table below shows the CMS Rating and the utilization of the closest RHCFs to Wells Nursing Home.

Facility Name	CMS Overall Rating	Number of Beds	Distance from other RHCFS	Occupancy			
	As of 1/2025		Miles/Time	2021	2022	2023	2024*
Wells Nursing Home	2	100	0 miles/0 mins	62.0%	71.8%	82.6%	86.2%
Fulton Ctr for Rehab	1	176	5.7 miles/12 mins	94.8%	95.0%	95.0%	95.5%
Nathan Littauer	2	84	6.7 miles/14 mins	75.2%	65.6%	67.4%	59.8%
River Ridge Living (Montgomery)	1	120	11.9 miles/21 mins	63.2%	79.5%	87.9%	93.5%
Wilkinson RHCf (Montgomery)	3	160	11.8 miles/19 mins	77.5%	64.3%	63.8%	64.6%
Palatine Nursing (Montgomery)	1	70	14.0 miles/20 mins	83.7%	87.0%	93.4%	94.0%
Capstone Center (Montgomery)	2	120	16.3 miles/24 mins	94.5%	93.4%	94.9%	95.4%

*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHCf's cost reports.

The following table provides the Case Mix Index (CMI) for the facility and the surrounding RHCFS, which reflects the relative resources predicted to provide care to a resident. The higher the case mix index weight, the greater the resource requirements for the residents.

Case Mix Index	2021		2022		2023	
	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only	All Payor mix	Medicaid Only
Wells Nursing Home	0.9665	0.919	0.9464	0.846	0.9255	0.843
Fulton Ctr for Rehab	1.2902	1.2464	1.319	1.3052	1.3334	1.2975
Nathan Littauer	1.0804	0.8558	1.075	0.8739	1.1636	0.9541
River Ridge Living (Montgomery)	1.2483	1.2737	1.2039	1.2069	1.2569	1.3011
Wilkinson RHCf (Montgomery)	1.0696	0.9496	0.9926	0.9294	1.2653	1.1529
Palatine Nursing (Montgomery)	1.1744	0.9622	1.1118	1.0512	1.2172	1.1943
Capstone Center (Montgomery)	1.0447	0.9701	1.1045	1.0023	1.051	0.9725

Source: RHCf Cost Report

Medicaid Access

To ensure that the Residential Health Care Facility needs of the Medicaid population are met, 10 NYCRR §670.3 requires applicants to accept and admit a reasonable percentage of Medicaid residents in their service area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. This benchmark may be increased or decreased based on the following factors:

- the number of individuals within the planning area currently awaiting placement to a residential health care facility and the proportion of total individuals awaiting such placement that are Medicaid patients and/or alternate level of care patients in general hospitals;
- the proportion of the facility's total patient days that are Medicaid patient days and the length of time that the facility's patients who are admitted as private paying patients remain such before becoming Medicaid eligible;
- the proportion of the facility's admissions who are Medicare patients or patients whose services are paid for under provisions of the federal Veterans' Benefits Law;
- the facility's patient case mix based on the intensity of care required by the facility's patients or the extent to which the facility provides services to patients with unique or specialized needs;
- the financial impact on the facility due to an increase in Medicaid patient admissions.

An applicant will be required to make appropriate adjustments in its admission policies and practices to meet the resultant percentage. The facility's Medicaid admissions rate was above the threshold of 75% of the Fulton County rate for the years 2021 through 2023.

Medicaid Access	2021	2022	2023
Fulton County Total	30.3%	31.2%	24.7%
Fulton Threshold Value	22.7%	23.4%	18.5%
Wells Nursing Home	30.4%	59.3%	50.0%

Source: RHCF Cost Report

Conclusion

There will be no changes to beds or services due to this application. As of February 5, 2025, the facility reported 97.8% occupancy of staffed beds and Fulton County reported 95.4% occupancy of staffed beds.

Program Analysis

Project Proposal

	Existing	Proposed
Facility Name	Wells Nursing Home Inc	Wells Rehabilitation and Nursing Center
Address	201 West Madison Avenue, Johnstown, New York 12095	Same
RHCF Capacity	100 beds	Same
ADHCP Capacity	22	Same
Type of Operator	Voluntary	Limited Liability Company
Class of Operator	Not-for-Profit Corporation	Proprietary
Operator	Wells Nursing Home Inc. (Not-For-Profit Corporation)	WRNC Operating LLC d/b/a Wells Rehabilitation and Nursing Center <u>Membership:</u> Lisa Kaplewicz* 50% Israel Ostrovitsky 50% <i>*Managing Member</i>

Character and Competence

Israel Ostrovitsky lists employment as Controller at Personal Healthcare (PHC), a senior care management company, in Tarrytown, NY. Israel holds a bachelor's degree in accounting from Touro College and is a New York State licensed certified public accountant. Israel Ostrovitsky discloses the following healthcare facility ownership interest:

New York Nursing Home

Clinton County Nursing Home (50%)

Pending

Lisa Kaplewicz lists employment as Corporate Director of Clinical Services at Personal Healthcare (PHC), a senior care management company, in Tarrytown, NY. In that role, Lisa also provides coverage as a Regional Nurse. Previously, Lisa was a Regional Nurse at Personal Healthcare and Director of Nursing Services at Tarrytown Hall Care Center, Tarrytown, NY. Lisa holds a master's degree in nursing from the University of Cincinnati and is a New York State licensed registered professional nurse. Lisa Kaplewicz discloses the following healthcare facility ownership interest:

New York Nursing Home

Clinton County Nursing Home (50%)

Pending

A review was conducted to ensure that the applicants had adequate relevant experience. Lisa Kaplewicz has been the Corporate Director of Clinical Services at Personal Healthcare since September 2017 and oversees 21 facilities in that role. Previously, Lisa was a Regional Nurse at Personal Healthcare from December 2011 to September 2017 and Director of Nursing Services at Tarrytown Hall Care Center from April 2006 to December 2011. Israel Ostrovitsky has been the Controller at Personal Healthcare since July 2012 and oversees 21 facilities in that role.

As per 10 NYCRR §600.2, regarding requisite experience, the applicant provided the following:

Lisa Kaplewicz, the Corporate Director of Clinical Services at Personal Healthcare (PHC) effectively manages the complex and overlapping responsibilities of overseeing 21 facilities, assuming increased duties as a Regional Nurse at times and will continue the strategies outlined below in handling the new challenges posed by the ownership of a financially struggling facility with a two-(2)-star CMS rating. Lisa Kaplewicz leverages data platforms like Point Click Care and Simple LTC to monitor, manage, and improve clinical operations across the 21 PHC facilities while balancing Regional Nurse duties when warranted and scheduling on-site visits. By focusing on real-time analytics, QAPI-driven initiatives, and

flexible in-person and virtual meetings, Lisa Kaplewicz ensures compliance, drives quality improvements, and facilitates the turnaround of the newly acquired facility.

As Controller, Israel Ostrovitsky is responsible for assisting with the business office operations of the above facilities, including collaborating with accounts receivable, accounts payable, payroll, and accounting departments, as well as reviewing reimbursement rates, analyzing financial statements, and dealing with financial institutions for loans and mortgages. These responsibilities do not include any involvement with clinical operations. Nevertheless, during his tenure, and through the use of standards of efficiency and coordination that Israel has put in place, a number of facilities that were economically troubled prior to the changes of ownership that brought them into the group of facilities with which Personal Healthcare is involved have stabilized, despite the severe challenges faced during COVID and generally given the rural/Upstate location of many of these facilities.

Quality Review

The proposed owners have been evaluated, in part, on the distribution of CMS Star ratings for their portfolios. For all proposed owners, the distribution of CMS star ratings for their facilities meets the standard described in state regulations.

CMS Star Rating Criteria					
		Duration of Ownership*			
		< 48 Months		48 Months or More	
Proposed Owner	Total Nursing Homes	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating
Lisa Kaplewicz	0	0	N/A	0	N/A
Israel Ostrovitsky	0	0	N/A	0	N/A

*Duration of Ownership as of 04/10/2025

Data date: 01/2025

The proposed owners have disclosed they have no ownership interest in healthcare facilities. The following information is being presented for informational purposes related to the healthcare facilities in which the proposed owners have claimed experience as employees of Personal Healthcare LLC. The following information is not subject to star rating portfolio assessment under 10 NYCRR §600.2(b)(5)(iv).

New York. The proposed owners have experience with 18 facilities in New York. Six facilities have a CMS overall quality rating of average or higher. 12 facilities have a CMS overall quality rating of below average or much below average.

Dunkirk Rehab & Nursing Center and Salamanca Rehab & Nursing Center:

These facilities were acquired on January 1, 2023, by individuals with whom Lisa Kaplewicz is affiliated. Lisa covered as the Regional Nurse in the region where these facilities are for an extended period of time while the designated Regional Nurse was on a leave of absence.

Dunkirk's annual recertification survey was completed in December 2023, during the time Lisa Kaplewicz was covering for the Regional Nurse; the survey resulted in two (2) low-level scope/severity deficiencies (D Level). The Health Inspection domain continues to reflect deficiencies identified during the 2021 and 2022 annual inspection surveys, prior to acquisition by individuals with whom Lisa Kaplewicz is affiliated. The current Health Inspection rating reflects these deficiencies which are heavily weighted due to their scope and severity, despite improved survey outcomes under Lisa Kaplewicz's direct guidance. As described above, the Health Inspection rating significantly impacts the Overall star rating for the facility.

Salamanca's annual recertification survey was completed in September 2023 and resulted in five (5) low-level scope/severity deficiencies, two (2) of which were not related to Lisa Kaplewicz's involvement. One (1) deficiency was related to paper compliance and there were two (2) isolated clinical deficiencies that resulted in no negative impact on the resident involved. The current Health Inspection rating of two (2)

stars continues to reflect the health inspection surveys under the previous ownership. A full-time Nurse Practitioner was recently hired to collaborate with the clinical team and ensure the highest standards of care.

Delhi Rehab & Nursing Center:

This facility was acquired in January 2018 by individuals with whom Lisa Kaplewicz is affiliated. The facility is currently pending a health inspection survey; the last survey was on February 2, 2022. During Lisa Kaplewicz's period of involvement at Delhi, the facility recently hired a new Administrator with an excellent reputation who lives local to the facility. The new leadership is expected to significantly aid in the recruitment and retention of staff, addressing the challenges associated with being a very rural facility, and a favorable health inspection is anticipated.

Ghent Rehab & Nursing Center:

This facility was acquired in January 2020 by individuals with whom Lisa Kaplewicz is affiliated. The annual recertification survey was completed in September 2023 and resulted in low-level scope/severity deficiencies; three (3) of six (6) deficiencies were not related to clinical administration. Lisa Kaplewicz has helped to hire and train a new Regional Nurse to guide the facility and provide on-site quality assurance, risk assessment, and support to the Director of Nursing/clinical team. The Health Inspection rating has been significantly impacted by annual and complaint health inspection surveys that occurred during the tenure of leadership that are no longer present. In addition to the Regional Nurse, a new Administrator, Director of Nursing, Regional Nurse, Medical Director, and Nurse Practitioner have been hired.

Alpine Rehabilitation & Nursing Center:

This facility was acquired in July 2009 by individuals with whom Lisa Kaplewicz is affiliated. The facility recently hired a new Administrator who, in collaboration with the Director of Nursing and Regional Nurse, is utilizing standards and initiatives, similar to those implemented in Tarrytown, to improve the star ratings. The facility maintains favorable Health Inspection and Quality Measure ratings of three (3) stars. The new Administrator is focused on the recruitment and retention of staff, which is expected to result in a more favorable Staffing rating.

Auburn Rehab & Nursing Center:

This facility was acquired in February 2016 by individuals with whom Lisa Kaplewicz is affiliated. The facility's most recent survey was completed in February 2023 and resulted in six (6) low-level, isolated deficiencies that had no negative impact on residents. A new Director of Nursing with an excellent reputation was recently hired. With Lisa Kaplewicz's guidance, the Regional Nurse is working closely with the Director of Nursing to ensure the highest quality of care and services. The facility has implemented different strategies to mitigate healthcare personnel staffing shortages. The facility is predicted to increase its Quality Measures rating to two (2) by the end of the quarter. Lisa Kaplewicz continues to work with the Regional Nurse to address all Quality Measures categories in an effort to maintain the upward trend.

Gowanda Rehab & Nursing Center:

This facility was acquired in June 2018 by individuals with whom Lisa Kaplewicz is affiliated. The facility had a survey in July 2023 that resulted in a deficiency with IJ level scope and severity deficiencies. Since the IJ deficiency, there were two (2) complaint surveys that resulted in the complaints being unsubstantiated. The IJ deficiency continues to have significant implications on the current Health Inspection star rating and will continue to impact the facility despite improved outcomes. A new Director of Nursing was hired following the IJ in July 2023. The Regional Nurse is working closely with the Director of Nursing to address the issues that led to the IJ and to ensure the highest quality of care and services. Lisa Kaplewicz continues to work with the Regional Nurse to address all Quality Measures categories as well as healthcare personnel staffing shortages.

Highland Rehab & Nursing Center:

This facility was acquired in February 2013 by individuals with whom Lisa Kaplewicz is affiliated. The facility's most recent survey was completed in August 2023 and resulted in 10 low-level deficiencies that had no negative impact on residents. Five (5) of the deficiencies were paper compliance, two (2) were related to environment, two (2) were related to dietary services and one (1) was an isolated concern related to one resident's treatment order. A new Administrator, Medical Director, and full-time Nurse

Practitioner have been hired to collaborate with the clinical team and to ensure the highest standards and quality of care.

Massena Rehab & Nursing Center:

This facility was acquired in April 2019 by individuals with whom Lisa Kaplewicz is affiliated. The facility had a survey in June 2023 that resulted in two (2) deficiencies with G level scope and severity deficiencies. This was an isolated concern that continues to greatly impact the Health Inspections rating and Overall rating. Another survey was done in December 2023 and resulted in low-level deficiencies, with only one (1) of the deficiencies related to clinical administration. Massena is a rural facility, which presents inherent challenges in recruiting staff due to its location. To address these challenges, the facility has implemented aggressive measures, including partnering with a vendor to secure international nurses. Despite these efforts, the recruitment process remains difficult due to the limited local talent pool and the remote nature of the area.

Plattsburgh Rehab & Nursing Center:

This facility was acquired in January 2016 by individuals with whom Lisa Kaplewicz is affiliated. The facility is currently pending a survey; its most recent survey was completed in September 2021, which resulted in four low-level scope and severity deficiencies with no actual harm. A new position of Nurse Practitioner was recently established and filled and a new Medical Director was hired. These new hires are actively addressing quality measures with the clinical team. It is anticipated that these efforts will result in better survey outcomes.

Sodus Rehab & Nursing Center:

This facility was acquired in February 2016 by individuals with whom Lisa Kaplewicz is affiliated. The facility is currently pending a health inspection survey; the last annual recertification survey health inspection was on November 2, 2022. The facility had a survey on October 3, 2022 that resulted in a deficiency with IJ level scope and severity deficiencies. This was an isolated concern that continues to greatly impact the Health Inspection rating. A new Administrator, Director of Nursing, Medical Director, Nurse Practitioner, and Regional Nurse were hired subsequent to the last survey to work in collaboration with the clinical team to address issues in the facility that led to the IJ deficiency. It is anticipated that improvements made by these new hires will be reflected in the outcome of the pending survey.

Utica Rehabilitation & Nursing Center:

This facility was acquired in February 2015 by individuals with whom Lisa Kaplewicz is affiliated. The facility's most recent health inspection survey was in March 2023 and resulted in deficiencies with low-level scope and severity with no harm or negative impact on residents. Two (2) deficiencies were related to paper compliance, one (1) deficiency was related to the pest control program, three (3) deficiencies were related to the dietary department, and one (1) deficiency was related to storage/labeling of medication for one (1) resident. A new Medical Director and attending physician have been hired to collaborate with the clinical team and to ensure the highest standards and quality of care. The facility maintains a favorable Quality Measure domain rating of three (3) stars.

Massachusetts. The proposed owners have experience with three facilities in Massachusetts. One facility has a CMS overall quality rating of average or higher. Two facilities have a CMS overall quality rating of below average or much below average.

Medford Rehabilitation & Nursing Center:

This facility was acquired in January 2012 by individuals with whom Lisa Kaplewicz is affiliated. Lisa Kaplewicz is working with the Regional Nurse and the Director of Nursing and will allocate time as needed for an on-site auditing/mock survey to prepare for future health inspection surveys, and to ensure continued improvements to maintain or increase the Quality Measures rating, currently at four (4) stars.

The Rehabilitation & Nursing Center at Everett:

This facility was acquired in January 2013 by individuals with whom Lisa Kaplewicz is affiliated. Lisa Kaplewicz is working with the Regional Nurse and is planning to allocate time for an on-site auditing/mock survey and to work on a plan to ensure the highest standards and quality of care; favorable outcomes are anticipated.

Facility	Corporate Director of Clinical Services/Controller Since*	Overall	Health Inspection	Quality Measure	Staffing
New York					
Wells Nursing Home Inc.	Subject Facility	**	**	***	****
Alpine Rehabilitation and Nursing Center	Current	**	**	***	***
	07/2012 (PHC acquired 07/2009)	***	***	*	****
Norwich Rehabilitation & Nursing Center	Current	***	****	***	*
	07/2012	**	**	****	***
Tarrytown Rehabilitation and Nursing Center	Current	***	***	****	***
	07/2012	****	****	****	**
Highland Rehabilitation and Nursing Center	Current	*	**	***	*
	02/2013	*	**	***	*
Plattsburgh Rehabilitation and Nursing Center	Current	*	**	***	*†
	01/2016	*	**	*	***
Utica Rehabilitation & Nursing Center	Current	*	*	****	**
	02/2015	**	*	**	****
Auburn Rehabilitation & Nursing Center	Current	*	*	**	**
	03/2016	**	*	***	****
Sodus Rehabilitation & Nursing Center	Current	*	*	*	***
	02/2016	***	***	****	***
Delhi Rehabilitation and Nursing Center	Current	*	*	**	**
	01/2018*	*	*	*	*
Yorktown Rehabilitation & Nursing Center	Current	***	***	****	***
	04/2018	*****	*****	*****	**
Gowanda Rehabilitation and Nursing Center	Current	*	*	****	***
	06/2018	*	**	****	*
Orchard Rehabilitation & Nursing Center	Current	****	***	*****	**
	06/2018	*	*	****	*
Massena Rehabilitation & Nursing Center	Current	*	*	**	*
	04/2019	*	*	*	****
	Current	*	*	***	***

Facility	Corporate Director of Clinical Services/Controller Since*	Overall	Health Inspection	Quality Measure	Staffing
Ghent Rehabilitation & Nursing Center	01/2020	*	*	****	***
Dunkirk Rehabilitation & Nursing Center	Current	**	*	*****	*****
	01/2023	**	*	*****	*
Eden Rehabilitation & Nursing Center	Current	*****	*****	**	*****
	01/2023	****	****	***	**
Houghton Rehabilitation & Nursing Center	Current	**	**	**	***
	01/2023	**	***	***	*
Salamanca Rehabilitation & Nursing Center	Current	**	**	****	***
	01/2023	*	*	**	*
Massachusetts					
Cambridge Rehabilitation & Nursing Center	Current	****	****	***	***
	07/2012	**	**	**	***
Medford Rehabilitation and Nursing Center	Current	*	*	**	****
	07/2012	*	*	****	***
The Rehabilitation & Nursing Center at Everett	Current	**	**	***	****
	01/2013	**	*	****	****

Data Date: 01/2025

*Please Note: Lisa Kaplewicz and Israel Ostrovitsky serve as the Corporate Director of Clinical Services and Controller, respectively, not the operator, of these facilities and are not subject to star portfolio assessment under 10 NYCRR §600.2(b)(5)(iv).

*Newly built facility; data available starting 04/2019.

†This facility reported a high number of days without a registered nurse on site.

End-Dated Facilities					
Facility	Regional Nurse/Director of Nursing Services*	Overall	Health Inspection	Quality Measure	Staffing
New York					
End-Dated as Regional Nurse					
Tarrytown Hall Care Center	09/2017	****	****	****	***
	12/2011	***	***	****	***
Norwich Rehabilitation & Nursing Center	09/2017	**	**	**	***
	12/2011	****	***	*****	**
	09/2017	**	**	**	***

End-Dated Facilities					
Facility	Regional Nurse/Director of Nursing Services*	Overall	Health Inspection	Quality Measure	Staffing
Alpine Rehabilitation and Nursing Center	12/2011	**	**	**	**
End-Dated as Director of Nursing Services					
Tarrytown Hall Care Center	12/2011	***	***	****	***
	04/2006 (CMS ratings started 01/2009)	**	***	****	*

**Please Note: Lisa Kaplewicz served as the Regional Nurse/Director of Nursing Services, not the operator, of these End-Dated Facilities.*

Enforcement History

New York

A review of the operations of Tarrytown Hall Care Center for the time period indicated above, while Lisa Kaplewicz was the Regional Nurse/Director of Nursing Services reveals the following:

- The facility was assessed a federal CMP on 03/19/2007 under F309 (Quality of Care) at a G level.

A review of the operations of Tarrytown Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

A review of the operations of Alpine Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Regional Nurse/Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$650 on 07/19/2021 under F884 at an F level for failure to report COVID data.
- The facility was fined \$12,000 pursuant to Stipulation and Order NH-22-034 for surveillance findings on 05/29/2020. Deficiencies were found under 10 NYCRR §415.4(b)(2) – Staff Treatment of Residents and §415.12(h)(1) and (2) – Quality of Care, Accident-Free Environment. The facility failed to ensure that alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, are reported immediately to the Department of Health in accordance with §2803-d of the Public Health Law. In addition, the facility failed to ensure the resident environment remained as free of accident hazards as possible, and that each resident received adequate supervision to prevent accidents. The facility was also assessed a federal CMP of \$7,433 on 05/29/2020 under F689 at a G level.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-16-036 for surveillance findings on 03/06/2014. Deficiencies were found under 10 NYCRR §415.26 – Administration.

A review of the operations of Norwich Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Regional Nurse/Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$2,000 for surveillance findings on 12/03/2024. Deficiencies were found under 10 NYCRR §400.21(c) – Advance Directives. The facility failed to ensure compliance with the requirements of law governing advance directives. The facility was also assessed a federal CMP of \$15,590.25 under F578 at a J level.
- The facility was assessed federal CMPs of \$4,938 on 02/20/2024, \$4,938 on 02/12/2024, \$4,938 on 01/08/2024, and \$4,587 on 01/02/2024, \$3,645 on 04/18/2022, \$3,314 on 02/14/2022, \$2,982 on 01/31/2022, \$2,620 on 12/20/2021 (offset to FL), \$2,293 on 08/30/2021 (offset to FI), \$1,965 on 08/09/2021, \$1,625 on 07/05/2021, \$1,300 on 05/17/2021, \$975 on 03/01/2021 and \$655 on 06/08/2020 under F884 at a F level for failure to report COVID data.

- The facility was assessed federal CMPs of \$14,813 (offset to FL) on 02/06/2024, 01/30/2024, and 01/22/2024 as well as \$13,410 on 12/26/2023, 12/18/2023, and 12/11/2023 under F884 at a F level for failure to report COVID data.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-21-159 for surveillance findings on 07/09/2021. Deficiencies were found under 10 NYCRR §400.2 – Other laws, codes, rules, and regulations and 415.19(a)(1) and (2) – Infection Control. The facility failed to maintain an infection control program by failing to implement and practice required hand hygiene upon interaction with residents (5 violations at \$2,000). The facility was also assessed a federal CMP of \$5,060 on 07/09/2021 under F880 at a D level.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-21-142 for surveillance findings on 12/21/2020. Deficiencies were found under 10 NYCRR §400.2 – Other laws, codes, rules, and regulations and 415.19(a)(1-2) – Infection Control and Governor's Executive Order 202.11.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-17-055 for surveillance findings on 09/12/2017. Deficiencies were found under 10 NYCRR §415.12 – Quality of Care. The facility was also assessed a federal CMP of \$7,023 on 09/12/2017 under F309 at a G level.

A review of the operations of Highland Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$658 on 01/17/2022 under F884 at an F level for failure to report COVID data.

A review of the operations of Plattsburgh Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$650 on 11/15/2021 under F884 at an F level for failure to report COVID data.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-17-014 for surveillance findings on 02/29/2016. Deficiencies were found under 10 NYCRR §415.12 – Quality of Care Highest Practicable Potential.

A review of the operations of Utica Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-23-072 for surveillance findings on 03/08/2023. Deficiencies were found under 10 NYCRR §415.19(b)(4) – Infection Control - Handwashing. The facility failed to establish and maintain an infection prevention and control program with regard to a resident's alleged treatment.
- The facility was assessed federal CMPs of \$1,300 on 07/05/2021, \$983 on 06/28/2021, and \$655 on 06/21/2021 under F884 at an F level for failure to report COVID data.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-21-232 for surveillance findings on 09/23/2021. Deficiencies were found under 10 NYCRR §415.19(a) – Infection Control. Specifically, a CNA reported feeling ill when self-screened at the beginning of their shift and was permitted to remain at the facility and provide care to residents. This CNA was observed on COVID-19 exposed, COVID-19 positive, and on COVID-19 negative units. This CNA tested positive for COVID-19 after an antigen test (point of care, rapid test) was completed four hours after beginning work.
- The facility was fined \$4,700 pursuant to Stipulation and Order NH-23-030 for surveillance findings for the period 12/10/2020 to 04/20/2021. Deficiencies were found under 10 NYCRR §415.19(f) – Infection Control. The facility failed to possess and maintain a 60-day supply of all necessary items of personal protective equipment (PPE) on ninety-four days during the period December 10, 2020 to April 20, 2021.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-19-021 for surveillance findings on 12/21/2018. Deficiencies were found under 10 NYCRR §415.4(b)(1)(i) – Resident behavior and facility practices (staff treatment of residents). The facility was also assessed a

federal CMP of \$115,388 on 12/21/2018 under F600 at a G level for failure to protect each resident from all types of abuse such as physical, mental, sexual abuse, physical punishment, and neglect by anybody.

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-19-010 for surveillance findings on 09/18/2018. Deficiencies were found under 10 NYCRR §415.12(c)(2) – Quality of Care – Pressure Sores with Admission. The facility was also assessed a federal CMP of \$41,340 on 09/18/2018 under F686 at a G level for failure to provide appropriate pressure ulcer care and prevent new ulcers from developing.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-18-040 for surveillance findings on 07/18/2018. Deficiencies were found under 10 NYCRR §415.12(h)(2) – Quality of Care – Accident-Free Environment. The facility was also assessed a federal CMP of \$13,150 on 07/18/2018 under F689 at a G level.
- The facility was fined \$6,000 pursuant to Stipulation and Order NH-18-001 for surveillance findings on 06/30/2017, 12/21/2016, and 03/25/2016. Deficiencies were found under 10 NYCRR §415.4(b)(3) – Resident behavior and facility practices (staff treatment of residents/investigate violations). The facility was also assessed a federal CMP of \$11,732 on 06/30/2017 under F490 at a K level for failure to make sure that the facility is administered in an acceptable way that maintains the well-being of each resident as well as under F323 at a K level for failure to ensure that a nursing home area is free from accident hazards and provide adequate supervision to prevent avoidable accidents.
- The facility was assessed a federal CMP on 03/25/2016 under F314 at a G level for failure to give residents proper treatment to prevent new bed (pressure) sores or heal existing bed sores.

A review of the operations of Auburn Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$17,000 pursuant to Stipulation and Order NH-22-107 for surveillance findings on 04/28/2022. Deficiencies were found under 10 NYCRR §2.61 – Prevention of COVID-19 transmission by covered entities and 415.19 – Infection Control. Specifically, the facility permitted CNA #16, who is not fully vaccinated against COVID-19, to work sixteen days. TNA #17, likewise not fully vaccinated, was observed working at the facility and in proximity to residents on 04/28/2022.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-19-081 for surveillance findings on 06/05/2019. Deficiencies were found under 10 NYCRR §415.12(k)(6) – Quality of Care, Special Needs (Respiratory Care). The facility was also assessed a federal CMP of \$7,036 on 06/05/2019 under F695 at a G level.

A review of the operations of Sodus Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-23-027 for surveillance findings on 10/03/2022. Deficiencies were found under 10 NYCRR §415.4(b)(1)(i) – Resident behavior and facility practices (staff treatment of residents). Specifically, the facility failed to protect each resident from physical abuse in that it failed to appropriately and timely: investigate and report a report of abuse; and remove abusive staff from assignments. The facility was also assessed a federal CMP of \$76,128 on 10/03/2022 under F600 at a K level for failure to protect each resident from all types of abuse such as physical, mental, sexual abuse, physical punishment, and neglect by anybody.
- The facility was assessed a federal CMP of \$650 on 06/21/2021 under F884 at an F level for failure to report COVID data.
- The facility was fined \$8,000 pursuant to Stipulation and Order NH-21-099 for surveillance findings on 06/17/2020. Deficiencies were found under Executive Order 202.18. Specifically, the facility failed to notify family members or next of kin within 24 hours when staff were diagnosed with COVID-19.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-20-073 for surveillance findings on 09/23/2020. Deficiencies were found under 10 NYCRR §415.19(a)(3) Infection Control.

- The facility was fined \$10,000 pursuant to Stipulation and Order NH-19-036 for surveillance findings on 03/14/2019. Deficiencies were found under 10 NYCRR §415.12(c)(1) Quality of Care – Pressure Sores – Prevention. The facility was also assessed a federal CMP on 03/14/2019 (in conjunction with the 02/15/2019 CMP) under F686 at a G level for failure to provide appropriate pressure ulcer care and prevent new ulcers from developing.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-19-041 for surveillance findings on 02/15/2019. Deficiencies were found under 10 NYCRR §415.12 Quality of Care. The facility was also assessed a federal CMP of \$57,885 on 02/15/2019 under F684 at a G level for failure to provide appropriate treatment and care according to orders, residents' preferences, and goals.

A review of the operations of Delhi Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$9,750 on 01/07/2022 for multiple deficiencies including failure to provide and implement an infection prevention and control program under F880 at a D level.
- The facility was fined \$16,000 pursuant to Stipulation and Order NH-21-156 for surveillance findings on 12/12/2021 and 12/11/2020. Deficiencies were found under 10 NYCRR §415.19(a)(1) and (2) Infection Control. The facility failed to maintain an infection control program by failing to enforce PPE and hand hygiene requirements for entering and exiting "droplet precaution" areas of the facility and by failing to enforce required PPE use (N95 Mask) while performing staff testing.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-20-015 for surveillance findings on 09/18/2019. Deficiencies were found under 10 NYCRR §415.12 Quality of Care – Highest Practicable Potential. The facility was also assessed a federal CMP of \$47,554 on 09/18/2019 under F684 at a G level.

A review of the operations of Yorktown Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

A review of the operations of Gowanda Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-24-025 for surveillance findings on 07/25/2023. Deficiencies were found under 10 NYCRR §415.12(h)(2) – Quality of Care. The facility failed to provide adequate supervision to prevent accidents. Specifically, the facility failed to properly supervise a resident with a history of unsafe wandering. As a result, the resident had eight (8) documented falls from 03/04/2023 to 07/21/2023. Changes to the plan have been ineffective. The facility was also assessed a federal CMP of \$61,162 on 07/25/2023 under F689 at a J level.
- The facility was fined \$6,000 pursuant to Stipulation and Order NH-21-152 for surveillance findings on 12/04/2020. Deficiencies were found under 10 NYCRR §415.19(a)(1) – Infection Control and 10 NYCRR 400.2 – Other Laws, Codes, Rules and Regulations. The facility failed to obtain COVID-19 specimen results within 48 hours for three staff members and failed to document facility efforts to obtain the delayed COVID-19 specimen results (3 citations at \$2,000/each).
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-19-044 for surveillance findings on 06/26/2019. Deficiencies were found under 10 NYCRR §415.4(b)(1)(i) – Abuse. The facility failed to prevent verbal, mental, sexual, or physical abuse, including corporal punishment, or involuntary seclusion of residents. The facility was also assessed a federal CMP of \$7,036 on 06/26/2019 under F600 at a G level.

A review of the operations of Orchard Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$22,000 pursuant to Stipulation and Order NH-21-089 for surveillance findings on 02/02/2021. Deficiencies were found under 10 NYCRR §415.19(a)(1) and (2) Infection Control. The facility failed to maintain an infection control program by allowing employees to work shifts at the facility in excess of 12 hours who were not screened for COVID-19 and the facility also failed to observe transmission-based precautions by failing to change PPE following interactions with COVID positive residents.

A review of the operations of Massena Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed federal CMPs of \$14,813 (Offset to FL) on 02/12/2024, 02/06/2024 and 01/30/2024, \$13,636 on 01/02/2024, 12/26/2023 and 12/18/2023 as well as \$5,292 (Offset to FI) on 05/15/2023, 05/08/2023 and 05/02/2023 under F884 at a F level for failure to report COVID data.
- The facility was assessed federal CMPs of \$4,938 on 01/08/2024, \$4,235 on 06/26/2023, \$3,882 (Offset to FL) on 06/20/2023, \$3,529 on 06/12/2023, \$3,176 on 06/05/2023, \$2,823 on 05/30/2023, \$2,470 on 05/23/2023, \$987 on 03/28/2022 and \$650 on 07/13/2020 under F884 at a F level for failure to report COVID data.
- The facility was fined \$20,000 pursuant to Stipulation and Order NH-23-098 for surveillance findings on 06/28/2023. Deficiencies were found under 10 NYCRR §415.12 Quality of Care and 10 NYCRR §415.12(c)(2) Quality of Care – Pressure Sores. Specifically, the facility failed to ensure a resident with a diabetic ulcer wound received treatment and care in accordance with professional standards of practice. The resident developed osteomyelitis infection in the foot bone that worsened requiring hospitalization and was considered for possible amputation of the foot. In addition, the facility failed to ensure two residents with pressure ulcers on the feet received treatment and care in accordance with professional standards of practice. One resident's injuries worsened requiring hospitalization for osteomyelitis infection in the bone on both feet. Another resident's injuries worsened to coccyx pressure ulcers and deep tissue injuries. The facility was also assessed a federal CMP of \$46,742 on 06/28/2023 under F684 at a G level and F686 at a G level.
- The facility was fined \$4,000 pursuant to Stipulation and Order NH-21-102 for surveillance findings on 01/21/2021. Deficiencies were found under 10 NYCRR §415.19(b)(4) Infection Control – Hand Hygiene. The facility failed to ensure staff members performed hand hygiene before and after all resident contact, and before putting on and after removing PPE.

A review of the operations of Ghent Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was fined \$20,000 pursuant to Stipulation and Order NH-24-055 for surveillance findings on 10/27/2022. Deficiencies were found under 10 NYCRR §415.12(c)(1) Quality of Care – Pressure Ulcers and §415.12(m)(2) Quality of Care – No Significant Medication Errors. For §415.12(c)(1), the facility failed to ensure that a resident who was admitted with an open wound was not properly monitored or treated. Shortly after admission, the resident developed a new wound that was likewise not monitored or treated. These failures resulted in the resident expiring from septic shock. For §415.12(m)(2), the facility failed to ensure that a resident received prescribed medication to prevent blood clots. This failure resulted in the resident suffering a stroke, which resulted in actual harm to the resident. The facility was also assessed a federal CMP of \$67,746 on 10/27/2022 under F686 at a G level and F760 at a G level. The facility failed to provide appropriate pressure ulcer care and prevent new ulcers from developing and failed to ensure that residents are free from significant medication errors.
- The facility was assessed federal CMPs of \$3,289 on 02/28/2022, \$2,960 on 01/24/2022, \$2,621 on 08/30/2021, \$2,293 on 08/23/2021, \$1,950 on 08/16/2021, \$1,625 on 06/21/2021, \$1,300 on 03/01/2021, \$983 on 02/22/2021 and \$655 on 01/25/2021 for failure to report COVID data under F884 at a F level.
- The facility was fined \$10,000 pursuant to Stipulation and Order NH-21-131 for surveillance findings on 02/16/2021. Deficiencies were found under 10 NYCRR §415.12(h)(1) & (2) Quality of Care – Accident-Free Environment. The facility failed to ensure the resident environment

remains as free of accident hazards as possible and that each resident receives adequate supervision and assistive devices to prevent accidents. Specifically, the facility failed to protect a resident from serious injury when it failed to properly assess the resident's risk of elopement, and, when it failed to ensure that door alarms, which could have alerted staff when opened, were on and working properly. As a result, the resident was able to exit the facility undetected and was later found with hypothermia from the prolonged exposure to freezing temperatures. The facility was also assessed a federal CMP of \$7,345 on 02/16/2021 under F689 at a G level.

A review of the operations of Dunkirk Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

A review of the operations of Eden Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

A review of the operations of Houghton Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$111,200 on 10/27/2024 under F600 at a G level for failure to protect each resident from all types of abuse such as physical, mental, sexual abuse, physical punishment, and neglect by anybody.

A review of the operations of Salamanca Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals no enforcements.

Massachusetts

A review of the operations of Cambridge Rehabilitation & Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$3,250 on 04/07/2022. The facility failed to provide and implement an infection prevention and control program under F880 at a D level.
- The facility was assessed federal CMPs of \$3,645 on 01/24/2022, \$3,276 on 09/20/2021, \$2,948 on 08/30/2021, \$2,621 on 08/23/2021, \$2,293 on 08/16/2021, \$1,965 on 08/09/2021, \$1,625 on 08/02/2021, \$1,310 on 07/26/2021, \$975 on 07/19/2021 and \$655 on 04/19/2021 for failure to report COVID data under F884 at a F level.

A review of the operations of Medford Rehabilitation and Nursing Center for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$15,593 on 05/25/2023 for multiple deficiencies including the following: The facility failed to create and put into place a plan for meeting the resident's most immediate needs within 48 hours of being admitted under F655 at a G level; provide appropriate treatment and care according to orders, resident preferences and goals under F684 at a G level; ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents under F689 at a G level.
- The facility received a federal citation on 11/16/2022 for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents under F689 at a G level.
- The facility was assessed a federal CMP of \$9,770 on 10/12/2022 for multiple deficiencies including the facility's failure to provide appropriate treatment and care according to orders, resident's preferences, and goals under F684 at a D level.
- The facility was assessed a federal CMP of \$79,248 on 07/05/2022 for multiple deficiencies. The facility failed to ensure services provided by the nursing facility meet professional standards of quality under F658 at a J level; provide basic life support, including CPR, prior to the arrival of emergency medical personnel, subject to physician orders and resident's advance directives

under F678 at a J level; provide safe, appropriate pain management for a resident who requires such services under F697 at a G level.

- The facility was assessed a federal CMP of \$9,750 on 02/03/2022. The facility failed to provide and implement an infection prevention and control program under F880 at an E level.
- The facility was assessed a federal CMP of \$95,498 and \$15,343 on 04/27/2021 for multiple deficiencies including the facility's failure to provide appropriate treatment and care according to orders, resident's preferences, and goals under F684 at a G level.

A review of the operations of The Rehabilitation & Nursing Center at Everett for the time period indicated above, while Lisa Kaplewicz was the Corporate Director of Clinical Services and Israel Ostrovitsky was the Controller, reveals the following:

- The facility was assessed a federal CMP of \$34,886 and a payment denial on 08/11/2022. The facility failed to honor the resident's right to a safe, clean, comfortable, and homelike environment, including but not limited to receiving treatment and support for daily living safely under F584 at an F level.

Additional Information

Business Transactions with Personal Healthcare LLC

Certain business relationships exist between the current operator and persons who are employees of or owners of Personal Healthcare (PHC). This includes but may not be limited to a Chief Restructuring Officer and Guaranteed Corporate Bonds. The applicants have provided assurances that current business relationships between the facility and Personal Healthcare (PHC) will terminate upon completion of this transaction. A condition is being recommended to ensure disclosure to the Department of Health should obligations from such business transactions be transferred to the proposed operator.

Adult Day Health Care Program (ADHCP) and Outpatient Therapy Services

The facility is currently licensed to provide ADHCP and outpatient therapy services. The services have not been fully operational since 2019 due to the COVID-19 pandemic. The applicants plan to resume the operation of the ADHCP and outpatient therapy services upon approval of this application. A review was conducted of the services as part of the CON program review and did not reveal concerns with restarting the services in the space previously used at the facility. The services will be provided in a manner that is consistent with the requirements of each service. Outpatient therapy services will provide a resource for individuals in need of rehabilitation services but not requiring an inpatient stay. ADHCP will provide an alternative that is intended to keep individuals at home and in the community for as long as possible. The Financial Analysis section of this exhibit includes projections assuming the resumption of these services.

Conclusion

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

Financial Analysis

Operating Budget

The applicant has provided the Current Year (2023) results, and the first- and third-year operating budgets, in 2025 dollars, after the change in ownership. The budget is summarized below:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
Inpat. Revenues	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
Commercial FFS	\$259.00	\$1,554	\$0	\$0	\$0	\$0
Medicare FFS	\$765.08	529,437	\$630.00	2,427,390	\$630.00	2,427,390
Medicare MC	\$258.92	283,000	\$425.00	982,600	\$425.00	982,600
Medicaid FFS	\$179.93	4,293,918	\$169.65	4,052,393	\$169.65	4,052,393
Medicaid MC	\$258.92	139,040	\$0	0	\$0	0
Private Pay	\$418.70	<u>1,651,342</u>	\$400.00	<u>1,849,600</u>	\$400.00	<u>1,849,600</u>
Total Inpat. Rev.		\$6,898,291		\$9,311,983		\$9,311,983
Outpat. Revenues	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>
Commercial FFS	\$0	\$0	\$84.42	\$40,100	\$84.42	\$40,100
Medicaid FFS	\$0	0	\$88.26	233,800	\$88.26	233,800
Private Pay	\$0	<u>0</u>	\$84.54	<u>17,500</u>	\$84.54	<u>17,500</u>
Total Outpat. Rev.		\$0		\$291,400		\$291,400
Net Pt. Revenues		\$6,898,291		\$9,603,383		\$9,603,383
Other Oper. Rev.*		<u>2,999,327</u>		<u>429,246</u>		<u>429,246</u>
Total Revenues		\$9,897,618		\$10,032,629		\$10,032,629
<u>Inpat. Expenses</u>						
Operating	\$356.40	\$10,740,476	\$261.31	\$9,061,273	\$261.31	\$9,061,273
Capital	<u>\$4.97</u>	<u>149,857</u>	<u>\$20.15</u>	<u>698,570</u>	<u>\$20.15</u>	<u>698,570</u>
Total Expenses	\$361.37	\$10,890,333	\$281.46	\$9,759,843	\$281.46	\$9,759,843
<u>Outpat. Expenses</u>						
Operating	\$0	\$0	\$73.85	\$245,993	\$73.85	\$245,993
Capital	<u>\$0</u>	<u>0</u>	<u>\$0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Expenses	\$0	\$0	73.85	\$245,993	\$73.85	\$245,993
Net Income		<u>(\$992,715)</u>		<u>\$26,792</u>		<u>\$26,972</u>
Patient Days		30,136		34,676		34,676
Visits		0		3,331		3,331
Occupancy		82.56%		95.00%		95.00%

*Other Operating Revenue in the Current Year is comprised of \$2,846,729 in Employee Retention Credit revenue, \$144,704 in other revenue, \$5,800 in supplies sold to others, \$1,824 in cafeteria income, and \$270 in sold services. In Years One and Three, Other Operating Revenue is comprised of \$21,000 in supplies sold to others, \$5,000 in cafeteria revenue, \$25,000 from Fidelis Optum, \$1,000 in sold services, \$40,000 payroll income, \$1,000 vending machine income, and \$336,246 in assessments.

The following is noted with respect to the submitted budget:

- The Current Year reflects the facility's 2023 payors and 2023 Certified Financial Statements. Historical utilization for base year 2023 was 82.56%.
- In Years One and Three the applicant is projecting 2,031 Adult Day Health Care Program (ADHCP) visits and 1,300 outpatient therapy visits.
- Current year staffing is based on the actual staffing as reported on the 2023 RHCF-4 Cost Report. Staffing levels for Years One and Three increase as a result of the anticipated increase in services.

- The Medicaid reimbursement rate in Years One and Three is based on the facilities' 2023 Nursing Home Rate.
- The rates for Medicare, and Private Pay in Years One and Three are based upon the anticipated rates to be received by the facility.

Utilization by payor source is as follows:

<u>Payor</u>	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
<u>Inpatient Utilization</u>			
Commercial FFS	0.02%	0.00%	0.00%
Medicare FFS	2.29%	11.11%	11.11%
Medicare MC	3.63%	6.67%	6.67%
Medicaid FFS	79.19%	68.89%	68.89%
Medicaid MC	1.78%	0.00%	0.00%
Private Pay	13.09%	13.33%	13.33%
All Other	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
Total	100.00%	100.00%	100.00%

<u>Outpatient Utilization</u>			
Commercial FFS	0.00%	14.26%	14.26%
Medicaid FFS	0.00%	79.53%	79.53%
Private Pay	<u>0.00%</u>	<u>6.21%</u>	<u>6.21%</u>
Total	100.00%	100.00%	100.00%

- Breakeven utilization is projected at 92.42% or 33,733 patient days for Years One and Three, respectively.
- The facility's Medicaid admissions of 30.4% in 2021 and 59.3% in 2022 exceeded Fulton County's 75% threshold rates of 22.7% for 2021 and 23.4% for 2022.

Operations Transfer and Privatization Agreement (OTA)

The applicant has submitted an executed OTA for the sale and purchase of property used in the operation of the RHCF. The terms of the agreement are summarized below:

Date:	May 17, 2023
Transferor:	Wells Nursing Home, Inc.
Transferee:	WRNC Operating, LLC
Acquired Assets:	Business and operation of the facility and all furniture, fixtures, furnishings equipment, appliances, tools, instruments, machinery, computers, computer equipment and hardware, office equipment, trucks, vehicles and other transportation equipment, parts, supplies, and other tangible personal property owned by transferor used in connection with the operation of the facility. All inventory and supplies located in the facility including but not limited to office, foodstuffs, medical, disposables, prescription medications, and pharmaceutical inventories and supplies, and articles of personal property used in connection with the facility. All contracts, agreements including admission agreements, leases, purchase orders, and other arrangements listed on Exhibit 2.1(c) to the extent assumed, by transferee. All menus, policies and procedures, operating manuals, training materials, marketing, sales and promotional materials, intellectual property including but not limited to patents, trademarks, service marks, copyrights, trade names, trade secrets, confidential know-how, and similar proprietary information, computer software owned by transferor, telephone and facsimile numbers used exclusively by the facility, all administrative records, financial books, and records, employee and payroll records including all books, records, files, computer software, data or databases, patient medical records, medical staff records, and medical/administrative libraries, licenses, certificates, permits, waivers, consents, authorizations, accreditations, certificates of occupancy, utility lease agreements,

	goodwill, patient funds held in trust, Medicare/Medicaid reimbursement agreements, all other assets and tangible personal property.
Excluded Assets:	Transferor shall retain, any right, title, and interest in the following assets (tangible or intangible) of transferor: cash and cash equivalents, certificates of deposit, money market funds, marketable securities, and funds deposited into payroll and operating accounts, licenses, and permits that are not assignable or transferrable to transferee, all prepaid expenses of transferor including insurance prepayments, any grants awarded by a government entity related to the operation of the facility prior to closing date, all refunds and reimbursements, all accounts receivable and rights to payments.
Assumed Liabilities:	All obligations and liabilities under the assumed contracts and the Medicaid, Medicare, and third-party payor agreements if any. Transferor shall retain all of its liabilities and obligations of any kind or nature, at any time existing or asserted, whether or not accrued, whether fixed, contingent or otherwise, whether known or unknown, arising out of or by reason of the ownership or operation of the assets, the facility and/or the business prior to the closing date.

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 February 21, 2025, the facility had no reported Medicaid liabilities. The purchase price of the operations is proposed to be satisfied with members' equity.

Contract of Sale (COS)

The applicant has submitted an executed COS for the sale and purchase of property used in the operation of the RHCf. The terms of the agreement are summarized below:

Date:	May 17, 2023
Buyer:	WRNC Realty, LLC
Seller:	Wells Nursing Home, Inc.
Acquired Assets:	All of the real property upon which the business is located, together with all rights, title, and interest of seller in the buildings, fixtures and improvements, and land. All tenements, hereditaments, rights, privileges, interest, easements, licenses and other rights. All equipment, furniture, furnishings, appliances, tools, instruments, fixtures, machinery, computers, computer equipment and hardware, office equipment, trucks, vehicles, and other transportation equipment, and other tangible personal property owned by the seller, all assignable or transferable licenses, certificates, permits, waivers, certificates of occupancy, accreditations owned or held by the seller.
Excluded Assets:	All assets transferred pursuant to Nursing Home operations transfer and privatization agreement (OTA), assets excluded pursuant to OTA, and all equipment and assets identified in Exhibit 3.11.
Assumed Liabilities:	Seller shall retain off of its liabilities and obligations of any kind or nature, existing or asserted. Buyer is not the successor to liability of seller and is not assuming any liability arising from sellers' ownership of the assets. Buyer does not assume any payable of seller, governmental claim or charge, liability for any general malpractice, professional liability, resident rights, violations, violation of employee rights or contracts.
Purchase Price:	\$7,000,000
Payment of Purchase Price:	Seller shall give Buyer a credit of \$499,978.00 for the non-refundable deposit made by Buyer or Buyer's affiliate in connection with the submission of the Confirmation of Firm Offer, plus (B) the sum of \$555,417.23 (\$190,000 plus \$150,000 plus \$124,567 plus \$90,850.23) made by Buyer or Buyer's affiliate in

	connection with the amendment(s) to the Escrow Funding Agreement, plus (C) the sum of the amounts drawn from the additional \$944,604.77 delivered into escrow following execution of and pursuant to the OTA and that Pre-Closing Funding Agreement entered into between an affiliate of Buyer and Seller as of the date hereof and used for working capital of the Seller plus any additional amounts funded in connection with the Pre-Closing Funding Agreement prior to the OTA Closing.
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Executed Lease Agreement

The applicant has provided an executed lease agreement, the terms of which are summarized as follows:

Date:	October 8, 2024
Premises:	A 100-bed, skilled nursing home facility located at 1201 W. Madison Avenue, Johnstown, New York.
Lessor:	WRNC Realty, LLC
Lessee:	WRNC Operating, LLC
Term:	10 years, with an option to extend for an additional 1-year term, up to a total term of 20 years.
Rent:	Base rent: \$650,000 per year (\$54,166.66 per month)
Provisions:	Taxes, utilities, insurance, and repairs and maintenance

The applicant has submitted an affidavit stating that the lease is a non-arm's length agreement as there is a pre-existing business relationship between the members of the landlord and tenant.

Capability and Feasibility

There are no project costs associated with this application. There is no purchase price for the acquisition of operations. The purchase price for the real estate of \$7,000,000 will be met with equity of \$1,750,000 from the proposed realty members and a loan of \$5,250,000 at 8.5% interest for a five-year term and a payout period of 25 years. CIBC Bank has provided a letter of interest for the respective loans at the stated terms. Ephraim Zagelbaum submitted an affidavit indicating willingness to cover the balloon payment if re-financing is not available after the five-year term.

The working capital requirement is estimated at \$1,626,641 based on two months of the first-year expenses funded from equity by the applicant members. The total equity requirement for this project (CON 232241) and Clinton County Nursing Home (CON 231220) is \$2,823,568 and includes a projected first-year loss of \$13,207. Lisa Kaplewicz and Israel Ostrovitsky are estimated to have a shortfall in liquid assets to cover the working capital requirements for the above-mentioned projects of \$1,370,751 and \$1,195,964, respectively. The equity shortfall for both projects will be satisfied with personal loans. Ephraim Zagelbaum provided a letter of interest to Lisa Kaplewicz for a personal loan in the amount of \$1,500,000 with a ten-year term and an interest rate of 5% with no repayment requirement during the first three years. Alex Barth provided a letter of interest to Israel Ostrovitsky for a personal loan in the amount of \$1,500,000 with a ten-year term and an interest rate of 5% with no repayment requirement during the first three years. BFA Attachment A is the overall combined equity analysis for this transaction and shows the overall financial ability of all the parties involved to go forward with these projects.

The submitted budget projects a net income of \$26,792 in both Years One and Three, respectively. Revenue growth is based on the reduction of employee benefits in Years One and Three, and on the recovery of occupancy rates to pre-pandemic levels. Occupancy levels increased from 71.76% in December 2022 to 82.56% in December 2023, and as of November 2024, the occupancy level was 86.29%. BFA Attachment D is WRNC Operating, LLC's pro forma balance sheet, which shows the entity will start with \$1,667,639 in members' equity. The budget appears reasonable.

BFA Attachment C is Wells House Health System Inc.'s financial summary for 2022 through November 2024. During this time, the RHCF reported negative assets in 2023 and 2024, negative working capital, and operating losses. The losses are attributable to ongoing financial difficulties and a reduction in occupancy following the COVID-19 pandemic. The facility has also been working with the New York State Department of Health on a strategic assessment process. The facility received an award under the

Nursing Home Vital Access Provider Assurance Program (VAPAP) in August 2022 for financial relief necessary to maintain operations and services. Despite the assistance, the facility continued to experience financial problems and, on November 9, 2022, Wells Nursing Home, Inc. and Personal Healthcare, LLC, an entity with common ownership with WRNC Realty, LLC, entered into an Escrow Funding Agreement containing provisions for advances prior to the purchase of the real estate to mitigate operational losses. Even with the negative financial situation, the facility's occupancy continues to improve from pandemic levels. The new operator anticipates continued improvements in occupancy post-acquisition, thus mitigating the losses previously incurred due to the lower occupancy rates and the anticipated transition of ownership.

Conclusion

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

Attachments

LTCOP Attachment	Long-Term Care Ombudsman Program Recommendation
BHFP Attachment	Map
BFA Attachment A	Net Worth Summary of WRNC Operating LLC and WRNC Realty, LLC
BFA Attachment B	Organizational Chart
BFA Attachment C	Financial Summary – Wells House Health System, Inc. 2021 – 2024 and 2023 Audited Financial Statements for
BFA Attachment D	Pro Forma Balance Sheet



Project # 202251-E

Hoosick Falls Center LLC d/b/a

Hoosick Falls Rehabilitation and Nursing Center

Program: Residential Health Care Facility
Purpose: Establishment

County: Rensselaer
Acknowledged: January 25, 2021

Executive Summary

Description

Hoosick Falls Center, LLC, a New York limited liability company, requests approval to be established as the new operator of The Center for Nursing and Rehabilitation at Hoosick Falls, an 82-bed, voluntary not-for-profit, Article 28 residential health care facility (RHCF) at 21 Danforth Street, Hoosick Falls (Rensselaer County). Hoosick Falls Health Center, Inc. (HFHC), a voluntary not-for-profit corporation, is the current operator, and SVHC-Hoosick Falls, LLC is the co-operator and sole member. SVHC-Hoosick Falls LLC has a passive parent, Southwestern Vermont Health Care Corporation (SVHC), a comprehensive healthcare system serving parts of Vermont, New York, and Massachusetts.

On March 13, 2024, Hoosick Falls Health Center, Inc. entered into an Operations Transfer Agreement (OTA) with Hoosick Falls Center, LLC, to sell and acquire the RHCF operating assets for \$250,000, plus the assumption of certain liabilities (to be determined at closing). Concurrently, Hoosick Falls Health Center, Inc. entered into a Real Estate Purchase Agreement (REPA) with Hoosick Propco, LLC, to sell and acquire the real property for \$2,250,000. The applicant will lease the premises from Hoosick Propco, LLC. Some members of the applicant and realty have common ownership.

The transactions will close simultaneously upon Public Health and Health Planning Council (PHHPC) approval.

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

Current Operator

Hoosick Falls Health Center, Inc. d/b/a The Center for Nursing and Rehabilitation at Hoosick Falls

Sole Corporate Member, Co-Operator:

SVHC-Hoosick Falls LLC 100%

Voluntary Not-For-Profit Corporation

Passive Member

Southwestern Vermont Health Care Corporation

Proposed Operator

Hoosick Falls Center, LLC d/b/a The Center for Nursing and Rehabilitation at Hoosick Falls

Members:

Mordejai Salamon 65%

Ariel Jaffa 12%

Penny Morgan 12%

Yehudis Klein 5%

Blimie Perlstein 5%

Stephen Bernier 1%

OALTC Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services as a result of this application. As of February 5, 2025, the facility reported 85.4% occupancy of staffed beds and Rensselaer County had 94.1% occupancy of staffed beds.

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 project costs associated with this application. The purchase price for the RHCF operations is \$250,000, plus assumed liabilities, estimated to be under \$25,000, which will be

funded via members' equity. The real property purchase of \$2,250,000 will be funded with \$450,000 in members' equity and a self-amortizing 10-year \$1,800,000 loan at a 10-year UST +2.50% interest rate (approximately 6.35%). Eastern Union Healthcare Group has provided a letter of interest. The proposed budget is as follows:

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$9,078,004	\$9,167,980
Expenses	<u>8,990,836</u>	<u>9,088,213</u>
Net Income	\$87,168	\$79,767

Health Equity Impact Assessment

A Health Equity Impact Assessment was not required for this project under Public Health Law §2802-B, as it was received by the Department on December 11, 2020.

Recommendations

Long-Term Care Ombudsman Program

The LTCOP recommends Approval. (See LTCOP Attachment A)

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 an executed loan commitment to purchase the real property, acceptable to the Department of Health. [BFA]
2. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR].

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

April 10, 2025

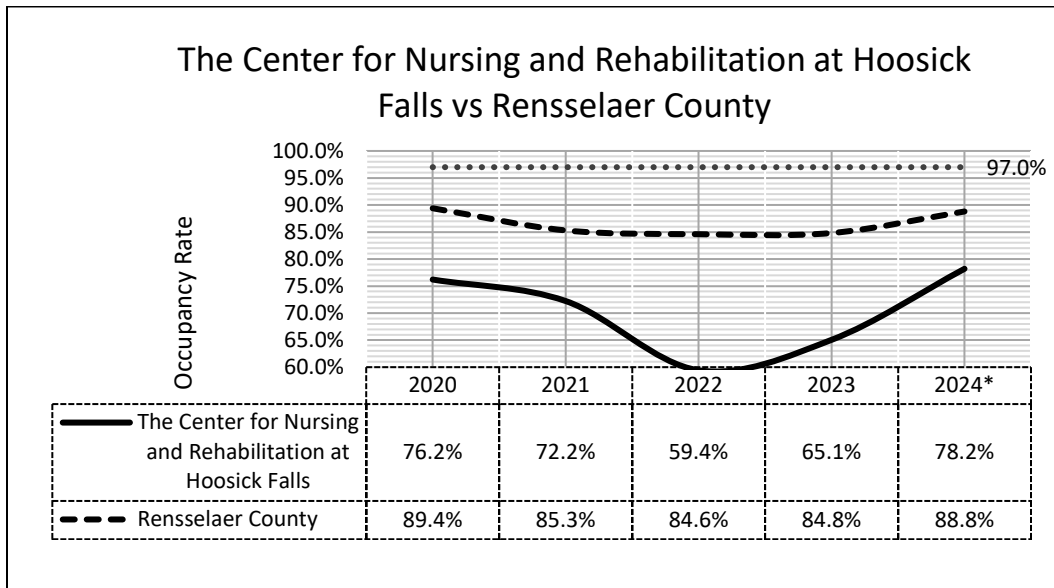
Need Analysis

Background and Analysis

The primary service area is Rensselaer County, which has a population projected to increase to 161,946 by 2030 based on Cornell Program of Applied Demographic estimates. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Rensselaer County	New York State
Total Population (2023 Estimate)	160,341	19,872,319
Hispanic or Latino (of any race)	5.9%	19.6%
White (non-Hispanic)	79.8%	53.4%
Black or African American (non-Hispanic)	6.3%	13.6%
Asian (non-Hispanic)	3.1%	8.8%
Other (non-Hispanic)	4.9%	4.6%

Source: American Community Survey (2023 5-year Estimates Data Profiles)



*2024 data is self-reported and not certified. Occupancy through 2023 is from the RHCF cost reports.

Based on weekly census data, the facility reported that 85.4% of its 82 licensed beds are staffed and occupied as of February 5, 2025. Rensselaer County had 95.4% of the county's 1,242 licensed beds staffed and 89.6% occupied for a 94.1% occupancy of staffed beds.

This facility is located in Hoosick Falls, which is approximately twelve miles from the Southwestern Vermont Medical Center. The applicant reports accepting 75% to 80% of its admissions from Southwestern Vermont's discharges of New York State residents. These individuals were residents of the facility's service area and want to return to the area where they have lived most of their lives and where they can maintain a close association with their families and their community.

The table below shows the CMS Rating and the utilization of the closest RHCFs to The Center for Nursing & Rehab at Hoosick Falls. There are five Nursing Homes within 20 miles, located in Vermont and Massachusetts. The other Nursing Homes that are located in NY State are about 20 to 35 miles away from the facility.

Facility Name	CMS Overall Rating	Number of Beds	Distance from other RHCFS	Occupancy			
	As of 1/2025		Miles/Time	2021	2022	2023	2024*
Center at Hoosick Falls	2	82	0 miles/0 mins	72.2%	59.4%	65.1%	78.2%
Troy Victorian Rehab & Nursing Care Center	1	120	24.7 miles/36 mins	87.0%	92.9%	94.7%	89.5%
Eddy Heritage	1	120	25.6 miles/36 mins	76.8%	83.8%	81.0%	87.5%
Eddy Memorial	1	80	25.8 miles/39 mins	91.1%	93.3%	95.5%	96.7%
Van Rensselaer Manor	2	362	30.2 miles/45 mins	76.7%	71.0%	70.5%	69.6%
Seton Health at Schuyler Ridge Residential Healthcare (Saratoga)	4	120	31 miles/47 min	91.1%	86.0%	93.0%	96.8%
Eddy Village Green (Albany)	4	192	27.9 miles/48 mins	82.2%	79.4%	81.2%	93.8%
Troy Center for Rehab & Nursing	1	78	29 miles/48 mins	97.1%	96.1%	95.3%	96.5%
Washington Center for Rehab and Healthcare (Washington)	3	122	20 miles/31 min	95.0%	97.6%	96.5%	96.7%

*2024 data is self-reported and not certified. Occupancy through 2023 is from the RHCFS cost reports.

The following table provides the Case Mix Index (CMI) for the facility and the surrounding RHCFS, which reflects the relative resources predicted to provide care to a resident. The higher the case mix index weight, the greater the resource requirements for the residents.

Case Mix Index	2021		2022		2023	
	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only
Center at Hoosick Falls	1.159	1.041	1.0839	0.9974	1.1894	1.1912
Troy Victorian Rehab & Nursing Care Center	1.1375	1.0482	1.1986	1.1953	1.2397	1.2547
Eddy Heritage	1.239	1.037	1.2394	1.1897	1.2947	1.1834
Eddy Memorial	0.977	0.903	1.1181	1.0785	1.0967	1.0681
Van Rensselaer Manor	1.043	0.997	1.0595	1.0211	1.0023	0.9825
Seton Health at Schuyler Ridge Residential Healthcare (Saratoga)	1.2669	1.1045	1.2788	1.2125	1.203	1.1237
Eddy Village Green (Albany)	0.992	0.93	1.0525	1.0541	1.09	1.1016
Troy Center for Rehab and Nursing	1.34	1.251	1.374	1.3048	1.3337	1.3227
Washington Center for Rehab and Healthcare (Washington)	1.2286	1.1903	1.2502	1.2386	1.2237	1.2578

Medicaid Access

To ensure that the Residential Health Care Facility needs of the Medicaid population are met, 10 NYCRR §670.3 requires applicants to accept and admit a reasonable percentage of Medicaid residents in their service area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. This benchmark may be increased or decreased based on the following factors:

- the number of individuals within the planning area currently awaiting placement to a residential health care facility and the proportion of total individuals awaiting such placement that are Medicaid patients and/or alternate level of care patients in general hospitals;
- the proportion of the facility's total patient days that are Medicaid patient days and the length of time that the facility's patients who are admitted as private paying patients remain such before becoming Medicaid eligible;

- the proportion of the facility's admissions who are Medicare patients or patients whose services are paid for under provisions of the federal Veterans' Benefits Law;
- the facility's patient case mix based on the intensity of care required by the facility's patients or the extent to which the facility provides services to patients with unique or specialized needs; and
- the financial impact on the facility due to an increase in Medicaid patient admissions.

An applicant will be required to make appropriate adjustments in its admission policies and practices to meet the resultant percentage. The facility's Medicaid admissions rate was above the threshold of 75% of the Rensselaer County rate for 2021-2023.

Medicaid Access	2021	2022	2023
Rensselaer County Total	38.3%	44.5%	45.7%
<i>Rensselaer Threshold Value</i>	28.7%	33.4%	34.3%
Center for Rehab at Hoosick Falls	38.6%	43.2%	72.2%

Conclusion

There will be no changes to beds or services due to this application. The facility reported that 85.4% of its licensed beds are staffed and occupied as of February 5, 2025. Rensselaer County had 95.4% of the county's licensed beds staffed and 89.6% occupied for a 94.1% occupancy of staffed beds.

Program Analysis

Project Proposal

	Existing	Proposed
Facility Name	The Center for Nursing and Rehabilitation at Hoosick Falls	Same
Address	21 Danforth Street Hoosick Falls, NY 12090	Same
RHCF Capacity	82 beds	Same
ADHCP Capacity	N/A	Same
Type of Operator	Not-for-Profit Corporation	Limited Liability Company
Class of Operator	Voluntary	Proprietary
Operator	Hoosick Falls Health Center Inc. Co-Operator <u>Sole Corporate Member</u> SVHC-Hoosick Falls LLC Not-For- Profit Coropration <u>Passive Member</u> Southwestern Vermont Health Care Corporation	Hoosick Falls Center LLC <u>Membership:</u> Mordejai Salamon* 65% Ariel Jaffa 12% Penny Morgan 12% Yehudis Klein 5% Blimie Perlstein 5% Stephen Bernier 1% <i>*Managing Member</i>

On 04/1/2024 an Interim Consultative Services Agreement was entered into by Hoosick Consulting, LLC and Hoosick Falls Health Center, Inc. The interim agreement will terminate when this application has been approved and all contingencies have been satisfied. Once Hoosick Falls Center LLC has assumed ownership of the facility there is no intent to enter into any agreement(s) involving the management/administrative/billing or consulting services for the facility.

Character and Competence

Mordejai Salamon lists concurrent employment as Director of Business Development at Gold Crest Care Center in Bronx, NY, and as the Chief Marketing Officer at Tupper Lake Center, LLC, in Tupper Lake, NY. Previously, Mordejai Salamon was the Director of Marketing for Fieldston Lodge Care Center in Bronx, NY. Mordejai Salamon holds a bachelor's degree in business management from Fairleigh Dickenson University and discloses the following healthcare facility ownership interests:

New York Nursing Homes

North Country Nursing and Rehabilitation (17%)	12/2023 to present
Tupper Lake Center for Nursing and Rehabilitation (9.5%)	01/2025 to present

Out-of-State Nursing Homes

Advanced Center for Nursing and Rehabilitation (CT) (10%)	10/2016 to present
West Haven Center for Nursing and Rehabilitation (CT) (7%)	11/2021 to present
Southport Center for Nursing and Rehabilitation (CT) (7%)	11/2021 to present
New Haven Center for Nursing and Rehabilitation (CT) (7%)	11/2021 to present
Waterbury Center for Nursing and Rehabilitation (CT) (7%)	11/2021 to present
Torrington Center for Nursing and Rehabilitation (CT) (7%)	11/2021 to present

Ariel Jaffa is currently a homemaker and lists previous employment as a teacher at Otsar Family Services in Brooklyn, NY. Ariel Jaffa holds a high school diploma from SKA High School and discloses no healthcare facility ownership interests.

Penny Morgan is currently retired since May 2010. Penny Morgan holds a Juris Doctor from St. Johns School of Law. Penny Morgan is licensed as an attorney in New York and previously held licenses in New Jersey and Florida, which are currently inactive.

Yehudis Klein lists employment as a Risk Manager at P&G Brokerage, Inc. an insurance brokerage firm in Brooklyn, NY. Previously, Yehudis Klein was unemployed from 2015 to 2018 and prior to that worked as a teacher at Bais Yaakov D'Rav Meir a private school located in Brooklyn, NY. Yehudis Klein holds a high school diploma from Bais Rochel High School and discloses the following healthcare facility ownership interests:

New York Nursing Homes

Tupper Lake Center for Nursing and Rehabilitation (5%) 01/2025 to present

End Dated Ownership

Elizabethtown Nursing and Rehabilitation (PA) (20%) 12/2020 to 06/2023
 Emerald Rehab and Healthcare Center (PA) (10%) 04/2022 to 06/2023
 Forest Park Nursing and Rehabilitation (PA) (10%) 03/2022 to 06/2023

Blimie Perlstein lists employment as Owner of P&G Brokerage, Inc. an insurance brokerage firm in Brooklyn, NY. Blimie Perlstein holds a high school diploma from Tomer Dvora High School and discloses the following healthcare facility ownership interests:

New York Nursing Homes

North Country Nursing and Rehabilitation (5%) 12/2023 to present
 Tupper Lake Center for Nursing and Rehabilitation (5%) 01/2025 to present

Stephen Bernier lists concurrent employment as Owner and Operator of Zella Healthcare Consulting LLC a Healthcare consulting company and Zella Staffing Solution LLC a staffing agency in Simsbury, CT. Previously, Stephen Bernier worked as a Senior Manager at Marcum LLP an accounting and advisory services firm in Hartford, CT. Stephen Bernier holds a bachelor's degree in business administration from Charter Oak State College and discloses no healthcare facility ownership interests.

Quality Review

The proposed owners have been evaluated, in part, on the distribution of CMS Star ratings for their portfolio. For the proposed owner, the distribution of CMS star ratings for their facilities meets the standard described in state regulations.

CMS Star Rating Criteria					
		Duration of Ownership*			
		< 48 Months		48 months or more	
Proposed Owner	Total Nursing Homes	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating
Mordejai Salamon	8	7	85.7%	1	100%
Ariel Jaffa	0	N/A	N/A	N/A	N/A
Penny Morgan	0	N/A	N/A	N/A	N/A
Yehudis Klein	1	1	100%	N/A	N/A
Blimie Perlstein	2	2	100%	N/A	N/A
Stephen Bernier	0	N/A	N/A	N/A	N/A

*Duration of Ownership as of 04/10/2025

Data date: 1/2025

New York. The proposed owner's portfolio includes ownership in two New York facilities. Both facilities have a CMS overall quality rating of below average to much below average. When asked to explain what measures were being put into place to improve the low overall CMS ratings, the applicant indicated the following:

North Country Nursing and Rehabilitation- Blimie Perlstein and Mordejai Salamon have been shareholders (5.0% and 17.0%, respectively) of this facility since December 2023. Since becoming shareholders, these individuals report they have made positive operational improvements at the facility including the hiring of a new facility Administrator in June of 2024. As a result of these efforts, the facility reported that its most recent health inspection survey resulted in no high-level deficiencies, and, as a result, the facility expects that its Overall star rating will increase from one (1) star to two (2) stars within the near term, with the goal of reaching three (3) stars in the Overall rating by the end of 2025.

Tupper Lake Center for Nursing and Rehab- Blimie Perlstein (a 5.0% member of this facility), Mordejai Salamon (a 9.5% member of this facility), and Yehudis Klein (a 5.0% member of this facility) became members of the facility in January of 2025. In an effort to improve the facility's star ratings even further, these members plan to visit the facility on a regular basis to determine which operational improvements are still needed. They plan to work closely with the facility's risk management consultant in regard to making positive operational improvements at the facility. As a result of these initiatives, the facility is hopeful that its Overall star rating will increase to three (3) stars by the end of 2025.

Connecticut. The proposed owner's portfolio includes ownership in six Connecticut facilities. One of the Connecticut facilities in the ownership portfolio, Waterbury Center for Nursing and Rehabilitation, had a CMS overall quality rating of average. The remaining five facilities in the ownership portfolio had a CMS overall quality rating of below average to much below average. When asked to explain what measures were being put into place to improve the low overall CMS ratings, the applicant indicated the following:

Advanced Center for Nursing and Rehabilitation- The applicant states that a CMS health inspection survey that was conducted at Advanced Center for Nursing and Rehabilitation on September 20, 2022, resulted in a survey deficiency that was later disputed by the facility via the Informal Dispute Resolution Process (IDR). During the dispute period, the facility's health inspection score was not reflective of this deficiency. As such, there were several months during 2022, 2023, and 2024 where the facility's Overall star rating was two (2) stars, including the months of April 2024 through August 2024. However, in September of 2024, the IDR was ultimately denied by CMS (a process that took two [2] years), and, as a result, the facility's health inspection score and its Overall star rating are now reflective of this outcome.

The applicant added that CMS adjusted its "Cut Points" in September of 2024, which is another contributing factor leading to the facility receiving one (1) star in the Overall category. They stated the facility is expecting its next survey to be positive, which should serve to increase the facility's Overall rating to two (2) stars during the next survey cycle.

West Haven Center for Nursing and Rehabilitation- The facility shows one (1) star in the Overall category as a result of several deficiencies cited during a survey conducted in November of 2023. There were no G-level tags or Immediate Jeopardy violations associated with this survey. The facility has since completed its Plan of Correction (POC) and has made significant improvements to the physical plant (many of the deficiencies related to minor physical plant issues, such as toilet paper holders being placed at an incorrect height, etc.). In addition, the housekeeping department and the maintenance department regularly visit resident rooms together in order to determine if rooms require upgrading or maintenance.

The applicant added that one (1) of the survey deficiencies resulted from an alleged misappropriation of certain medications. As part of the facility's POC, all of the facility's nursing staff were given an in-service regarding the proper handling of medications and several of the facility's staff were replaced. The facility is confident that its next survey will result in fewer deficiencies and, as a result, the facility is expecting that its Overall star rating will increase to two (2) stars within the near term.

Southport Center for Nursing and Rehabilitation- The applicant states that the facility continues to monitor its operations and has been focused on hiring quality full-time nursing staff. The facility reported that its most recent health inspection survey resulted in no high-level deficiencies, and, as a result, the facility expects that its Overall star rating will increase from one (1) star to two (2) stars within the near term, with the goal of reaching three (3) stars in the Overall rating by the end of 2025.

New Haven Center for Nursing and Rehabilitation- Although the facility's Overall rating has remained at one (1) star for quite some time, the facility is pleased to report that it is no longer a Special Focus Candidate as a result of the positive operational improvements made at the facility, including the hiring of a new facility Administrator. The facility also reported that it received only low-level tags during its most recent survey. As a result, the facility expects that its Overall star rating will increase to two (2) stars during the next CMS star ratings update, with the goal of reaching three (3) stars in the Overall rating by the end of 2025.

Torrington Center for Nursing and Rehabilitation- The applicant states that the facility continues to monitor its operations and has been focused on hiring full-time nursing staff. The facility reported that its most recent health inspection survey resulted in no high-level deficiencies, and, as a result, the facility expects that its Overall star rating will increase from two (2) stars to three (3) stars within the near term.

Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
New York					
The Center for Nursing and Rehabilitation at Hoosick Falls	Subject Facility	**	***	***	*
North Country Nursing and Rehabilitation	Current	*	*	****	****
	12/2023	*	*	‡	***
Tupper Lake Center for Nursing and Rehabilitation	Current	**	*	*****	***
	01/2025	**	*	*****	***
Connecticut					
Advanced Center for Nursing and Rehabilitation	Current	**	**	***	****
	10/2016	*	*	***	*
West Haven Center for Nursing and Rehabilitation	Current	*	*	**	**
	11/2021	**	*	*****	***
Southport Center for Nursing and Rehabilitation	Current	*	*	***	****
	11/2021	*	*	**	***
New Haven Center for Nursing and Rehabilitation	Current	*	*	***	***
	11/2021	*	*	**	***
Waterbury Center for Nursing and Rehabilitation	Current	***	**	***	*****
	11/2021	**	*	***	****

Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
Torrington Center for Nursing and Rehabilitation	Current	*	**	*	****
	11/2021	*	*	****	***

Data date: 1/2025

‡ This facility submitted data that could not be verified through an audit.

End Dated Ownership					
Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
Pennsylvania					
Elizabethtown Nursing and Rehabilitation	06/2023	**	**	****	**
	12/2020	*	*	**	***
Emerald Rehab and Healthcare Center	06/2023	*	**	***	*
	04/2022	**	**	***	***
Forest Park Nursing and Rehabilitation	06/2023	*	*	***	**
	03/2022	**	**	***	***

Enforcement History

New York

A review of the operations of North Country Nursing and Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Tupper Lake Center for Nursing and Rehab under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

Connecticut

A review of the operations of Advanced Center for Nursing and Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a state CMP of \$3,060.00 on 11/26/2018, for violation of Connecticut state agency Public Health Code Section 19-13-D8t(m)(2). An interview with the ADON on 10/30/2018 identified although the facility had no policy regarding the classification of incidents, the facility would follow the Public Health Code.
- The facility was assessed a federal CMP of \$40,724.00 on 04/07/2022 under F-tag 684 for failure to provide appropriate treatment and care according to orders, resident's preferences and goals and F-tag 689 as immediate jeopardy for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents. The facility was also assessed a state CMP of \$10,000.00.
- The facility was assessed a federal CMP of \$53,275.00 on 06/14/2023 under F-tag 689 for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents.

A review of the operations of West Haven Center for Nursing and Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a federal CMP of \$6,630.00 on 09/20/2022 under F-tag 678 as immediate jeopardy for failure to provide basic life support, including CPR, prior to the arrival of emergency medical personnel, subject to physician orders and the resident's advance directives and F-tag 658

as immediate jeopardy for failure to ensure services provided by the nursing facility meet professional standards of quality.

A review of the operations of Southport Center for Nursing and Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a federal CMP of \$8,648.00 on 06/24/2022 under F-tag 689 for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents. The facility was also assessed a state CMP of \$6,120.00.

A review of the operations of New Haven Center for Nursing and Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a state CMP of \$1,560.00 on 10/24/2023, for violation of Connecticut state agency Public Health Code Section 19-13-D8t(m)(2) and/or Connecticut General Statutes 19a-550. A survey conducted on 09/27/23 revealed the facility was under the required staffing hours by 46.4 hours on 9/13/2023, under the required staffing hours by 48.8 hours on 9/18/2023, and under the required staffing hours by 51.6 hours on 09/22/2023.
- The facility was assessed a federal CMP of \$199,306.00 on 08/03/22 under F-tag 658 as immediate jeopardy for failure to ensure services provided by the nursing facility meet professional standards of quality and F-tag 725 as immediate jeopardy for failure to provide enough nursing staff every day to meet the needs of every resident and have a licensed nurse in charge on each shift. Specifically, the facility failed to administer medications as prescribed (to 21 residents), failed to notify the DNS and physician when medications were not administered, failed to complete assessments of the residents' condition after medications were omitted, failed to monitor residents who had significant medication omissions and failed to accurately document the medication omissions. Further, the facility failed to ensure licensed staff followed professional standards of practice including reporting to the oncoming and off-going shifts, narcotic count, and ensuring the security of the narcotic keys.
- The facility was assessed a federal CMP of \$51,077.00 on 04/27/22 under F-tag 684 as immediate jeopardy for failure to provide appropriate treatment and care according to orders, resident's preferences and goals and F-tag 686 for failure to provide appropriate pressure ulcer care and prevent new ulcers from developing. The facility was also assessed a state CMP of \$10,000.00.

A review of the operations of Waterbury Center for Nursing and Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a CMP of \$9,750.00 on 06/23/2022 for an infection control deficiency per the applicant.

A review of the operations of Torrington Center for Nursing and Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a federal CMP of \$650.00 on 01/03/2022 for failure to report COVID-19 data.

Pennsylvania

A review of the operations of Elizabethtown Nursing and Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a federal CMP of \$88,615.00 for a survey conducted on 03/31/2023. The facility was cited during that survey for failure to allow residents to self-administer drugs if determined clinically appropriate, failure to provide pharmaceutical services to meet the needs of each resident and employ or obtain the services of a licensed pharmacist, and failure to ensure drugs and biologicals used in the facility are labeled in accordance with currently accepted professional principles; and all drugs and biologicals must be stored in locked compartments, separately locked, compartments for controlled drugs.
- The facility was assessed a state fine of \$8,500.00 on 05/8/2023 for immediate jeopardy under F-tag 725 for failure to provide enough nursing staff every day to meet the needs of every resident; and have a licensed nurse in charge on each shift.

A review of the operations of Emerald Rehab and Healthcare Center under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Forest Park Nursing and Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a federal CMP of \$658.00 on 04/04/2022 and \$994.00 on 04/18/2022 for failure to report COVID-19 data.
- The facility was assessed a federal CMP of \$33,735.00 under F tag 689 as immediate jeopardy on 12/22/2022 for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents. The facility was also assessed a state fine of \$11,500.00.
- The facility was assessed a federal CMP on 06/23/2023 of \$8,190.00 under F tag 689 at a G level for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents. The facility was also assessed a state CMP of \$8,750.00.

Conclusion

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

Financial Analysis

Operating Budget

The applicant has provided the current year (2023) results with the first and third-year operating budgets after the change in ownership, in 2025 dollars, summarized as follows:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>Revenues</u>						
Medicaid FFS	\$216.35	\$3,099,884	\$217.67	\$4,428,662	\$217.67	\$4,472,948
Medicaid MC	\$216.35	98,656	\$206.63	133,898	\$206.78	135,237
Medicare FFS	\$575.47	1,145,179	\$649.97	2,483,520	\$650.00	2,508,355
Medicare MC	\$575.47	267,592	\$650.30	429,195	\$649.91	433,487
Private Pay	\$399.43	891,532	\$399.49	1,265,975	\$399.45	1,278,635
All Other-Assessment		0		256,307		258,871
Other Revenue*		<u>80,447</u>		<u>80,447</u>		<u>80,447</u>
Total		\$5,583,290		\$9,078,004		\$9,167,980
<u>Expenses</u>						
Operating	\$406.50	\$7,914,991	\$268.87	\$7,701,578	\$267.69	\$7,744,145
Capital	<u>\$20.68</u>	<u>402,735</u>	<u>\$45.01</u>	<u>1,289,258</u>	<u>\$46.46</u>	<u>1,344,068</u>
Total Expenses	\$427.18	\$8,317,726	\$313.88	\$8,990,836	\$314.15	\$9,088,213
Net Income (Loss)		<u>(\$2,734,436)</u>		<u>\$87,168</u>		<u>\$79,767</u>
Patient Days		19,471		28,644		28,930
Utilization %		65.06%		95.70%		96.66%

*Other revenue: \$27,805 from contributions, \$7,200 in rental income, and \$45,442 in miscellaneous income.

The following is noted concerning the submitted RHCF operating budget:

- The current year reflects the facility's 2023 revenues and expenses.
- The Medicaid FFS rate is based on the facility's 2024 Medicaid Regional Pricing rate. The Medicaid MC rate is based on an estimated 95% of the Medicaid FFS rate. The Medicare and Private Pay rates are based on forecasted payer rates.
- Current year staffing is based on 2023 staffing levels. Staffing for the first and third years is based on the 10 NYCRR §415.13 minimum staffing ratio guidelines.
- Expenses were based on the 2023 operating expenses, increased by 2% for most non-payroll items, and a reduction in purchased services of \$368,885 and \$167,682 in other direct expenses based on forecasted efficiencies and consolidation of duties.
 - The projected percentage of direct care staffing costs to projected facility revenues is 40.59% in Year One and 42.39% in Year Three, exceeding the 40% requirement in Public Health Law §2808.
 - The percentage of direct resident care costs to projected facility revenue is 80.74% in Year One and 80.35% in Year Three, exceeding the 70% requirement in Public Health Law §2808.
 - The facility's projected profit percentage is 0.96% in Year One and 0.87% in Year Three, less than the 5% maximum outlined in Public Health Law §2808.
- The facility's projected utilization is 95.70% in Year One and 96.66% in Year Three. Utilization was 72.2% in 2021, 59.42% in 2022 and 65.06% in 2023. Based on self-reporting, occupancy was 85.4% as of September 18, 2024. The applicant plans to improve occupancy by various measures, including:
 - Admit and treat residents with higher acuity than previously treated at the facility.
 - Implement a new marketing program to promote the skills of the new ownership.
 - Continue to focus on communication and relationship building with area doctors, hospitals, and residents' family members regarding improvements made at the facility.
 - Invest further by updating and beautifying resident rooms and the dining room.

- Partner with local hospitals and physician groups to coordinate the continuation of patient care.

Utilization by the payor source is summarized below:

Payor	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Days</u>	<u>%</u>	<u>Pt Days</u>	<u>%</u>	<u>Days</u>	<u>%</u>
Medicaid FFS	14,328	73.59%	20,346	71.03%	20,549	71.03%
Medicaid MC	456	2.34%	648	2.26%	654	2.26%
Medicare FFS	1,990	10.22%	3,821	13.34%	3,859	13.34%
Medicare MC	465	2.39%	660	2.30%	667	2.31%
Private Pay	<u>2,232</u>	<u>11.46%</u>	<u>3,169</u>	<u>11.07%</u>	<u>3,201</u>	<u>11.06%</u>
Total	19,471	100%	28,644	100%	28,930	100%

- Breakeven utilization is projected at 95.63% in Year One.
- The facility's Medicaid admissions were 38.6% in 2021, 43.2% in 2022, and 72.2% in 2023, all above Rensselaer County's 75% threshold rates of 28.7% for 2021, 33.4% for 2022 and 34.3% in 2023.

Operations Transfer Agreement

The applicant has submitted an executed OTA to acquire the RHCF's operating assets; terms are summarized below:

Date:	March 13, 2024
Seller:	Hoosick Falls Health Center, Inc.
Buyer:	Hoosick Falls Center, LLC
Asset Acquired:	Rights, title, and interest in all of the Facility's operating assets free and clear of all liens (except those assets transferred in the Real Property Agreement): operating certificates, physical plant, assumed contracts, inventory, operating books and manuals, business records, telephone numbers, e-mail addresses, intellectual property rights, goodwill, warranties, and tangible personal property.
Excluded Assets:	All cash or cash equivalents, proprietary marketing materials, the right to payment before the Effective Date, minute books, claims to payments, and accounts receivable before the Effective Date are excluded.
Excluded Liabilities:	It shall not assume any lawsuits, payor claims, seller indebtedness, obligations of the Seller or obligations to employees before closing, and contract obligations or taxes assessed before effective time.
Purchase Price:	\$250,000 plus certain assumed liabilities to be determined at closing.
Payment of Purchase Price:	\$250,000 Paid at closing

The purchase price for the operations of \$250, 000 is to be satisfied by members' equity.

BFA Attachment A-1 is Hoosick Falls Center, LLC's net worth summary, revealing sufficient resources for equity requirements.

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 surcharges, assessments or fees due from the transferor under Article 28 of the Public Health Law concerning the period before the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of October 7, 2024, the facility had no outstanding Medicaid liabilities.

Purchase and Sale Agreement for the Real Property

The applicant has submitted an executed REPA to sell the RHCF's real property; terms are summarized below:

Date:	March 13, 2024
Seller:	Hoosick Falls Health Center, Inc.
Buyer:	Hoosick PropCo, LLC
Asset Purchased:	RHCF's Property is located at 21 Danforth Street, Hoosick Falls
Purchase Price:	\$2,250,000
Payment of Purchase Price	\$2,250,000 at closing

The purchase price for the real property is to be satisfied as follows:

Equity – members	\$450,000
Loan – \$1,800,000, self-amortizing 10-year loan at 10 Year UST +2.5% or approximately 6.35%	<u>1,800,000</u>
Total	\$2,250,000

BFA Attachment A-2 is Hoosick Propco, LLC's net worth summary, revealing sufficient resources for equity requirements. Mordejai Salamon has provided an affidavit stating he will contribute resources disproportionate to his ownership interest. A letter of interest from Eastern Union Healthcare Group has been provided for the loan.

Consulting Services Agreement

Hoosick Consulting, LLC entered into a Consulting Services Agreement with the present operator, Hoosick Falls Health Center Inc. The applicant has submitted an executed agreement, which is summarized below:

Dated:	March 11, 2024
Facility:	Hoosick Falls Health Center, Inc.
Contractor:	Hoosick Consulting, LLC
Term:	Effective April 1, 2024. It will terminate when the Facility is sold or closed.
Compensation:	No payment to consultant—responsible non-operator costs. If Hoosick Falls Center has not received approval for the CON by July 15, 2024, the consultant will be required to loan money to the Operator to cover the working capital needed to offset the Operator's operating deficits.
Contractor's Duties:	Assist operator: to retain Administrator, evaluate performance, IT training, policy compliance, capital needs, engage additional consultants, budget, accounts payable, negotiating rates, retain Director of Nursing, in-service education to clinical staff, and compliance with regulatory agencies.

The Consultant 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. Menajem Salamon is Hoosick Consulting, LLC's chief executive officer and the brother of a member of the proposed operator.

Lease Agreement

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

Date:	April 9, 2024
Premises:	82-bed SNF located at 21 Danforth Street, Hoosick Falls, New York 12090
Landlord:	Hoosick Falls Propco, LLC
Lessee:	Hoosick Falls Center, LLC
Term:	Five (5) Years and one renewal option of five (5) years
Rental:	\$900,000 First Year (3% yearly increases). In the fourth year, the greater of the schedule rent or market value.
Provisions:	Triple Net

The lease arrangement is a non-arms-length agreement. Mordejai Salamon, Blimie Perlstein, Yehudis Klein, and Stephen Bernier are members of Hoosick Falls Center LLC and Hoosick Propco LLC. The applicant has submitted an affidavit attesting to the relationship between the landlord and the operating entity and two letters from NYS-licensed realtors attesting to the reasonableness of the rental rate.

Capability and Feasibility

There are no project costs associated with this application. The purchase price for the RHCF operations is \$250,000, plus assumed liabilities, estimated to be under \$25,000, funded with proposed members' equity. The real property purchase of \$2,250,000 will be funded with \$450,000 in proposed members' equity and a self-amortizing 10-year \$1,800,000 loan at a 10-year UST +2.50% interest rate (approximately 6.35%). Eastern Union Healthcare Group has provided a letter of interest.

The working capital requirement is estimated at \$1,498,473 based on two months of first-year expenses. Proposed members will fund \$1,498,473 in working capital from their liquid resources. BFA Attachment A-1 is Hoosick Falls Center, LLC members' net worth summary, revealing sufficient resources to meet the operating and working capital equity requirements.

The submitted budget projects first-year and third-year profits of \$87,168 and \$79,767. Total revenues are expected to increase by \$3,494,714 in Year One. Overall expenses are expected to increase by \$673,110 based on a \$213,413 reduction in operating expenses and a \$886,523 increase in capital expense (rent). The decline in operating expenses is attributable to a decrease of \$368,885 in purchased services and \$167,682 in other direct expenses. BFA Attachment B is Hoosick Falls Center's pro forma balance sheet, showing the operating entity will start with \$1,748,473 in member's equity as of the first day of operations. The budget appears reasonable.

BFA Attachment C is the Financial Summary of Hoosick Falls Health Center, Inc. d/b/a The Center for Nursing and Rehabilitation at Hoosick Falls for 2021 through 2023. The RHCF had an average negative working capital, average negative net assets, and average negative operating income of \$2,388,831 during the reporting periods.

BFA Attachment D lists the Hoosick Falls Center, LLC members' New York-affiliated RHCFs and their financial summary. Based on the 2023 certified financial statements, the facility had positive working capital, positive net assets, and a net income of \$1,021,081.

Conclusion

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

Attachments

LTCOP Attachment	Long-Term Care Ombudsman Program Recommendation
BHFP Attachment	Map
BFA Attachment A-1	Hoosick Falls Center, LLC - Members' Net Worth
BFA Attachment A-2	Hoosick Falls Propco, LLC – Members' Net Worth
BFA Attachment B	Pro Forma Balance Sheets for the Operator
BFA Attachment C	Hoosick Falls Health Center, Inc. d/b/a The Center for Nursing and Rehabilitation at Hoosick Falls – Financial Summary of 2021 through 2023 and Hoosick Falls Health Center, Inc. 2022 Financial Statement
BFA Attachment D	Proposed Members' Ownership Interest in Affiliated RHCFs and Financial Summary
BFA Attachment E	Organization chart



Project # 222053-E
VS Servicer at Beacon LLC d/b/a
Taconic Rehabilitation and Nursing at Beacon

Program: Residential Health Care Facility
Purpose: Establishment

County: Dutchess
Acknowledged: October 5, 2022

Executive Summary

Description

VS Servicer at Beacon LLC, a New York limited liability company, requests approval to be established as the new operator of Taconic Rehabilitation and Nursing at Beacon (formerly known as Wingate at Beacon), a 160-bed, proprietary, Article 28 residential health care facility (RHCF), which includes a 20-bed ventilator-dependent unit, at 10 Hastings Drive, Beacon, NY (Dutchess County). The facility has been operating under receivership effective July 13, 2022, with VS Servicer at Beacon LLC as receiver.

On June 27, 2022, Wingate at St. Francis, LLC entered into an Operation Transfer Agreement (OTA) with VS Servicer at Beacon LLC for the transfer and acquisition of assets and operations of Taconic Rehabilitation and Nursing at Beacon.

The OTA for this application includes the transfer of the operating interest of two other RHCFs currently operated by the same members as Taconic Rehabilitation and Nursing at Beacon. The two other nursing homes are currently being reviewed and are listed below:

- CON 222054 – Taconic Rehabilitation and Nursing at Hopewell, a 160-bed facility in Dutchess County.
- CON 222055 – Taconic Rehabilitation and Nursing at Ulster, a 120-bed facility in Ulster County.

The landlord, CCP St. Francis 1742 LLC, and the tenant, VS Servicer at Beacon, LLC, entered

into a proposed lease agreement for site control of the facility. The applicant will enter into a consulting and administrative services agreement with The McGuire Group, Inc. for certain consulting services.

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

Current Operator	
VS Servicer at Beacon LLC (Receiver)	
<u>Members:</u>	
Michael Farbenblum*	50%
Stephen Mercurio	50%
Total	100%

Proposed Operator	
VS Servicer at Beacon LLC	
<u>Members:</u>	
Michael Farbenblum*	80%
Stephen Mercurio	20%
Total	100%

* Managing member of the facility.

OALTC Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services as a result of this application. As of February 5, 2025, the facility reported 100% occupancy of its staffed beds and Dutchess County had 93.7% occupancy of staffed beds.

Program Summary

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

Financial Summary

There is no project cost associated with this application. The purchase price for the RHCF operations of \$33.33 will be met with the proposed members' equity.

The proposed budget is as follows:

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$18,692,869	\$20,305,996
Expenses	<u>18,237,567</u>	<u>19,801,811</u>
Net Income:	\$455,302	\$504,185

Health Equity Impact Assessment

A Health Equity Impact Assessment was not required for this project under Public Health Law §2802-B, as it was received by the Department on August 12, 2022.

Recommendations

Long-Term Care Ombudsman Program

The LTCOP recommends Approval. (See LTCOP Attachment A)

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 an executed building lease acceptable to the Department of Health. [BFA]
2. Submission of a working capital loan commitment that is acceptable to the Department of Health. [BFA]
3. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR].
4. Submission of a plan to continue to enhance access to Medicaid residents. At a minimum, the plan should include, but not necessarily be limited to, ways in which the facility will: a. Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program; b. Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility, and c. Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility and inform them about the facility's Medicaid Access policy. [RNR].

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

April 10, 2025

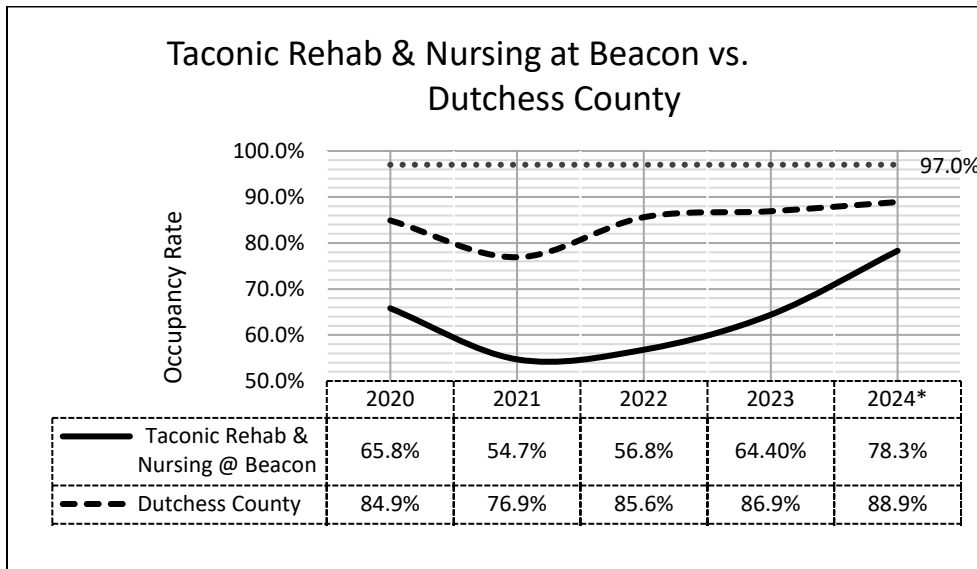
Need Analysis

Background and Analysis

The primary service area is Dutchess County, which has a population projected to decrease to 290,338 by 2030 based on Cornell Program of Applied Demographic estimates. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Dutchess County	New York State
Total Population (2023 Estimate)	297,144	19,872,319
Hispanic or Latino (of any race)	14.9%	19.6%
White (non-Hispanic)	67.2%	53.4%
Black or African American (non-Hispanic)	9.4%	13.6%
Asian(non-Hispanic)	3.4%	8.8%
Other (non-Hispanic)	5.1%	4.6%

Source: 2023 American Community Survey (5-Year Estimates Data Profiles)



*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHCF cost reports.

Based on weekly census data, the facility reported 94.4% of their 160 licensed beds are staffed and occupied as of February 5, 2025, for a 100% occupancy of staffed beds. Dutchess County had 97.3% of the county's 1,853 licensed beds staffed and 91.0% occupied for a 93.7% occupancy of staffed beds.

According to the applicant, the facility previously experienced challenges with utilization attributable to the effects of the COVID-19 pandemic, as well as, instability in operations, including staffing shortages, which culminated in the appointment of the applicant as the receiver of the facility. The applicant plans to improve occupancy rates with a combination of the following factors: strengthened relationships with hospital discharge planners; the ability of the applicant to develop relationships with existing staff to encourage retention; staff training, development, and support; engagement in community outreach; and implementing new programs to serve a more medically diverse resident population.

The applicant reports improvements in occupancy have been achieved through the implementation of several strategic initiatives aimed at enhancing the facility's outreach, admissions process, and overall reputation. A dedicated marketing and provider relations professional has been hired, as well as, an admissions coordinator. The applicant also discloses they achieved preferred provider status within the Montefiore Collaborative Network, and their commitment to quality improvement has led to enhancement in CMS star ratings, with all facilities now rated at three stars or higher.

The table below shows the CMS Rating and the utilization of the six closest RHCs to Taconic Rehabilitation and Nursing at Beacon.

Facility Name	CMS Overall Rating	Number of Beds	Distance from other RHCs	Occupancy			
	As of 1/2025			2021	2022	2023	2024*
Taconic at Beacon	3	160	0 miles/ 0 mins	54.7%	56.8%	64.4%	78.3%
Fishkill Center for Rehab	2	160	2.3 miles/ 8 mins	87.4%	96.6%	95.0%	92.2%
Taconic at Hopewell	3	160	5.0 miles/ 13 mins	73.0%	61.1%	71.6%	88.9%
Sapphire at Wappingers	2	62	7.6 miles/ 14 mins	92.6%	92.8%	89.8%	88.6%
Sapphire at Meadow Hill (Orange)	2	190	8.6 miles/17 mins	78.3%	94.6%	90.9%	92.6%
The Pines at Poughkeepsie Center	3	200	15.0 miles/ 30 mins	84.2%	91.6%	96.1%	92.9%
The Grand Rehab @ River Valley	2	160	16.0 miles/33 mins	83.2%	95.7%	95.7%	94.1%

Source: CMS and RHC cost report

*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHC's cost reports.

The following table provides the Case Mix Index (CMI) for the facility and surrounding RHCs, which reflects the relative resources predicted to provide care to a resident. The higher the case mix weight, the greater the resource requirement for the residents.

Case Mix Index	2021		2022		2023	
	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only
Taconic at Beacon	1.171	1.092	1.1243	1.0545	1.2277	1.2177
Fishkill Center for Rehab	1.3142	1.2923	1.3754	1.3482	1.3825	1.4051
Taconic at Hopewell	1.094	0.989	1.1943	1.0806	1.246	1.1483
Sapphire at Wappingers	1.2433	1.1706	1.2755	1.3244	1.4743	1.5139
Sapphire at Meadow Hill (Orange)	1.3471	1.3229	1.3812	1.3465	1.408	1.3839
The Pines at Poughkeepsie Center	1.1309	0.9762	1.1446	1.0178	1.1489	1.155
Grand Rehab @ River Valley	1.2516	1.0978	1.2437	1.1636	1.253	1.2107

Medicaid Access

To ensure that the Residential Health Care Facility needs of the Medicaid population are met, 10 NYCRR §670.3 requires applicants to accept and admit a reasonable percentage of Medicaid residents in their service area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. This benchmark may be increased or decreased based on the following factors:

- the number of individuals within the planning area currently awaiting placement to a residential health care facility and the proportion of total individuals awaiting such placement that are Medicaid patients and/or alternate level of care patients in general hospitals.
- the proportion of the facility's total patient days that are Medicaid patient days and the length of time that the facility's patients who are admitted as private paying patients remain such before becoming Medicaid eligible;
- the proportion of the facility's admissions who are Medicare patients or patients whose services are paid for under provisions of the federal Veterans' Benefits Law;
- the facility's patient case mix based on the intensity of care required by the facility's patients or the extent to which the facility provides services to patients with unique or specialized needs;
- the financial impact on the facility due to an increase in Medicaid patient admissions.

An applicant will be required to make appropriate adjustments in its admission policies and practices to meet the resultant percentage. The facility's Medicaid admissions rate was below the threshold of 75% of the Dutchess County rate for 2021 through 2023.

Medicaid Access	2021	2022	2023
Dutchess County Total	25.4%	24.7%	19.5%
<i>Dutchess Threshold Value</i>	<i>19.1%</i>	<i>18.5%</i>	<i>14.6%</i>
Taconic at Beacon	11.7%	13.0%	8.2%

Conclusion

There will be no changes to beds or services as a result of this application. As of February 5, 2025, the facility reported 100% occupancy of staffed beds and Dutchess County had 93.7% occupancy of staffed beds.

Program Analysis

Project Proposal

	Existing	Proposed
Facility Name	Taconic Rehabilitation and Nursing at Beacon	Same
Address	10 Hasting Dr. Beacon, New York 12508	Same
RHCF Capacity	RHCF beds 134 Vent beds 26 Total beds 160	Same
ADHCP Capacity	N/A	N/A
Type of Operator	Voluntary Receiver	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	VS Servicer at Beacon LLC (Receiver) <u>Membership:</u> Stephen Mercurio 50% Michael Farbenblum 50%	VS Servicer at Beacon LLC <u>Membership:</u> Michael Farbenblum* 80% Stephen Mercurio 20% <i>*Managing Member</i>

Wingate at St. Francis, LLC, as the owner of the operations, entered into an agreement with VS Servicer at Beacon LLC to become the licensed operator, as the receiver, effective 07/13/2022. The subject facility is currently operated by the receiver. The legal entity for the proposed permanent operator is the same legal entity as the current receiver, with the same members. The receivership will terminate upon completion of the proposed transaction and issuance of a new operating certificate to the permanent operator.

VS Servicer at Beacon LLC d/b/a Taconic Rehabilitation and Nursing at Beacon entered a consulting services agreement with The McGuire Group, Inc. Stephen Mercurio is an employee of The McGuire Group and is also a member of VS Servicer at Beacon LLC. Edward Farbenblum is the sole member of The McGuire Group. The McGuire Group, Inc. will consult and assist the facility with the following as noted in the consulting and services agreement: consulting and advisory services, accounts receivable, billing, accounts payable, payroll, reports, bookkeeping, clinical consulting services, and marketing.

Character and Competence

Stephen Mercurio discloses employment at The McGuire Group as President. Stephen holds a master's degree in health care administration from the State University of New York at Buffalo and is licensed as both a nursing home administrator and a registered professional nurse in New York. Stephen Mercurio discloses the following healthcare facility interests:

New York Nursing Homes

Taconic Rehabilitation and Nursing at Hopewell	Pending
Taconic Rehabilitation and Nursing at Ulster	Pending

New York Receiverships

Taconic Rehabilitation and Nursing at Beacon (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Hopewell (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Ulster (50%)	07/2022 to present

End Dated New York Nursing Homes

Autumn View Health Care Facility (0.1%)	06/2007- 04/2022
Brookhaven Health Care Facility (0.1%)	03/2017- 04/2022
Garden Gate Health Care Facility (0.1%)	06/2007- 04/2022
Harris Hill Nursing Facility (0.1%)	06/2007- 04/2022
Northgate Health Care Facility (0.1%)	03/2017- 04/2022
Seneca Health Care Center (0.1%)	03/2017- 04/2022

Michael Farbenblum lists concurrent employment as General Counsel at The McGuire Group, which is a skilled nursing and rehabilitation business in Valley Stream, NY. Michael is also currently self-employed as a consultant providing legal services and business consulting primarily to skilled nursing facilities and related entities. Michael holds a Masters of Law degree from New York University School of Law and is licensed as both a Real Estate Broker and as an Attorney in New York and Connecticut. Michael Farbenblum discloses the following health facility ownership interests:

New York Nursing Homes

Absolut Center for Nursing and Rehabilitation of Allegany	Pending
Absolut Center for Nursing and Rehabilitation at Westfield	Pending
Absolut Center for Nursing and Rehabilitation at Aurora Park	Pending
Absolut Center for Nursing and Rehabilitation at Gasport	Pending
Absolut Center for Nursing and Rehabilitation at Three Rivers	Pending
Taconic Rehabilitation and Nursing at Hopewell	Pending
Taconic Rehabilitation and Nursing at Ulster	Pending

New York Receivership

Taconic Rehabilitation and Nursing at Beacon (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Hopewell (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Ulster (50%)	07/2022 to present

End Dated New York Nursing Home

Hamptons Center for Rehabilitation (5%)	01/2009-01/2016
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Quality Review

The proposed owners have been evaluated, in part, on the distribution of CMS Star ratings for their portfolios. For all proposed owners the distribution of CMS star ratings for their facilities meets the standard described in state regulations.

CMS Star Rating Criteria					
Proposed Owner	Total Nursing Homes	Duration of Ownership*			
		< 48 Months		48 months or more	
		Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating
Stephen Mercurio	3	3	0%	0	NA
Michael Farbenblum	3	3	0%	0	NA

*Duration of Ownership as of 4/10/2025

Data date: 01/2025

New York. The proposed owner's portfolio includes receivership in three New York facilities. The three facilities under receivership currently have a CMS overall quality rating of average or higher.

Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
New York					
Taconic Rehabilitation and Nursing at Beacon	Subject Facility	***	***	****	***
Taconic Rehabilitation and Nursing at Beacon	Current	***	***	****	***
	07/2022	**	**	**	***
Taconic Rehabilitation and Nursing at Hopewell	Current	***	**	*****	***
	07/2022	**	**	**	***
Taconic Rehabilitation and Nursing at Ulster	Current	****	***	*****	***
	07/2022	*	*	***	**

Data date: 01/2025

End Dated Ownership					
New York					
Autumn View Health Care Facility, LLC	04/2022	*****	****	*****	**
	06/2007*	*****	***	*****	****
Brookhaven Health Care Facility, LLC	04/2022	****	****	****	****
	03/2017	*****	****	*****	*****
Garden Gate Health Care Facility, LLC	04/2022	*****	****	*****	***
	06/2007*	**	*	****	****
Harris Hill Nursing Facility, LLC	04/2022	*****	*****	****	**
	06/2007*	****	****	***	****
The Hamptons Center for Rehabilitation & Nursing	01/2016	***	***	**	**
	01/2009	*	*	**	**
North Gate Health Care Facility, LLC	04/2022	****	****	****	**
	03/2017	****	***	****	****
Seneca Health Care Center, LLC	04/2022	*****	****	*****	***
	03/2017	*****	****	*****	****

*Data as of 01/2009

Enforcement History

New York

A review of the operations of Autumn View Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed federal CMPs of \$650.00 on 07/19/2021 for failure to report COVID data.

A review of the operations of Brookhaven Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-21-006 for surveillance findings on 11/16/2020. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was assessed federal CMPs of \$650.00 on 08/30/2021 and \$975.00 on 09/13/2021 for failure to report COVID-19 data.

A review of the operations of Garden Gate Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-22-053 for surveillance findings on 02/11/2022. Deficiencies were found under 10 NYCRR §415.19 Infection Control.

A review of the operations of Harris Hill Nursing Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-21-070 for surveillance findings on 03/17/2021. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-21-071 for surveillance findings on 01/08/2021. Deficiencies were found under 10 NYCRR §415.19 Infection Control.

A review of the operations of North Gate Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$6,000.00 pursuant to Stipulation and Order NH-22-062 for surveillance findings on 08/21/2020. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was assessed federal CMPs of \$650.00 on 08/02/2021, \$975.00 on 08/09/2021, and \$1,316.00 on 01/17/2022 for failure to report COVID data.

A review of the operations of Seneca Health Care Center, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined 10,000.00 pursuant to Stipulation and Order NH-23-041 for surveillance findings on 01/12/2023. Deficiencies were found under §415.12(h)(2) Quality of Care. The facility failed to ensure that each resident received adequate supervision to prevent accidents.

A review of the operations of Golden Hill Nursing & Rehabilitation Center under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-21-234 for surveillance findings on 08/31/2021. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was fined \$8,000.00 pursuant to Stipulation and Order NH-20-034 for surveillance findings on 06/22/2020. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- A federal CMP in the amount of \$3,250.00 was also assessed for the surveillance findings on 6/22/2021.
- The facility was assessed federal CMPs of \$655.00 on 01/04/2021 for failure to report COVID data.

A review of the operations of The Hamptons Center for Rehabilitation & Nursing under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Taconic Rehabilitation and Nursing at Beacon under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Taconic Rehabilitation and Nursing at Hopewell under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Taconic Rehabilitation and Nursing at Ulster under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

Conclusion

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

Financial Analysis

Operating Budget

The applicant has provided the Current Year (2023) results and the first and third-year operating budget, in 2025 dollars, after the change in ownership. The budget is summarized below:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Per Pat.</u>	<u>Total</u>	<u>Per Pat.</u>	<u>Total</u>	<u>Per Pat.</u>	<u>Total</u>
Revenues	<u>Day</u>		<u>Day</u>		<u>Day</u>	
Commercial FFS	\$190.17	\$41,267	\$190.17	\$50,585	\$190.17	\$53,248
Medicare FFS	\$806.62	4,156,497	\$775.37	\$5,819,166	\$764.71	\$6,480,923
Medicare MC	\$526.96	1,660,985	\$526.96	2,030,377	\$526.96	2,143,673
Medicaid FFS	\$312.45	7,003,551	\$277.99	7,950,498	\$280.66	8,628,446
Medicaid MC	\$260.09	1,009,931	\$286.65	1,360,154	\$286.65	1,435,543
Private Pay	\$431.97	1,212,117	\$431.97	1,482,089	\$431.97	1,564,163
Net Pt. Revenues		<u>\$15,084,348</u>		<u>\$18,692,869</u>		<u>\$20,305,996</u>
Other Oper. Rev.*		193,770		0		0
Total Op. Rev.		\$15,278,118		\$18,692,869		\$20,305,996
Non-Oper. Rev.*		<u>80,784</u>		<u>0</u>		<u>0</u>
Total Revenues		\$15,358,902		\$18,692,869		\$20,305,996
<u>Expenses</u>						
Operating	\$390.27	\$14,684,288	\$357.17	\$17,286,942	\$348.04	\$18,165,895
Capital	<u>\$11.65</u>	<u>438,399</u>	<u>19.64</u>	<u>950,625</u>	<u>31.34</u>	<u>1,635,916</u>
Total Expenses	\$401.92	\$15,122,687	\$376.81	\$18,237,567	\$379.38	\$19,801,811
Net Income		<u>\$236,215</u>		<u>\$455,302</u>		<u>\$504,185</u>
Patient Days		37,626		48,400		52,195
Occupancy		64.43%		82.88%		89.38%

*Both other operating revenue and non-operating revenue are comprised of miscellaneous income.

The following is noted with respect to the submitted budget:

- The Current Year reflects the facility's 2023 payors and 2023 Certified Financial Statement information. Historical utilization for the base year 2023 was 64.43%.
- The Medicaid reimbursement rate is based on the facility's 2023 Medicaid Rate.
- The Medicare and Private Pay rates are based on the current market rates.
- The increase in Medicare and Medicare revenue between the Current Year and Year Three is based on the occupancy recovering to pre-pandemic levels.
- Salaries wages and benefits increase in Years One and Three are due to the hiring of 13.53 FTEs (Year One) and 38.04 FTEs (Year Three), particularly for LPNs and Aides/Orderlies/Attendants, Physical Therapists, and PT Assistants.
- The increase in Professional Fees, Supplies, and Purchased Services expenses between the Current Year and Year Three is attributable to projected increases in occupancy, ventilator beds coming online, and renegotiated or new agreements for contracted services with a focus on improved resident care.
- Utilization for Years One and Three is based on the facility's most recent census data and payer mix.
- Revenue growth is predicated on the collective experience of proposed members in operating RHCs and their ability to provide the facility with the expertise and infrastructure to implement measures to improve operations including:
 - Strengthening relationships with hospital discharge planners and referral sources,
 - Resuming operation of the 20-bed vent unit,
 - Improvements in resident quality of care and quality of life.
 - Exploring new programs including the creation of a 20-bed telemetry unit for cardiac patients, and a 4-chair dialysis suite.

Utilization broken down by payor source is summarized below:

<u>Payor</u>	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	0.58%	0.55%	0.54%
Medicare FFS	13.69%	15.51%	16.24%
Medicare MC	8.38%	7.96%	7.79%
Medicaid FFS	59.57%	59.09%	58.90%
Medicaid MC	10.32%	9.80%	9.59%
Private Pay	7.46%	7.09%	6.94%
Total	100.00%	100.00%	100.00%

- The facility's Medicaid admissions of 11.7% in 2021, 13.0% in 2022, and 8.2% in 2023 were below Dutchess County's 75% threshold rates of 19.1% in 2021, 18.5% for 2022, and 14.6% in 2023.

Operations Transfer Agreement (OTA)

The applicant has submitted an executed OTA for the sale and acquisition of the operating interests of the three RHCs. The terms of the agreement are summarized below:

Date:	June 27, 2022
Existing Operators:	Wingate at Saint Francis, LLC, Wingate of Dutchess, Inc., and Wingate of Ulster, Inc.
New Operator:	VS Servicer at Beacon LLC, VS Servicer at Fishkill LLC, and VS Servicer at Ulster LLC
Conveyed Assets:	All of the tangible personal property owned by Existing Operators of every kind and nature owned exclusively by any of the Existing Operators on the Closing Date, all inventory, including supplies, pharmaceuticals products, and other medical goods and supplies, books and records, all assigned agreements including the rights of Existing Operators under any provider agreements with Medicare and Medicaid and to the extent owned or solely controlled by Existing Operators, all intangible assets of any nature relations to the tangible personal property, if any transferable licenses and goodwill.
Retained Assets:	Any of Existing Operators' Cash, cash equivalents, notes receivable, and accounts receivable, including Medicare and Medicaid retroactive reimbursements and/or settlements prior to the Receivership Date, tax records, stock record books, and similar ownership records and corporate book records, all retained contracts, all refunds of any claims under Existing Operator's insurance policies prior to the Commencement of the Receivership period, all monies held in retirement programs and benefit plans, letter of credit and all bank accounts used by the Existing Operators in conducting the Business, intellectual property, all software and related databases for which Existing Operators do not have an unlimited authority to see, assign or transfer, all rights under this agreement.
Purchase Price:	\$100.00 for all assets and allocated as follows: Wingate at Beacon: \$33.33 Wingate at Dutchess: \$33.33 Wingate at Ulster: \$33.34
Payment of Purchase Price:	Paid to Existing Operators or New Operators at closing by wire transfer.

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 February 21, 2025, the facility had no

reported Medicaid liabilities. The purchase price of the operations is proposed to be satisfied with members' equity.

Consulting Services Agreement

The applicant has provided an executed consulting services agreement, summarized below:

Established Operator:	VS Servicer at Beacon LLC
Contractor:	The McGuire Group, Inc.
Term:	1-year, automatic renewal thereafter for successive 1-year periods unless terminated.
Consulting and Advisory Services:	At the request of the established operator, The McGuire Group, Inc. (TMG) shall provide consulting and advisory services related to administration and operational functions but not limited to, advice and assistance with regard to: accounts receivable, billing, accounts payable, payroll, reports, bookkeeping and miscellaneous
Clinical Consulting Services:	TMG shall provide clinical consulting services including but not limited to: training and orientation of staff, recommending procedures to ensure consistency and quality of services to be provided by TMG, participating in the facility's overall performance improvement program including but not limited to attending monthly departmental meetings, cooperating with surveys and inspections related to the facility and in implementation of any corrections or recommendations.
Marketing:	TMG shall assist the established operator in developing and implementing a marketing plan, including but not limited to print advertising, logo and trademark design, marketing strategies, and media purchases. TMG may participate in joint marketing efforts to increase public awareness of services being provided.
Fee:	\$480,000 during Year 1; the fee will increase to \$500,000 and \$520,000 during Years 2 and 3. After the third anniversary of the effective date, the parties will negotiate the fee.

The McGuire Group (TMG) and the Established Operator have common but not identical ownership, TMG also provides services to other facilities, some of which have common ownership with the Established Operator. Edward Farbenblum is the sole member of The McGuire Group (TMG). The agreement provides that the facility operator will retain ultimate control in all of the final decisions associated with the facility. 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.

Draft Lease Agreement

The applicant has provided a draft lease agreement, the terms of which are summarized as follows:

Premises:	160-bed, RHCF located at 10 Hastings Drive, Beacon, New York 12508
Landlord:	CCP St. Francis 1742 LLC
Tenant:	VS Servicer at Beacon LLC
Terms:	15-year term with two (2) five-year renewal option
Base Rent:	<p>Year One: \$363,600 (\$30,300¹ per month)</p> <p>Year Two: \$636,300 (\$53,025² per month)</p> <p>Year Three: \$1,090,800 (\$90,900² per month)</p> <p>Year Four: \$1,454,400 (\$121,200² per month)</p> <p>¹ Plus a monthly amount equal to 1/12th of the product of (a) the Pre-Commencement Improvement Funds and (b) 7.50%.</p> <p>² Plus a monthly amount equal to product of (a) the Pro-Commencement Improvement Funds and (b) 7.50%.</p> <p>Rent will increase by 2.25% annually thereafter.</p> <p>In the event the annualized EBITDAR generated by the tenant from operations of the facilities for any trailing six (6) month period exceeds \$6,000,000 at any point prior to commencement of the fourth lease year, the annual base rent shall automatically increase to \$1,454,400.</p>
Ground Lease:	\$65,000 annually (\$5,416.66 per month) paid by tenant for the ground lease on the Wingate at Beacon facility.
Security Deposit:	Tenant will post a letter of credit in the amount of six months based on Year One rent and adjust with each rent increase not to exceed \$2,000,000.
Provisions:	Taxes, utilities, insurance, and repairs and maintenance

The applicant has submitted an affidavit stating that the lease arrangement is an arm's length agreement. Letters from two New York State realtors have been provided attesting to the rent being of fair market value.

Capability and Feasibility

There is no project cost associated with this application. The purchase price for the operations of all three facilities is \$100 of which \$33.33 is allocated to this facility. The purchase price will be met with the proposed member equity.

The working capital requirement is \$3,039,595 based on two months of the first year's expenses. The working capital requirement will be satisfied with \$1,519,798 in equity from the proposed members and the remaining \$1,519,797 will be financed through a bank loan at 7.5% interest and a five-year term. Metropolitan Commercial Bank has provided a letter of interest for the working capital financing. BFA Attachment A reveals sufficient resources overall for the stated levels of equity, with an affidavit from Michael Farbenblum stating Michael will contribute a disproportionate share for the equity requirement.

BFA Attachment D, Pro-Forma Balance Sheet, indicates positive members' equity of \$1,519,798 as of the first day of operations.

The submitted budget projects a net income in Years One and Three of \$455,302 and \$504,185, respectively. Revenue growth is predicated on the collective experience of proposed members in operating RHCFs and their ability to provide the facility with the expertise and infrastructure to implement measures to improve operations. The budget appears reasonable.

BFA Attachment B, 2022-2024 Financial Summary of Taconic Rehabilitation and Nursing at Beacon, shows the facility maintained average positive working capital and an average positive equity position except for 2022 and 2023. In 2023 and 2024, the facility maintained an annual net operating income of \$236,215 and 814,137, respectively. The facility experienced net operating losses in 2022, attributable to lower occupancy and the closure of the 20-bed vent unit.

Conclusion

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

Attachments

LTCOP Attachment	Long-Term Care Ombudsman Program Recommendation
BHFP Attachment	Map
BFA Attachment A	Proposed Net Worth Statements of VS Servicer at Beacon LLC
BFA Attachment B	Financial Summary 2022 - 2024 for Taconic Rehabilitation and Nursing at Beacon
BFA Attachment C	Organizational Chart
BFA Attachment D	Pro Forma Balance Sheet



Project # 222054-E
VS Servicer at Fishkill LLC d/b/a
Taconic Rehabilitation and Nursing at Hopewell

Program: Residential Health Care Facility
Purpose: Establishment

County: Dutchess
Acknowledged: October 6, 2022

Executive Summary

Description

VS Servicer at Fishkill, LLC, a New York limited liability company, requests approval to be established as the new operator of Taconic Rehabilitation and Nursing at Hopewell (formerly known as Wingate of Dutchess), a 160-bed, proprietary, Article 28 residential health care facility (RHCF) at 3 Summit Court, Fishkill, NY (Dutchess County). The facility has been operating under receivership, effective July 13, 2022, with VS servicer at Fishkill LLC as receiver.

On June 27, 2022, Wingate of Dutchess, Inc. entered into an Operation Transfer Agreement (OTA) with VS Servicer at Fishkill LLC for the transfer and acquisition of the assets and operations of Taconic Rehabilitation and Nursing at Hopewell.

The OTA for this application includes the transfer of the operating interest of two other RHCFs currently operated by the same members as Taconic Rehabilitation and Nursing at Hopewell. The two other nursing homes are currently being reviewed and are listed below:

- CON 222053 – Taconic Rehabilitation and Nursing at Beacon, a 160-bed facility in Dutchess County.
- CON 222055 – Taconic Rehabilitation and Nursing at Ulster, a 120-bed facility in Ulster County.

The landlord, CCP Dutchess 1741 LLC, and the tenant, VS Servicer at Fishkill, LLC, entered into a proposed lease agreement for site control of the facility. The applicant will enter into a

consulting and administrative services agreement with The McGuire Group, Inc. for certain consulting services.

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

Current Operator	
VS Servicer at Fishkill LLC (Receiver)	
Members:	
Michael Farbenblum*	50%
Stephen Mercurio	50%
Total	100%

Proposed Operator	
VS Servicer at Fishkill LLC	
Members:	
Michael Farbenblum*	80%
Stephen Mercurio	20%
Total	100%

* Managing member of the facility

OALTC Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services as a result of this application. As of February 5, 2025, the facility reported 91.9% occupancy of staffed beds and Dutchess County had 93.7% occupancy of staffed beds.

Program Summary

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

Financial Summary

There is no project cost associated with this application. The purchase price for the RHCF operations of \$33.33 will be met with the proposed members' equity.

The proposed budget is as follows:

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$19,271,044	\$21,346,672
Expenses	<u>18,681,393</u>	<u>20,727,338</u>
Net Income	\$589,651	\$619,334

Health Equity Impact Assessment

A Health Equity Impact Assessment was not required for this project under Public Health Law §2802-B, as it was received by the Department on August 12, 2022.

Recommendations

Long-Term Care Ombudsman Program

The LTCOP recommends Approval. (See LTCOP Attachment A)

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 an executed lease rental agreement that is acceptable to the Department of Health. [BFA]
2. Submission of a working capital loan commitment that is acceptable to the Department of Health. [BFA]
3. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
4. Submission of a plan to continue to enhance access to Medicaid residents. At a minimum, the plan should include, but not necessarily be limited to, ways in which the facility will: a. Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program; b. Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility, and c. Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility and inform them about the facility's Medicaid Access policy. [RNR]

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

April 10, 2025

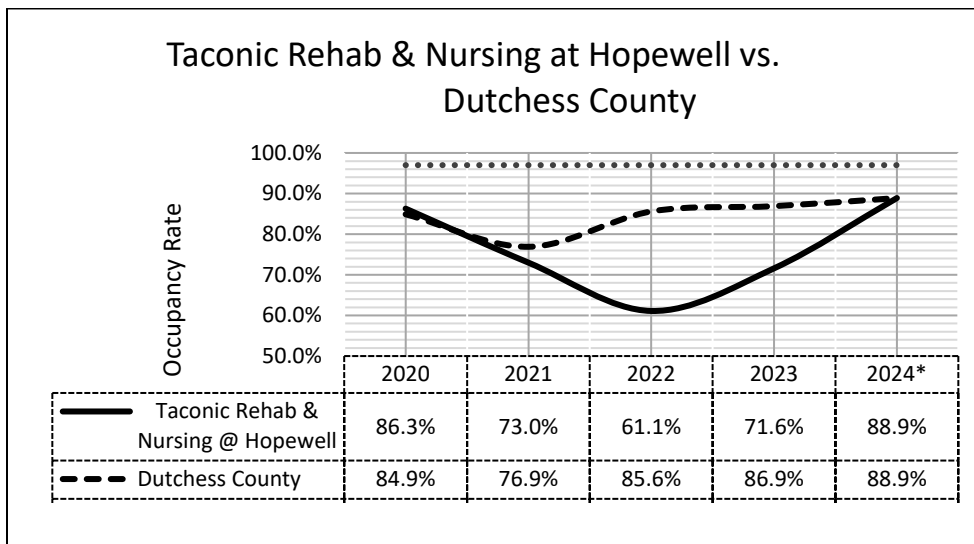
Need Analysis

Background and Analysis

The primary service area is Dutchess County, which has a population projected to decrease to 290,338 by 2030 based on Cornell Program of Applied Demographic estimates. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Dutchess County	New York State
Total Population (2023 Estimate)	297,144	19,872,319
Hispanic or Latino (of any race)	14.9%	19.6%
White (non-Hispanic)	67.2%	53.4%
Black or African American (non-Hispanic)	9.4%	13.6%
Asian(non-Hispanic)	3.4%	8.8%
Other (non-Hispanic)	5.1%	4.6%

Source: 2023 American Community Survey (5-Year Estimates Data Profiles)



*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHCf cost reports.

Based on weekly census data, the facility reported 100% of their 160 licensed beds staffed and 91.9% occupied as of February 5, 2025, for a 91.9% occupancy of staffed beds. Dutchess County had 97.3% of the county's 1,853 licensed beds staffed and 91.0% occupied for a 93.7% occupancy of staffed beds.

According to the applicant, the facility previously experienced challenges with utilization attributable to the effects of the COVID-19 pandemic, as well as, instability in operations, including staffing shortages, which culminated in the appointment of the applicant as the receiver of the facility. The applicant plans to improve occupancy rates with a combination of the following factors: strengthened relationships with hospital discharge planners; the ability of the applicant to develop relationships with existing staff to encourage retention; staff training, development, and support; engagement in community outreach; and implementing new programs to serve a more medically diverse resident population.

The applicant reports improvements in occupancy have been achieved through the implementation of several strategic initiatives aimed at enhancing the facility's outreach, admissions process, and overall reputation. A dedicated marketing and provider relations professional has been hired, as well as, an admissions coordinator. The applicant also discloses they achieved preferred provider status within the Montefiore Collaborative Network, and their commitment to quality improvement has led to enhancement in CMS star ratings, with all facilities now rated at three stars or higher.

The table below shows the CMS Rating and the utilization for the six closest RHCs to Taconic Rehabilitation and Nursing at Hopewell.

Facility Name	CMS Overall Rating	Number of Beds	Distance from Other RHCs	Occupancy			
	As of 1/2025			2021	2022	2023	2024*
Taconic at Hopewell	3	160	0 miles/0 mins	73.0%	61.1%	71.6%	88.9%
Taconic at Beacon	3	160	5.0 miles/13 mins	54.7%	56.8%	64.4%	78.3%
Sapphire at Wappingers	2	62	5.8 miles/12 mins	92.6%	92.8%	89.8%	88.6%
Fishkill Center for Rehab	2	160	7.0 miles/12 mins	87.4%	96.6%	95.0%	92.2%
Sapphire at Meadow Hill (Orange)	2	190	13.4 miles/21 mins	78.3%	97.2%	90.9%	92.6%
The Pines at Poughkeepsie Center	3	200	12.5 miles/23 mins	84.2%	91.6%	96.1%	92.9%
The Grand Rehab @ River Valley	2	160	13.4 miles/24 mins	83.2%	95.7%	95.7%	94.1%

Source: CMS and RHC cost report

*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHC's cost reports.

The following table provides the Case Mix Index (CMI) for the facility and surrounding RHCs, which reflects the relative resources predicted to provide care to a resident. The higher the case mix weight, the greater the resource requirement for the residents.

Case Mix Index	2021		2022		2023	
	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only
Taconic at Hopewell	1.094	0.989	1.1943	1.0806	1.2460	1.1483
Taconic at Beacon	1.171	1.092	1.1243	1.0545	1.2277	1.2177
Sapphire at Wappingers	1.243	1.171	1.2755	1.3244	1.4743	1.5139
Fishkill Center for Rehab	1.314	1.292	1.3754	1.3482	1.3825	1.4051
Sapphire at Meadow Hill (Orange)	1.347	1.323	1.3812	1.3465	1.4080	1.3839
The Pines at Poughkeepsie Center	1.1309	0.9762	1.1446	1.0178	1.2254	1.1479
Grand Rehab @ River Valley	1.2516	1.0978	1.2437	1.1636	1.253	1.2107

Medicaid Access

To ensure that the Residential Health Care Facility needs of the Medicaid population are met, 10 NYCRR §670.3 requires applicants to accept and admit a reasonable percentage of Medicaid residents in their service area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. This benchmark may be increased or decreased based on the following factors:

- the number of individuals within the planning area currently awaiting placement to a residential health care facility and the proportion of total individuals awaiting such placement that are Medicaid patients and/or alternate level of care patients in general hospitals.
- the proportion of the facility's total patient days that are Medicaid patient days and the length of time that the facility's patients who are admitted as private paying patients remain such before becoming Medicaid eligible;
- the proportion of the facility's admissions who are Medicare patients or patients whose services are paid for under provisions of the federal Veterans' Benefits Law;
- the facility's patient case mix based on the intensity of care required by the facility's patients or the extent to which the facility provides services to patients with unique or specialized needs;
- the financial impact on the facility due to an increase in Medicaid patient admissions.

An applicant will be required to make appropriate adjustments in its admission policies and practices to meet the resultant percentage. The facility's Medicaid admissions rate was below the threshold of 75% of the Dutchess County rate for 2021 through 2023.

Medicaid Access	2021	2022	2023
Dutchess County Total	25.4%	24.7%	19.5%
<i>Dutchess Threshold Value</i>	19.1%	18.5%	14.6%
Taconic at Hopewell	11.6%	11.9%	4.1%

Conclusion

There will be no changes to beds or services as a result of this project. As of February 5, 2025, the facility reported 91.9% occupancy of staffed beds and Dutchess County had 93.7% occupancy of staffed beds.

Program Analysis

Project Proposal

	Existing	Proposed
Facility Name	Taconic Rehabilitation and Nursing at Hopewell	Same
Address	3 Summit Court Fishkill, New York 12524	Same
RHCF Capacity	RHCF beds 120 Vent beds 40 Total beds 160	Same
ADHCP Capacity	N/A	N/A
Type of Operator	Voluntary Receiver	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	VS Servicer at Fishkill LLC (Receiver) <u>Membership:</u> Michael Farbenblum 50% Stephen Mercurio 50%	VS Servicer at Fishkill LLC <u>Membership:</u> Michael Farbenblum* 80% Stephen Mercurio 20% <i>*Managing Member</i>

Wingate of Dutchess, Inc., as the owner of the operations, entered into an agreement with VS Servicer at Fishkill LLC to become the licensed operator, as the receiver, effective 07/13/2022. The subject facility is currently operated by the receiver. The legal entity for the proposed permanent operator is the same legal entity as the current receiver, with the same members. The receivership will terminate upon completion of the proposed transaction and issuance of a new operating certificate to the permanent operator.

VS Servicer at Fishkill LLC d/b/a Taconic Rehabilitation and Nursing at Hopewell entered into a consulting services agreement with The McGuire Group, Inc. Stephen Mercurio is an employee of The McGuire Group and is also a member of VS Servicer at Fishkill LLC. Edward Farbenblum is the sole member of The McGuire Group. The McGuire Group, Inc. will consult and assist the facility with the following as noted in the consulting and services agreement: consulting and advisory services, accounts receivable, billing, accounts payable, payroll, reports, bookkeeping, clinical consulting services, and marketing.

Character and Competence

Stephen Mercurio discloses employment at The McGuire Group as President. Stephen holds a master's degree in health care administration from the State University of New York at Buffalo and is licensed as both a nursing home administrator and a registered professional nurse in New York. Stephen Mercurio discloses the following healthcare facility interests:

New York Nursing Homes

Taconic Rehabilitation and Nursing at Beacon
Taconic Rehabilitation and Nursing at Ulster

Pending
Pending

New York Receiverships

Taconic Rehabilitation and Nursing at Beacon (50%)
Taconic Rehabilitation and Nursing at Hopewell (50%)
Taconic Rehabilitation and Nursing at Ulster (50%)

07/2022 to present
07/2022 to present
07/2022 to present

End Dated New York Nursing Homes

Autumn View Health Care Facility (0.1%)	06/2007- 04/2022
Brookhaven Health Care Facility (0.1%)	03/2017- 04/2022
Garden Gate Health Care Facility (0.1%)	06/2007- 04/2022
Harris Hill Nursing Facility (0.1%)	06/2007- 04/2022
Northgate Health Care Facility (0.1%)	03/2017- 04/2022
Seneca Health Care Center (0.1%)	03/2017- 04/2022

Michael Farbenblum lists concurrent employment as General Counsel at The McGuire Group, which is a skilled nursing and rehabilitation business in Valley Stream, NY. Michael is also currently self-employed as a consultant providing legal services and business consulting primarily to skilled nursing facilities and related entities. Michael holds a Masters of Law degree from New York University School of Law and is licensed as both a Real Estate Broker and as an Attorney in New York and Connecticut. Michael Farbenblum discloses the following health facility ownership interests:

New York Nursing Homes

Absolut Center for Nursing and Rehabilitation of Allegany	Pending
Absolut Center for Nursing and Rehabilitation at Westfield	Pending
Absolut Center for Nursing and Rehabilitation at Aurora Park	Pending
Absolut Center for Nursing and Rehabilitation at Gasport	Pending
Absolut Center for Nursing and Rehabilitation at Three Rivers	Pending
Taconic Rehabilitation and Nursing at Beacon	Pending
Taconic Rehabilitation and Nursing at Ulster	Pending

New York Receiverships

Taconic Rehabilitation and Nursing at Beacon (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Hopewell (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Ulster (50%)	07/2022 to present

End Dated New York Nursing Home

Hamptons Center for Rehabilitation (5%)	01/2009-01/2016
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Quality Review

The proposed owners have been evaluated, in part, on the distribution of CMS Star ratings for their portfolios. For all proposed owners the distribution of CMS star ratings for their facilities meets the standard described in state regulations.

CMS Star Rating Criteria					
Proposed Owner	Total Nursing Homes	Duration of Ownership*			
		< 48 Months		48 months or more	
		Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating
Stephen Mercurio	3	3	0%	0	NA
Michael Farbenblum	3	3	0%	0	NA

*Duration of Ownership as of 4/10/2025

Data date: 01/2025

New York. The proposed owner's portfolio includes receivership in three New York facilities. The three facilities under receivership currently have a CMS overall quality rating of average or higher.

Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
New York					
Taconic Rehabilitation and Nursing at Hopewell	Subject Facility	***	**	*****	***
Taconic Rehabilitation and Nursing at Beacon	Current	***	***	****	***
	07/2022	**	**	**	***
Taconic Rehabilitation and Nursing at Hopewell	Current	***	**	*****	***
	07/2022	**	**	**	***
Taconic Rehabilitation and Nursing at Ulster	Current	****	***	*****	***
	07/2022	*	*	***	**

Data date: 01/2025

End Dated Ownership					
New York					
Autumn View Health Care Facility, LLC	04/2022	*****	****	*****	**
	06/2007*	*****	***	*****	****
Brookhaven Health Care Facility, LLC	04/2022	****	****	****	****
	03/2017	*****	****	*****	*****
Garden Gate Health Care Facility, LLC	04/2022	*****	****	*****	***
	06/2007*	**	*	****	****
Harris Hill Nursing Facility, LLC	04/2022	*****	*****	****	**
	06/2007*	****	****	***	****
The Hamptons Center for Rehabilitation & Nursing	01/2016	***	***	**	**
	01/2009	*	*	**	**
North Gate Health Care Facility, LLC	04/2022	****	****	****	**
	03/2017	****	***	****	****
Seneca Health Care Center, LLC	04/2022	*****	****	*****	***
	03/2017	*****	****	*****	****

*Data as of 01/2009

Enforcement History

New York

A review of the operations of Autumn View Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed federal CMPs of \$650.00 on 07/19/2021 for failure to report COVID data.

A review of the operations of Brookhaven Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-21-006 for surveillance findings on 11/16/2020. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was assessed federal CMPs of \$650.00 on 08/30/2021 and \$975.00 on 09/13/2021 for failure to report COVID data.

A review of the operations of Garden Gate Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-22-053 for surveillance findings on 02/11/2022. Deficiencies were found under 10 NYCRR §415.19 Infection Control.

A review of the operations of Harris Hill Nursing Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-21-070 for surveillance findings on 03/17/2021. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-21-071 for surveillance findings on 01/08/2021. Deficiencies were found under 10 NYCRR §415.19 Infection Control.

A review of the operations of North Gate Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$6,000.00 pursuant to Stipulation and Order NH-22-062 for surveillance findings on 08/21/2020. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was assessed federal CMPs of \$650.00 on 08/02/2021, \$975.00 on 08/09/2021, and \$1,316.00 on 01/17/2022 for failure to report COVID data.

A review of the operations of Seneca Health Care Center, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined 10,000.00 pursuant to Stipulation and Order NH-23-041 for surveillance findings on 01/12/2023. Deficiencies were found under §415.12(h)(2) Quality of Care. The facility failed to ensure that each resident received adequate supervision to prevent accidents.

A review of the operations of Golden Hill Nursing & Rehabilitation Center under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-21-234 for surveillance findings on 08/31/2021. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was fined \$8,000.00 pursuant to Stipulation and Order NH-20-034 for surveillance findings on 06/22/2020. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- A federal CMP in the amount of \$3,250.00 was also assessed for the surveillance findings on 6/22/2021.
- The facility was assessed federal CMPs of \$655.00 on 01/04/2021 for failure to report COVID data.

A review of the operations of The Hamptons Center for Rehabilitation & Nursing under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Taconic Rehabilitation and Nursing at Beacon under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Taconic Rehabilitation and Nursing at Hopewell under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Taconic Rehabilitation and Nursing at Ulster under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

Conclusion

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

Financial Analysis

Operating Budget

The applicant has provided the Current Year (2023) results and the first and third-year operating budget, in 2025 dollars, after the change in ownership. The budget is summarized below:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Per Pat.</u>		<u>Per Pat.</u>		<u>Per Pat.</u>	
<u>Revenues</u>	<u>Day</u>	<u>Total</u>	<u>Day</u>	<u>Total</u>	<u>Day</u>	<u>Total</u>
Commercial FFS	\$303.75	\$48,904	\$303.75	\$52,245	\$303.75	\$54,979
Medicare FFS	\$853.91	\$5,282,288	\$823.15	\$6,144,012	\$801.59	\$7,033,915
Medicare MC	\$508.37	\$1,762,530	\$508.37	\$1,855,042	\$508.37	\$1,958,241
Medicaid FFS	\$250.83	\$5,810,261	\$290.69	\$7,364,701	\$297.76	\$8,230,106
Medicaid MC	\$391.18	\$1,477,101	\$297.51	\$1,182,602	\$297.51	\$1,248,352
Private Pay	\$502.15	\$2,538,357	\$502.15	\$2,672,442	\$502.15	\$2,821,079
Other Operating Rev.*		\$184,082		=		=
Non-Operating Rev.		<u>(541,128)</u>		=		=
Total Revenue		\$16,562,395		\$19,271,044		\$21,346,672
<u>Expenses</u>						
Operating	\$363.46	\$15,195,751	\$387.36	\$17,786,554	\$380.97	\$19,148,229
Capital	14.58	609,665	12.84	894,839	31.42	1,579,109
Total Operating Costs	\$378.04	\$15,805,416	\$400.20	\$18,681,393	\$412.39	\$20,727,338
Net Income/(Loss)		<u>\$756,979</u>		<u>\$589,651</u>		<u>\$619,334</u>
Average Cost Per Day		\$378.04		\$400.20		\$412.39
Patient Days		41,809		45,917		50,262
Occupancy		71.59%		78.62%		86.06%
Maximum Patient Days		58,400		58,400		58,400

*Other is contributions, federal grant revenue advance.

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

- The total number of FTEs will increase from 99.40 FTEs in the Current Year to 112.06 FTEs in Year One and 135.66 FTEs in Year Three.
- Aides, orderlies, and attendants will increase from 30.79 FTEs in the Current Year to 49.89 FTEs and 59.49 FTEs in Years One and Three.
- Occupancy in 2023 for the facility is 71.59%. The facility projects occupancy to increase to 78.62% in Year One and 86.06% in Year Three.
- Reimbursement rates are consistent with historical experience. The applicant has indicated that they will improve occupancy through relationships with hospital discharge planners and referral sources and the implementation of staff recruitment and retention initiatives.

Utilization broken down by payor source is summarized below:

<u>Payor</u>	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	0.39%	0.37%	0.36%
Medicare FFS	14.80%	16.26%	17.46%
Medicare MC	8.29%	7.95%	7.66%
Medicaid FFS	55.40%	55.18%	54.99%
Medicaid MC	9.03%	8.66%	8.35%
Private Pay	<u>12.09%</u>	<u>11.59%</u>	<u>11.18%</u>
Total	100.00%	100.00%	100.00%

- The facility's Medicaid admissions of 11.6% in 2021, 11.9% in 2022, and 4.1% in 2024 were below Dutchess County's 75% threshold rates of 19.1% in 2021, 18.5% in 2022, and 14.6% in 2023.

Operations Transfer Agreement (OTA)

The applicant has submitted an executed OTA for the sale and acquisition of the operating interests of the three RHCs. The terms of the agreement are summarized below:

Date:	June 27, 2022
Existing Operators:	Wingate at Saint Francis, LLC, Wingate of Dutchess, Inc., and Wingate of Ulster, Inc.
New Operator:	VS Servicer at Beacon LLC, VS Servicer at Fishkill LLC, and VS Servicer at Ulster LLC
Conveyed Assets:	All of the tangible personal property owned by Existing Operators of every kind and nature owned exclusively by any of the Existing Operators on the Closing Date, all inventory, including supplies, pharmaceuticals products, and other medical goods and supplies, books and records, all assigned agreements including the rights of Existing Operators under any provider agreements with Medicare and Medicaid and to the extent owned or solely controlled by Existing Operators, all intangible assets of any nature relations to the tangible personal property, if any transferable licenses and goodwill.
Retained Assets:	Any of the Existing Operators' Cash, cash equivalents, notes receivable, and accounts receivable, including Medicare and Medicaid retroactive reimbursements and/or settlements prior to the Receivership Date, tax records, stock record books, and similar ownership records and corporate book records, all retained contracts, all refunds of claims under Existing Operator's insurance policies prior to the Commencement of the Receivership period, all monies held in retirement programs and benefit plans, letter of credit and all bank accounts used by the Existing Operators in conducting the Business, intellectual property, all software and related databases for which Existing Operators do not have an unlimited authority to see, assign or transfer, all rights under this agreement.
Purchase Price:	\$100.00 for all assets and allocated as follows: Wingate at Beacon: \$33.33 Wingate at Dutchess: \$33.33 Wingate at Ulster: \$33.34
Payment of Purchase Price:	Paid to Existing Operators or New Operator at closing by wire transfer.

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 February 21, 2025, the facility had no reported Medicaid liabilities. The purchase price of the operations is proposed to be satisfied with members' equity.

Consulting Services Agreement

The applicant has provided an executed consulting services agreement, summarized below:

Established Operator:	VS Servicer at Fishkill, LLC
Consultant:	The McGuire Group, Inc.
Term:	1-year, automatic renewal thereafter for successive 1-year periods unless terminated.
Consulting and Advisory Services:	At the request of the established operator, The McGuire Group, Inc. (TMG) shall provide consulting and advisory services related to administration and operational functions but not limited to, advice and assistance about accounts receivable, billing, accounts payable, payroll, reports, bookkeeping and miscellaneous
Clinical Consulting Services:	TMG shall provide clinical consulting services including but not limited to: training and orientation of staff, recommending procedures to ensure consistency and quality of services to be provided by TMG, participating in the facility's overall performance improvement program including but not limited to attending monthly departmental meetings, cooperating with surveys and inspections related to the facility and in implementation of any corrections or recommendations.
Marketing:	TMG shall assist the established operator in developing and implementing a marketing plan, including but not limited to print advertising, logo and trademark design, marketing strategies, and media purchases. TMG may participate in joint marketing efforts to increase public awareness of the services being provided.
Fees:	Year (1) \$600,000, Year (2) \$620,000, Year (3) \$640,000 as the parties will negotiate in good faith for any future renewal term.

The McGuire Group (TMG) and the Established Operator have common but not identical ownership, TMG also provides services to other facilities, some of which have common ownership with the Established Operator. Edward Farbenblum is the sole member of The McGuire Group. The agreement provides that the facility operator will retain ultimate control in all the final decisions associated with the facility. 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.

Lease Rental Agreement

The applicant has submitted a draft lease rental agreement for the Fishkill site, which is summarized below:

Premises	The site is located at 3-Summit Court, Fishkill, New York, 12524.
Lessor	CCP Dutchess 1741 LLC
Lessee	VS Servicer at Fishkill LLC
Term	15-years and the term can get extended for two (2) separate terms of five-year terms with (2) additional 5-year extensions.
Rental	Year One – 30,300, Year 2 - \$636,300, Year-3 \$1,090,800, and Year 4 – 1,454,400. After year 4, the rent will increase by 2.25% per year.
Provisions	The lessee shall be responsible for real estate taxes, maintenance, and utilities.

The applicant has indicated via affidavit that the lease arrangement will be an arm's length lease agreement. The applicant has submitted two real estate letters attesting to the reasonableness of the per-square-foot rental.

Capability and Feasibility

There is no project cost associated with this application. The purchase price for the operations of all three facilities is \$100 of which \$33.33 is allocated to this facility. The purchase price will be met with the proposed member equity.

The working capital requirement is \$3,113,566 based on two months of the first year's expenses. The working capital requirement will be satisfied with \$1,556,783 in equity from the proposed members and the remaining \$1,556,783 will be financed through a bank loan at 7.5% interest and a five-year term. Metropolitan Commercial Bank has provided a letter of interest for the working capital financing. BFA Attachment A reveals sufficient resources overall for the stated levels of equity, with an affidavit from Michael Farbenblum stating Michael will contribute a disproportionate share for the equity requirement.

BFA Attachment D, Pro-Forma Balance Sheet, indicates positive members' equity of \$1,556,783 as of the first day of operations.

The submitted budget projects a net income in Years One and Three of \$589,651 and \$619,334, respectively. Revenue growth is predicated on the collective experience of proposed members in operating RHCs and their ability to provide the facility with the expertise and infrastructure to implement measures to improve operations. The submitted budget appears reasonable.

BFA Attachment B, 2022-2024 Financial Summary of Taconic Rehabilitation and Nursing at Hopewell, shows the applicant had an average positive working capital position and an average positive net asset position from 2022 through 2023. The facility incurred a net loss of \$109,133 in 2022 and had a net income of \$756,978 in 2023. The 2022 loss was the result of low census and staffing issues. In 2024, the facility had a positive working capital position and, a positive net asset position, and achieved a net income of \$985,855.

Conclusion

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

Attachments

LTCOP Attachment	Long-Term Care Ombudsman Program Recommendation
BHFP Attachment	Map
BFA Attachment A	Proposed Net Worth Statements of VS Servicer at Fishkill LLC
BFA Attachment B	Financial Summary 2022 - 2024 for Taconic Rehabilitation and Nursing at Hopewell
BFA Attachment C	Organizational Chart
BFA Attachment D	Pro Forma Balance Sheet



Project # 222055-E
VS Servicer at Ulster LLC d/b/a
Taconic Rehabilitation and Nursing at Ulster

Program: Residential Health Care Facility
Purpose: Establishment

County: Ulster
Acknowledged: October 6, 2022

Executive Summary

Description

VS Servicer at Ulster, LLC, a New York limited liability company, requests approval to be established as the new operator of Taconic Rehabilitation and Nursing at Ulster (formerly known as Wingate at Ulster), a 120-bed proprietary, Article 28 residential health care facility (RHCF) at One Wingate Way, Highland, NY (Ulster County). The facility has been operating under receivership effective July 13, 2022, with VS Servicer at Ulster LLC as receiver.

On June 27, 2022, Wingate at Ulster, Inc. entered into an Operations and Transfer Agreement (OTA) with VS Servicer at Ulster, LLC for the transfer and acquisition of the assets and operations of Taconic Rehabilitation and Nursing at Ulster.

The OTA for this application includes the transfer of the operating interest of two other RHCFs currently operated by the same members as Taconic Rehabilitation and Nursing at Ulster. The two other nursing homes are currently being reviewed and are listed below:

- CON 222053 – Taconic Rehabilitation and Nursing at Beacon, a 160-bed facility in Dutchess County.
- CON 222054 – Taconic Rehabilitation and Nursing at Hopewell, a 160-bed facility in Ulster County.

The landlord, CCP Ulster 1743 LLC, and the tenant, VS Servicer at Ulster, LLC, entered into a proposed lease agreement for site control of the facility. The applicant will enter into a

consulting and administrative services agreement with The McGuire Group, Inc. for certain consulting services.

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

<u>Current Operator</u>	
VS Servicer at Ulster, LLC (Receiver)	
<u>Members:</u>	
Michael Farbenblum*	50%
Stephen Mercurio	50%
Total	100%

<u>Proposed Operator</u>	
VS Servicer at Ulster, LLC	
<u>Members:</u>	
Michael Farbenblum*	80%
Stephen Mercurio	20%
Total	100%

* Managing member of the facility

OALTC Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services as a result of this application. As of February 5, 2025, the facility reported 88.3% occupancy of staffed beds and Ulster County had 92.0% occupancy of staffed beds.

Program Summary

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

Financial Summary

There is no project cost associated with this application. The purchase price for the RHCF operations of \$33.33 will be met with the proposed members' equity.

The proposed budget is as follows:

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$16,221,380	\$17,937,998
Expenses	<u>16,018,140</u>	<u>17,160,840</u>
Net Income	\$203,240	\$777,158

Health Equity Impact Assessment

A Health Equity Impact Assessment was not required for this project under Public Health Law §2802-B, as it was received by the Department on August 12, 2022.

Recommendations

Long-Term Care Ombudsman Program

The LTCOP recommends Approval. (See LTCOP Attachment A)

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 an executed lease rental agreement that is acceptable to the Department of Health. [BFA]
2. Submission of a working capital loan commitment that is acceptable to the Department of Health. [BFA]
3. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR].
4. Submission of a plan to continue to enhance access to Medicaid residents. At a minimum, the plan should include, but not necessarily be limited to, ways in which the facility will: a. Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program; b. Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility; and c. Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy. [RNR]

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

April 10, 2025

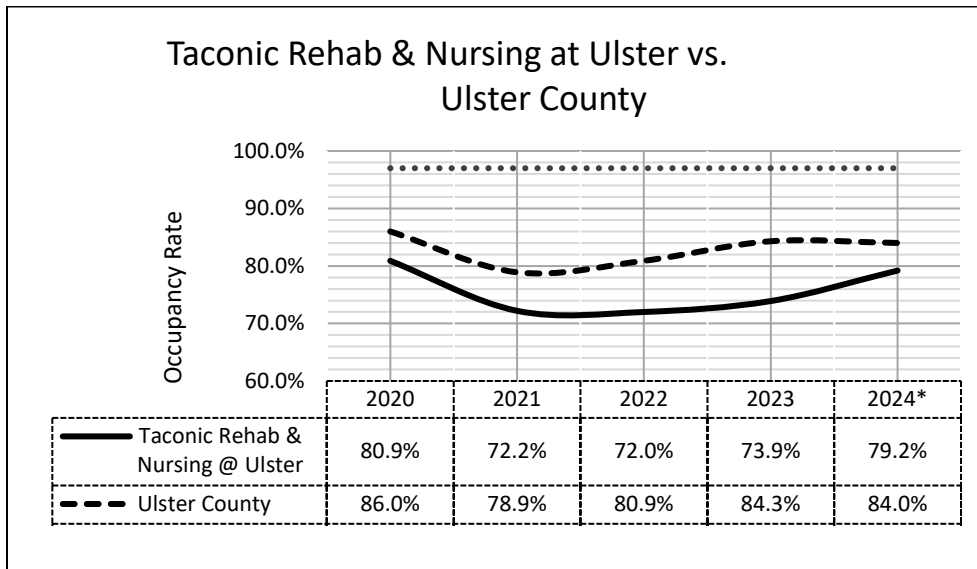
Need Analysis

Background and Analysis

The primary service area is Ulster County, which has a population projected to decrease to 176,893 by 2030 based on Cornell Program of Applied Demographic estimates. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Ulster County	New York State
Total Population (2023 Estimate)	182,109	19,872,319
Hispanic or Latino (of any race)	11.8%	19.6%
White (non-Hispanic)	73.5%	53.4%
Black or African American (non-Hispanic)	5.7%	13.6%
Asian(non-Hispanic)	2.0%	8.8%
Other (non-Hispanic)	7.0%	4.6%

Source: 2023 American Community Survey (5-Year Estimates Data Profiles)



*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHCF cost reports.

Based on weekly census data, the facility reported 100% of their 120 licensed beds staffed and 88.3% occupied as of February 5, 2025, for an 88.3% occupancy of staffed beds. Ulster County had 94.1% of the county's 1,258 licensed beds staffed and 86.9% occupied for a 92.0% occupancy of staffed beds.

According to the applicant, the facility previously experienced challenges with utilization attributable to the effects of the COVID-19 pandemic, as well as, instability in operations, including staffing shortages, which culminated in the appointment of the applicant as the receiver of the facility. The applicant plans to improve occupancy rates with a combination of the following factors: strengthened relationships with hospital discharge planners; the ability of the applicant to develop relationships with existing staff to encourage retention; staff training, development, and support; engagement in community outreach; and implementing new programs to serve a more medically diverse resident population.

The applicant reports improvements in occupancy have been achieved through the implementation of several strategic initiatives aimed at enhancing the facility's outreach, admissions process, and overall reputation. A dedicated marketing and provider relations professional has been hired, as well as, an admissions coordinator. The applicant also discloses they achieved preferred provider status within the Montefiore Collaborative Network, and their commitment to quality improvement has led to enhancement in CMS star ratings, with all facilities now rated at three stars or higher.

The table below shows the CMS Rating and the utilization for the six closest RHCs to Taconic Rehabilitation and Nursing at Ulster.

Facility Name	CMS Overall Rating	Number of Beds	Distance from other RHCs	Occupancy			
	As of 1/2025			2021	2022	2023	2024*
Taconic at Ulster	4	120	0 miles/ 0 mins	72.2%	72.0%	73.9%	79.2%
Hudson Valley Rehab	1	203	2.0 miles/ 4 mins	48.1%	40.0%	39.1%	44.9%
The Grand at River Valley (Dutchess)	2	160	3.2 miles/ 7 mins	83.2%	95.7%	95.7%	94.1%
The Pines at Poughkeepsie (Dutchess)	3	200	3.8 miles/ 9 mins	84.2%	91.6%	96.1%	92.9%
Lutheran at Poughkeepsie (Dutchess)	3	160	7.7 miles/ 17 mins	76.7%	91.3%	91.2%	90.2%
New Paltz Center	1	77	8.8 miles/ 17 mins	95.3%	95.1%	95.3%	95.7%
Sapphire Nursing at Wappingers (Dutchess)	2	62	11.2 miles/21 mins	92.6%	92.8%	89.8%	88.6%

Source: CMS and RHC Cost Report

*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHC cost reports.

The following table provides the Case Mix Index (CMI) for the facility and surrounding RHCs, which reflects the relative resources predicted to provide care to a resident. The higher the case mix weight, the greater the resource requirement for the residents.

Case Mix Index	2021		2022		2023	
	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only
Taconic at Ulster	1.279	1.009	1.1694	0.965	1.3043	1.2319
Hudson Valley Rehab	1.085	1.018	1.0429	0.9286	1.1604	0.9887
The Grand at River Valley (Dutchess)	1.252	1.098	1.2437	1.1636	1.253	1.2107
The Pines at Poughkeepsie (Dutchess)	1.131	0.976	1.1446	1.0178	1.2254	1.1479
Lutheran at Poughkeepsie (Dutchess)	1.275	1.000	1.2179	0.9233	1.1622	0.9112
New Paltz Center	1.313	1.314	1.2981	1.2738	1.3545	1.2744
Sapphire Nursing at Wappingers (Dutchess)	1.2433	1.1706	1.2755	1.3244	1.4743	1.5139

Source: RHC Cost Reports

Medicaid Access

To ensure that the Residential Health Care Facility needs of the Medicaid population are met, 10 NYCRR §670.3 requires applicants to accept and admit a reasonable percentage of Medicaid residents in their service area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. This benchmark may be increased or decreased based on the following factors:

- the number of individuals within the planning area currently awaiting placement to a residential health care facility and the proportion of total individuals awaiting such placement that are Medicaid patients and/or alternate level of care patients in general hospitals.
- the proportion of the facility's total patient days that are Medicaid patient days and the length of time that the facility's patients who are admitted as private paying patients remain such before becoming Medicaid eligible;
- the proportion of the facility's admissions who are Medicare patients or patients whose services are paid for under provisions of the federal Veterans' Benefits Law;

- the facility's patient case mix based on the intensity of care required by the facility's patients or the extent to which the facility provides services to patients with unique or specialized needs;
- the financial impact on the facility due to an increase in Medicaid patient admissions.

An applicant will be required to make appropriate adjustments in its admission policies and practices to meet the resultant percentage. The facility's Medicaid admissions rate was below the threshold of 75% of the Ulster County rate for 2021 through 2023.

Medicaid Access	2021	2022	2023
Ulster County Total	22.7%	25.4%	25.4%
<i>Ulster Threshold Value</i>	<i>17.0%</i>	<i>19.0%</i>	<i>19.1%</i>
Taconic at Ulster	11.3%	6.5%	10.4%

Conclusion

There will be no changes to beds or services as a result of this application. As of February 5, 2025, the facility reported 88.3% occupancy of staffed beds and Ulster County had 92.0% occupancy of staffed beds.

Program Analysis

Project Proposal

	Existing	Proposed
Facility Name	Taconic Rehabilitation and Nursing at Ulster	Same
Address	One Wingate Way Highland, NY 12528	Same
RHCF Capacity	RHCF beds 99 Vent beds 21 Total beds 120	Same
ADHCP Capacity	N/A	N/A
Type of Operator	Voluntary Receiver	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	VS Servicer at Ulster LLC (Receiver) <u>Membership:</u> Stephen Mercurio 50% Michael Farbenblum 50%	VS Servicer at Ulster LLC <u>Membership:</u> Michael Farbenblum* 80% Stephen Mercurio 20% <i>*Managing Member</i>

Wingate at Ulster, Inc., as the owner of the operations, entered into an agreement with VS Servicer at Ulster LLC to become the licensed operator, as the receiver, effective 07/13/2022. The subject facility is currently operated by the receiver. The legal entity for the proposed permanent operator is the same legal entity as the current receiver, with the same members. The receivership will terminate upon completion of the proposed transaction and issuance of a new operating certificate to the permanent operator.

VS Servicer at Ulster LLC d/b/a Taconic Rehabilitation and Nursing at Ulster entered into a consulting services agreement with The McGuire Group, Inc. Stephen Mercurio is an employee of The McGuire Group and is also a member of VS Servicer at Ulster LLC. Edward Farbenblum is the sole member of The McGuire Group. The McGuire Group, Inc. will consult and assist the facility with the following as noted in the consulting and services agreement: consulting and advisory services, accounts receivable, billing, accounts payable, payroll, reports, bookkeeping, clinical consulting services, and marketing.

Character and Competence

Stephen Mercurio discloses employment at The McGuire Group as President. Stephen holds a master's degree in health care administration from the State University of New York at Buffalo and is licensed as both a nursing home administrator and a registered professional nurse in New York. Stephen Mercurio discloses the following healthcare facility interests:

New York Nursing Homes

Taconic Rehabilitation and Nursing at Beacon	Pending
Taconic Rehabilitation and Nursing at Hopewell	Pending

New York Receiverships

Taconic Rehabilitation and Nursing at Beacon (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Hopewell (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Ulster (50%)	07/2022 to present

End Dated New York Nursing Home

Autumn View Health Care Facility (0.1%)	06/2007- 04/2022
Brookhaven Health Care Facility (0.1%)	03/2017- 04/2022
Garden Gate Health Care Facility (0.1%)	06/2007- 04/2022
Harris Hill Nursing Facility (0.1%)	06/2007- 04/2022
Northgate Health Care Facility (0.1%)	03/2017- 04/2022
Seneca Health Care Center (0.1%)	03/2017- 04/2022

Michael Farbenblum lists concurrent employment as General Counsel at The McGuire Group, which is a skilled nursing and rehabilitation business in Valley Stream, NY. Michael is also currently self-employed as a consultant providing legal services and business consulting primarily to skilled nursing facilities and related entities. Michael holds a Masters of Law degree from New York University School of Law and is licensed as both a Real Estate Broker and as an Attorney in New York and Connecticut. Michael Farbenblum discloses the following health facility ownership interests:

New York Nursing Homes

Absolut Center for Nursing and Rehabilitation of Allegany	Pending
Absolut Center for Nursing and Rehabilitation at Westfield	Pending
Absolut Center for Nursing and Rehabilitation at Aurora Park	Pending
Absolut Center for Nursing and Rehabilitation at Gasport	Pending
Absolut Center for Nursing and Rehabilitation at Three Rivers	Pending
Taconic Rehabilitation and Nursing at Beacon	Pending
Taconic Rehabilitation and Nursing at Hopewell	Pending

New York Receiverships

Taconic Rehabilitation and Nursing at Beacon (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Hopewell (50%)	07/2022 to present
Taconic Rehabilitation and Nursing at Ulster (50%)	07/2022 to present

End Dated New York Nursing Home

Hamptons Center for Rehabilitation (5%)	01/2009-01/2016
-----------------------------------------	-----------------

Quality Review

The proposed owners have been evaluated, in part, on the distribution of CMS Star ratings for their portfolios. For all proposed owners the distribution of CMS star ratings for their facilities meets the standard described in state regulations.

CMS Star Rating Criteria					
		Duration of Ownership*			
		< 48 Months		48 months or more	
		Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating
Proposed Owner	Total Nursing Homes				
Stephen Mercurio	3	3	0%	0	NA
Michael Farbenblum	3	3	0%	0	NA

*Duration of Ownership as of 04/10/2025

Data date: 01/2024

New York. The proposed owner's portfolio includes receivership in three New York facilities. The three facilities under receivership currently have a CMS overall quality rating of average or higher.

Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
New York					
Taconic Rehabilitation and Nursing at Ulster	Subject Facility	****	***	*****	***
Taconic Rehabilitation and Nursing at Beacon	Current	***	***	*****	***
	07/2022	**	**	**	***
Taconic Rehabilitation and Nursing at Hopewell	Current	***	**	*****	***
	07/2022	**	**	**	***
Taconic Rehabilitation and Nursing at Ulster	Current	*****	***	*****	***
	07/2022	*	*	***	**

Data date: 01/2025

End Dated Ownership					
New York					
Autumn View Health Care Facility, LLC	04/2022	*****	****	*****	**
	06/2007*	*****	***	*****	****
Brookhaven Health Care Facility, LLC	04/2022	****	****	****	****
	03/2017	*****	****	*****	*****
Garden Gate Health Care Facility, LLC	04/2022	*****	****	*****	***
	06/2007*	**	*	****	****
Harris Hill Nursing Facility, LLC	04/2022	*****	*****	****	**
	06/2007*	****	****	***	****
The Hamptons Center for Rehabilitation & Nursing	01/2016	***	***	**	**
	01/2009	*	*	**	**
North Gate Health Care Facility, LLC	04/2022	****	****	****	**
	03/2017	****	***	****	****
Seneca Health Care Center, LLC	04/2022	*****	****	*****	***
	03/2017	*****	****	*****	****

*Data as of 01/2009

Enforcement History

New York

A review of the operations of Autumn View Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed federal CMPs of \$650.00 on 07/19/2021 for failure to report COVID data.

A review of the operations of Brookhaven Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000 pursuant to Stipulation and Order NH-21-006 for surveillance findings on 11/16/2020. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was assessed federal CMPs of \$650.00 on 08/30/2021 and \$975.00 on 09/13/2021 for failure to report COVID data.

A review of the operations of Garden Gate Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-22-053 for surveillance findings on 02/11/2022. Deficiencies were found under 10 NYCRR §415.19 Infection Control.

A review of the operations of Harris Hill Nursing Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-21-070 for surveillance findings on 03/17/2021. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-21-071 for surveillance findings on 01/08/2021. Deficiencies were found under 10 NYCRR §415.19 Infection Control.

A review of the operations of North Gate Health Care Facility, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$6,000.00 pursuant to Stipulation and Order NH-22-062 for surveillance findings on 08/21/2020. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was assessed federal CMPs of \$650.00 on 08/02/2021, \$975.00 on 08/09/2021, and \$1,316.00 on 01/17/2022 for failure to report COVID data.

A review of the operations of Seneca Health Care Center, LLC under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined 10,000.00 pursuant to Stipulation and Order NH-23-041 for surveillance findings on 01/12/2023. Deficiencies were found under §415.12(h)(2) Quality of Care. The facility failed to ensure that each resident received adequate supervision to prevent accidents.

A review of the operations of Golden Hill Nursing & Rehabilitation Center under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$2,000.00 pursuant to Stipulation and Order NH-21-234 for surveillance findings on 08/31/2021. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- The facility was fined \$8,000.00 pursuant to Stipulation and Order NH-20-034 for surveillance findings on 06/22/2020. Deficiencies were found under 10 NYCRR §415.19 Infection Control.
- A federal CMP in the amount of \$3,250.00 was also assessed for the surveillance findings on 6/22/2021.
- The facility was assessed federal CMPs of \$655.00 on 01/04/2021 for failure to report COVID data.

A review of the operations of The Hamptons Center for Rehabilitation & Nursing under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Taconic Rehabilitation and Nursing at Beacon under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Taconic Rehabilitation and Nursing at Hopewell under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Taconic Rehabilitation and Nursing at Ulster under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

Conclusion

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

Financial Analysis

Operating Budget

The applicant has provided the Current Year (2023) results and the first and third-year operating budget, in 2025 dollars, after the change in ownership. The budget is summarized below:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
<u>Revenues</u>	<u>Per Pat. Day</u>	<u>Total</u>	<u>Per Pat. Day</u>	<u>Total</u>	<u>Per Pat. Day</u>	<u>Total</u>
Medicare FFS	\$725.47	\$3,699,892	\$729.27	\$4,717,646	\$762.04	\$5,152,159
Medicare MC	\$535.44	\$870,082	\$535.44	\$1,089,620	\$566.44	\$1,183,860
Medicaid FFS	\$357.19	\$5,735,835	\$338.02	\$7,038,013	\$349.05	\$7,816,215
Medicaid MC	\$363.14	\$1,828,773	\$350.66	\$2,278,607	\$360.59	\$2,505,761
Commercial FFS	\$329.03	\$84,889	\$329.03	\$106,606	\$329.03	\$109,238
Private Pay	\$438.64	\$790,862	\$438.64	\$990,888	\$504.64	\$1,170,765
Total		\$13,010,333		\$16,221,380		\$17,937,998
<u>Expenses</u>						
Operating	\$465.83	\$13,919,026	\$398.79	\$15,315,969	\$390.52	\$15,950,903
Capital	\$11.36	\$339,546	\$18.28	\$702,171	\$29.62	\$1,209,937
Total Expenses	\$477.19	\$14,258,572	\$417.07	\$16,018,140	\$420.15	\$17,160,840
Net Income (Loss)		(\$1,248,239)		\$203,240		\$777,158
Patient Days		29,880		38,406		40,845
Occupancy		68.22%		87.68%		93.25%

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

- The total number of FTEs will increase from 92.59 FTEs in the Current Year to 104.14 FTEs in Year One and 117.92 FTEs in Year Three.
- Aides, orderlies, and attendants will increase from 27.94 FTEs in the Current Year to 39.78 FTEs in Year One and 44.41 FTEs in Year Three.
- Occupancy in 2023 was 68.22% and increased to 79.2% in 2024.
- Reimbursement rates are consistent with historical experience. The applicant has indicated that they will improve occupancy through relationships with hospital discharge planners and referral sources and the implementation of staff recruitment and retention initiatives.
- The increase in Medicare and Medicare revenue between the Current Year and Year Three is based on occupancy recovering to pre-pandemic levels.

Utilization broken down by payor source is summarized below:

<u>Payor</u>	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Commercial FFS	0.86%	0.84%	0.81%
Medicare FFS	17.07%	16.84%	16.55%
Medicare MC	5.44%	5.30%	5.12%
Medicaid FFS	53.74%	54.21%	54.82%
Medicaid MC	16.85%	16.92%	17.01%
Private Pay	6.03%	5.88%	5.68%
Total	100.00%	100.00%	100.00%

- The facility's Medicaid admissions of 11.3% in 2021, 6.5% in 2022, and 10.4% in 2023 were below Ulster County's 75% threshold rates of 17.0% in 2021, 19.0% in 2022 and 10.4% in 2023.

Operations Transfer Agreement (OTA)

The applicant has submitted an executed OTA for the sale and acquisition of the operating interests of the three RHCs. The terms of the agreement are summarized below:

Date:	June 27, 2022
Existing Operators:	Wingate at Saint Francis, LLC, Wingate of Dutchess, Inc., and Wingate of Ulster, Inc.
New Operator:	VS Servicer at Beacon LLC, VS Servicer at Fishkill LLC, and VS Servicer at Ulster LLC
Conveyed Assets:	All of the tangible personal property owned by Existing Operators of every kind and nature owned exclusively by any of the Existing Operators on the Closing Date, all inventory, including supplies, pharmaceuticals products, and other medical goods and supplies, books and records, all assigned agreements including the rights of Existing Operators under the provider agreements with Medicare and Medicaid and to the extent owned or solely controlled by Existing Operators, all intangible assets of any nature relations to the tangible personal property, if any transferable licenses and goodwill.
Retained Assets:	Any Existing Operator's Cash, cash equivalents, notes receivable, and accounts receivable, including Medicare and Medicaid retroactive reimbursements and/or settlements prior to the Receivership Date, tax records, stock record books, and similar ownership records and corporate book records, all retained contracts, all refunds of claims under Existing Operator's insurance policies prior to the Commencement of the Receivership period, all monies held in retirement programs and benefit plans, letter of credit and all bank accounts used by the Existing Operators in conducting the Business, intellectual property, all software and related databases for which Existing Operators do not have an unlimited authority to see, assign or transfer, all rights under this agreement.
Purchase Price:	\$100.00 for all assets and allocated as follows: Wingate at Beacon: \$33.33 Wingate at Dutchess: \$33.33 Wingate at Ulster: \$33.34
Payment of Purchase Price:	Paid to Existing Operators or New Operator at closing by wire transfer.

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 February 21, 2025, the facility had no reported Medicaid liabilities. The purchase price of the operations is proposed to be satisfied with members' equity.

Consulting Services Agreement

The applicant has submitted an executed consulting and services agreement for which they will enter into, summarized below:

Facility	VS Servicer at Ulster, LLC
Consultant	The McGuire Group, Inc.
Term	1 year and thereafter shall renew automatically for successive one-year periods.
Services Provided	The Consultant shall provide the following services: responsible for the operation, supervision, and oversight of all functions related to accounts receivable, responsible for the operation, supervision, and oversight of all functions related to billing, responsible for the operation, supervision, and oversight of all functions related to accounts payable, responsible for the operation, supervision, and oversight of all functions related to the payroll process, and shall provide clinical consulting services to the Established Operator.
Fee	Year One- \$450,000, Year Two- \$500,000 and Year Three- \$550,000

The McGuire Group (TMG) and the Established Operator have common but not identical ownership, TMG also provides services to other facilities, some of which have common ownership with the Established Operator. Edward Farbenblum is the sole member of The McGuire Group. The agreement provides that the facility operator will retain ultimate control in all of the final decisions associated with the facility. 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.

Lease Rental Agreement

The applicant has submitted a draft lease rental agreement for the Ulster site, which is summarized below:

Premises	One Wingate Way, Highland, New York, 12528
Lessor	CCP Ulster 1743 LLC
Lessee	VS Servicer at Ulster, LLC
Term	15 years
Rental:	Year One- \$272,796, Year 2- \$477,400, Year 3- \$818,400 and Year 4- \$1,091,200. After year 4, the rent will increase by 2.25% per year.
Provisions	The lessee shall be responsible for real estate taxes, maintenance, and utilities.

The applicant has indicated via affidavit that the lease arrangement will be an arm's length lease arrangement. The applicant has submitted two real estate letters attesting to the reasonableness of the per-square-foot rental.

Capability and Feasibility

There is no project cost associated with this application. The purchase price for the operations of all three facilities is \$100 of which \$33.33 is allocated to this facility. The purchase price will be met with the proposed member equity.

The working capital requirement is \$2,669,690 based on two months of the first year's expenses. The working capital requirement will be satisfied with \$1,334,845 in equity from the proposed members and the remaining \$1,556,783 will be financed through a bank loan at 7.5% interest and a five-year term. Metropolitan Commercial Bank has provided a letter of interest for the working capital financing. BFA Attachment A reveals sufficient resources overall for the stated levels of equity, with an affidavit from Michael Farbenblum stating Michael will contribute a disproportionate share for the equity requirement.

BFA Attachment C, Pro-Forma Balance Sheet, indicates positive members' equity of \$1,334,845 as of the first day of operations.

The submitted budget projects a net income in Years One and Three of \$203,248 and \$777,158, respectively. Revenue growth is predicated on the collective experience of proposed members in operating RHCs and their ability to provide the facility with the expertise and infrastructure to implement measures to improve operations. The submitted budget appears reasonable.

BFA Attachment B, 2022-2024 Financial Summary of Taconic Rehabilitation and Nursing at Ulster, shows the applicant had an average negative working capital position and an average negative net asset position from 2022 through 2023. The facility incurred a net loss of (\$805,391) in 2022 and a net loss of (\$1,096,152) in 2023. These negative outcomes are the result of low census and staffing issues. In 2024, the facility had a positive working capital position, and a negative net asset position, and achieved a net income of \$74,867. The applicant has indicated that the reason for the average negative working capital position, average negative net asset position, and average net losses are the result of the low census, which in turn is a result of the facility's staffing changes. The facility has committed to improving staff recruitment, maintaining competitive salaries, developing a Nurse Aide Training program, and establishing relationships in the community. Also, the facility has focused on internal recruitment to re-establish relationships with trade schools and programs that offer RN and LPN degrees.

Conclusion

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

Attachments

LTCOP	Long-Term Care Ombudsman Program Recommendation
BFHP Attachment	Map
BFA Attachment A	Personal Net Worth Statements of VS Servicer at Ulster LLC
BFA Attachment B	Financial Summary 2022 – 2024 Taconic Rehabilitation and Nursing at Ulster
BFA Attachment C	Pro Forma Balance Sheet
BFA Attachment D	Organizational Chart



Department of Health Public Health and Health Planning Council

Project # 231043-E Meadowbrook Operating LLC d/b/a Meadowbrook Healthcare

Program: Residential Health Care Facility
Purpose: Establishment

County: Clinton
Acknowledged: February 21, 2023

Executive Summary

Description

Meadowbrook Operating, LLC, an existing limited liability company, requests approval to be established as the new operator of Meadowbrook Healthcare, an existing 287-bed Residential Health Care Facility (RHCF) at 154 Prospect Avenue, Plattsburgh (Clinton County).

CGSR, Inc. is the current facility operator. Pursuant to the Asset Purchase Agreement (APA), dated November 17, 2022, Meadowbrook Operating, LLC agreed to purchase the RHCF from CGSR, Inc. On October 14, 2022, Meadowbrook Realty Group LLC and Meadowbrook Propco, LLC entered into a Real Estate Purchase Agreement (REPA) whereby Meadowbrook Propco, LLC agreed to purchase the real estate associated with the facility from Meadowbrook Realty Group, LLC. This real estate transaction was closed, and the PHL 2803-x notification was provided.

Pursuant to the Assignment and Assumption of Lease, CGSR, Inc. (current operator) will assign its rights under the Agreement of Lease between CGSR, Inc. (as tenant) and Meadowbrook Propco, LLC (as landlord). Meadowbrook Propco, LLC will lease the RHCF to Meadowbrook Operating LLC for a term of 35 years. Meadowbrook Propco, LLC, and Meadowbrook Operating LLC have common ownership.

The current and proposed ownership of Meadowbrook Healthcare is as follows:

Current Operator

CGSR, Inc.

Members:

Stephen Croopnick	27.15%
Mark Gorstein	27.15%
Robert Schlundt	27.15%
Steven Rubin	9.05%
Charles Edouard Gros	9.50%
Total	100.00%

Proposed Operator

Meadowbrook Operating, LLC

Members:

Chana Schlesinger	2.00%
Zehava Gros	45.00%
Ernest Schlesinger	29.33%
Sam Schlesinger	2.00%
Shlomo Boehm	21.67%
Total	100.00%

OALTC Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services as a result of this application. As of February 5, 2025, the facility reported 94.5% occupancy of staffed beds. Clinton County had 95.7% occupancy of staffed beds.

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 project costs associated with this application. The purchase price for the operations is \$376,324, which will be funded with equity from the proposed members' personal resources. The proposed budget is as follows:

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$36,759,694	\$36,759,694
Expenses	<u>36,084,078</u>	<u>36,186,971</u>
Net Income	\$675,616	\$572,723

Health Equity Impact Assessment

A Health Equity Impact Assessment was not required for this project under Public Health Law §2802-B, as it was received by the Department on January 31, 2023.

Recommendations

Long-Term Care Ombudsman Program

The LTCOP recommends Approval (See LTCOP Attachment A)

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 an executed lease that is acceptable to the Department of Health. [BFA]
2. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
3. Submission of a plan to continue to enhance access to Medicaid residents. At a minimum, the plan should include, but not necessarily be limited to, ways in which the facility will: a. Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program; b. Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility, and c. Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility and inform them about the facility's Medicaid Access policy. [RNR]
4. Submission of an Executed Asset Purchase Agreement 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

April 10, 2025

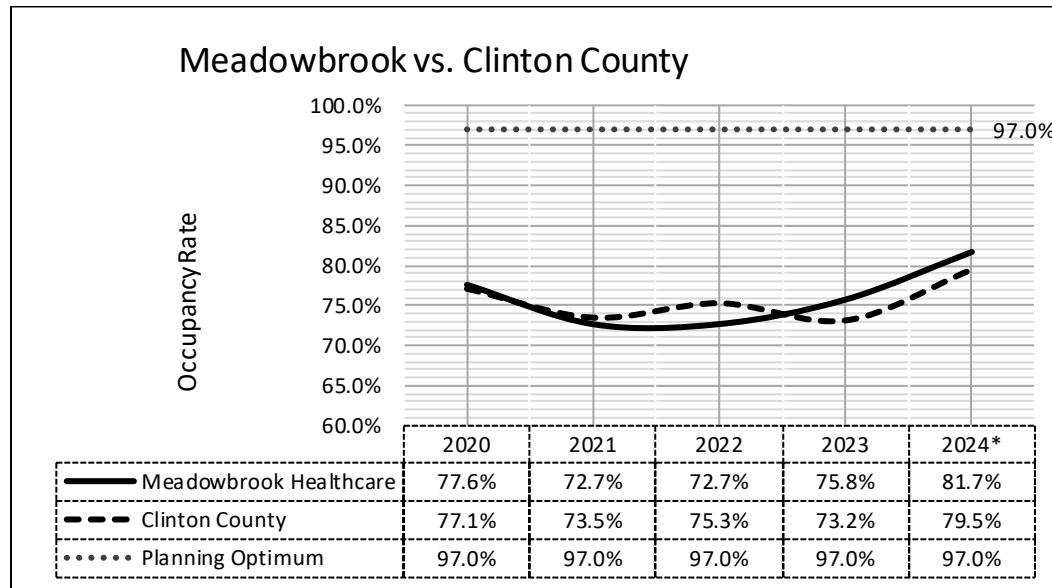
Need Analysis

Background and Analysis

The primary service area is Clinton County, which has a population projected to increase to 81,292 by 2030 based on Cornell Program of Applied Demographic estimates. Demographics for the primary service area are noted below including a comparison with New York State.

Demographics	Clinton County	New York State
Total Population (2023 Estimate)	78,961	19,872,319
Hispanic or Latino (of any race)	3.4%	19.6%
White (non-Hispanic)	89.1%	53.4%
Black or African American (non-Hispanic)	2.9%	13.6%
Asian(non-Hispanic)	1.4%	8.8%
Other (non-Hispanic)	3.2%	4.6%

Source: 2023 American Community Survey (5-year Estimates Data Profiles)



*2024 data is self-reported and not certified. Occupancy through 2023 is from the RHCf cost reports.

Based on weekly census data, the facility reported that 88.2% of their 287 licensed beds are staffed and 83.3% occupied as of February 5, 2025, for a 94.5% occupancy of staffed beds. Clinton County had 82.2% of the county's 490 licensed beds staffed and 79.4% occupied for a 95.7% occupancy of staffed beds. The facility has seen a slight increase in occupancy since 2022 and they plan to increase occupancy by focusing on communication and relationship building with area doctors, hospitals, and resident family members regarding future improvements planned at the facility.

The table below shows the CMS Rating and the utilization of the closest RHCf's to Meadowbrook Healthcare. The next three closest RHCf's are located in Vermont, followed by the next closest RHCf in New York located in Essex County, which is 40 miles and 42 minutes away.

Facility Name	CMS Overall Rating	Number of Beds	Distance from other RHCFS	Occupancy			
	As of 1/2025		Miles/Time	2021	2022	2023	2024*
Meadowbrook Healthcare	1	287	0 miles/0 mins	72.7%	72.7%	75.8%	81.7%
Champlain Valley	4	34	0.4 miles/2 mins	60.6%	98.6%	98.6%	98.1%
Plattsburgh Rehab	1	89	2.2 miles/7 mins	76.9%	82.9%	89.1%	90.6%
Clinton Co Nursing	2	120	2.5 miles/7 mins	81.2%	66.4%	46.1%	47.6%

*2024 data is self-reported and not certified. Occupancy through 2023 is from the RHCFS cost reports.

The following table provides the Case Mix Index (CMI) for the facility and surrounding RHCFS, which reflects the relative resources predicted to provide care to a resident. The higher the case mix weight, the greater the resource requirement for the residents.

Case Mix Index	2021		2022		2023	
	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only
Meadowbrook Healthcare	1.225	1.224	1.195	1.2457	1.2036	1.3879
Champlain Valley	1.062	0.825	1.1131	1.0422	1.2714	0.7597
Plattsburgh Rehab	1.354	1.27	1.315	1.4235	1.3332	1.3455
Clinton Co Nursing	0.801	0.781	0.8152	0.8036	0.8345	0.82

Medicaid Access

To ensure that the Residential Health Care Facility needs of the Medicaid population are met, 10 NYCRR §670.3 requires applicants to accept and admit a reasonable percentage of Medicaid residents in their service area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. This benchmark may be increased or decreased based on the following factors:

- the number of individuals within the planning area currently awaiting placement to a residential health care facility and the proportion of total individuals awaiting such placement that are Medicaid patients and/or alternate level of care patients in general hospitals.
- the proportion of the facility's total patient days that are Medicaid patient days and the length of time that the facility's patients who are admitted as private paying patients remain such before becoming Medicaid eligible;
- the proportion of the facility's admissions who are Medicare patients or patients whose services are paid for under provisions of the federal Veterans' Benefits Law;
- the facility's patient case mix based on the intensity of care required by the facility's patients or the extent to which the facility provides services to patients with unique or specialized needs;
- the financial impact on the facility due to an increase in Medicaid patient admissions.

An applicant will be required to make appropriate adjustments in its admission policies and practices to meet the resultant percentage. The facility's Medicaid admissions rate was below the threshold of 75% of the Clinton County rate for 2022.

Medicaid Access	2021	2022	2023
Clinton County Total	19.7%	22.9%	33.3%
Clinton Threshold Value	14.8%	17.2%	25.0%
Meadowbrook Healthcare	16.1%	15.2%	32.7%

Conclusion

There will be no changes to beds or services due to this application. As of February 5, 2025, the facility reported 94.5% occupancy of staffed beds and Clinton County reported 95.7% occupancy of staffed beds.

Program Analysis

Project Proposal

	Existing	Proposed
Facility Name	Meadowbrook Healthcare	Same
Address	154 Prospect Avenue, Plattsburgh, New York 12901	Same
RHCF Capacity	287 beds	Same
ADHCP Capacity	N/A	N/A
Type of Operator	Business Corporation	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	CGSR, Inc. <u>Membership:</u> Steven Croopnick 27.15% Robert Schlundt 27.15% Mark Gorstein 27.15% Steven Rubin 9.05% Charles-Edouard Gros 9.50%	Meadowbrook Operating LLC <u>Membership:</u> Zehava Gros 45.00% Ernest Schlesinger 29.33% Shlomo Boehm* 21.67% Sam Schlesinger 2.00% Chana Schlesinger 2.00% <i>*Managing Member</i>

Character and Competence

Zehava Gros (Schwartzblatt) discloses being a graduate student in the Clinical Psychology Doctoral Program at Long Island University, Post, since 2021 with graduation anticipated in 2026. Zehava received a Bachelor of Arts in Psychology and Political Science (dual major) from CUNY Queens College and disclosed no employment within the past 10 years. Zehava Gros (Schwartzblatt) did not disclose any healthcare facility ownership interests.

Ernest Schlesinger lists concurrent employment as CEO at SightRite, Brooklyn, NY, an eyecare business, and employment working in regional sales at Solo Med O2, Brooklyn, NY, a provider of bulk oxygen and oxygen-related supplies. Ernest is a 50% member of PediRite, a business that provides podiatry services to nursing home residents, as well as, an owner of DocRite, a business that provides optometry services to nursing home residents. Ernest was an owner of DentRite, a no longer active business that provided dental services to nursing home residents. Previously, Ernest was employed working in regional sales for DermaRite Industries, LLC, North Bergen, NJ, a manufacturer of wound and skin care products, as well as, nutritional supplements for healthcare and senior-care facilities. Ernest Schlesinger received a high school diploma from Yeshiva Taras Chesed and discloses the following healthcare facility ownership interests:

New York Nursing Homes

Bellhaven Center for Rehabilitation and Nursing Care (5%)	03/2010 to present
Dumont Center for Rehabilitation and Nursing Care (2.5%)	07/2010 to present
St. James Rehabilitation & Healthcare Center (10%)	08/2012 to present
The Grand Pavilion for Rehab & Nursing at Rockville Centre (5%)	08/2012 to present
Westhampton Care Center (17%)	01/2018 to present
Ten Broeck Center for Nursing & Rehabilitation (37.5%)	10/2018 to present
Golden Hill Nursing and Rehabilitation Center (17%)	Pending

Out-of-State Nursing Homes

Washington Square Healthcare Center (OH) (6%)	01/2014 to present
Big Bend Woods (MO) (10%)	01/2016 to present
Greenery Center for Rehab and Nursing (PA) (15%)	06/2016 to present
TimberRidge Center for Rehabilitation & Healing (FL) (13%)	09/2019 to present

End-Dated Facility

Abbey Woods Center for Rehabilitation and Healing (MO) (50%)

04/2017 to 06/2019

Shlomo Boehm lists current self-employment managing healthcare responsibilities and real estate investments. Previously, Shlomo was employed as a lawyer with the law firm, Cadwalader, Wickersham & Taft, LLP, New York, NY. Shlomo received a Juris Doctor degree from Columbia University School of Law and is registered as an attorney in New York State. Shlomo Boehm discloses the following healthcare facility ownership interests:

New York Nursing Homes

Westhampton Care Center (80%)

01/2018 to present

Out-of-State Nursing Homes

The Villa at Stamford (CT) (27.94%)

01/2016 to present

Sam Schlesinger discloses being a student at Yeshiva Tiferes Yisrael Chaim, Jerusalem, Israel, engaged in Talmudic studies since October 2022 with completion anticipated in December 2025. Sam disclosed no employment within the past 10 years. The applicant was asked how Sam Schlesinger will be involved in the ownership and operation of Meadowbrook Healthcare in Plattsburgh, NY, while attending school in Israel and responded as follows: The applicant states that, initially, Sam Schlesinger will not be involved in the day-to-day operations of the facility. Rather, the more experienced members of the operating entity will operate the facility on a day-to-day basis once this project is implemented. However, Sam Schlesinger does expect to spend a considerable amount of time at the facility when not engaged in his studies and expects to expand his knowledge of operating a skilled nursing facility from the more experienced members of the operating entity. Sam Schlesinger did not disclose any healthcare facility ownership interests.

Chana Schlesinger (Schwartz) discloses work as a Homemaker with no outside employment within the past 10 years. Chana Schlesinger (Schwartz) received a high school diploma from Bais Shifra Miriam and did not disclose any healthcare facility ownership interests.

Quality Review

The proposed owners have been evaluated, in part, on the distribution of CMS Star ratings for their portfolios. For all proposed owners, the distribution of CMS star ratings for their facilities meets the standard described in state regulations.

CMS Star Rating Criteria					
Proposed Owner	Total Nursing Homes	Duration of Ownership*			
		< 48 Months		48 months or more	
		Number of Nursing Homes	Percent of Nursing Homes With Below Average Rating	Number of Nursing Homes	Percent of Nursing Homes With Below Average Rating
Zehava Gros	0	0	N/A	0	N/A
Ernest Schlesinger	10	0	N/A	10	20%
Shlomo Boehm	2	0	N/A	2	0%
Sam Schlesinger	0	0	N/A	0	N/A
Chana Schlesinger	0	0	N/A	0	N/A

*Duration of Ownership as of 04/10/2025

Data date: 01/2025

New York. The proposed owner's portfolio includes ownership in six New York facilities, which all have a CMS overall quality rating of average or higher.

Pennsylvania. The proposed owner's portfolio includes ownership in one Pennsylvania facility, which has a CMS overall quality rating of average.

Connecticut. The proposed owner's portfolio includes ownership in one Connecticut facility, which has a CMS overall quality rating of above average.

Ohio. The proposed owner's portfolio includes ownership in one Ohio facility, which has a CMS overall quality rating of average.

Missouri. The proposed owner's portfolio includes ownership in one Missouri facility, which has a CMS overall quality rating of much below average. When asked to explain what measures were being put into place to improve the low overall CMS ratings for Big Bend Woods, the applicant responded as follows:

This facility is in Missouri and the applicant indicates that the rules regarding whether a member has control of a facility are different in Missouri than in New York State. As such, although Ernest Schlesinger is a 10% member of that facility, Ernest does not exercise a high degree of control over the day-to-day operations of the facility. However, Ernest Schlesinger states that the facility received a health inspection survey in 2021 that resulted in several F-level tags, which caused the low overall star rating at the facility. Since that time, all of these tags have been remedied, and the proper protocols have been put in place to ensure a positive result during the next health inspection survey. Finally, it is worth noting that the facility has not had a health inspection survey in over two (2) years.

Florida. The proposed owner's portfolio includes ownership in one Florida facility, which has a CMS overall quality rating of much below average. When asked to explain what measures were being put into place to improve the low overall CMS ratings for TimberRidge Center for Rehabilitation & Healing, the applicant responded as follows:

The applicant states that the one (1) star rating at TimberRidge Nursing & Rehabilitation Center in the overall category was the result of three (3) deficiencies received during a site visit in February 2024 by the Florida Agency for Health Care Administration (AHCA) after the facility self-reported an incident involving a resident. According to the AHCA report, facility staff had not called emergency services quickly enough while a resident was having a respiratory event, and, as a result, the resident subsequently passed away. Prior to this isolated event, the facility showed three (3) CMS stars in the overall category. A plan of correction was accepted by the AHCA and was successfully implemented by the facility. The facility has conducted an extensive in-service to all facility staff regarding this type of issue and has replaced the Administrator. These positive changes have resulted in the facility's care team remaining focused on providing consistent, quality resident care that they anticipate resulting in positive outcomes for residents. As a result, the facility expects that its overall star rating will increase to two (2) stars within the near term as the facility's subsequent surveys are expected to be positive.

Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
New York					
Meadowbrook Healthcare	Subject Facility	*	*	***	**
Bellhaven Center for Rehabilitation and Nursing Care	Current	****	***	*****	**
	03/2010	*	**	***	*
Dumont Center for Rehabilitation and Nursing Care	Current	*****	****	*****	***
	07/2010	*	*	****	***
St. James Rehabilitation & Healthcare Center	Current	****	****	****	**
	08/2012	**	***	****	*
The Grand Pavilion for Rehab & Nursing at Rockville Centre	Current	****	***	*****	**
	08/2012	**	**	***	**
Westhampton Care Center	Current	****	***	*****	**
	01/2018	****	***	*****	***
Ten Broeck Center for Rehabilitation & Nursing	Current	****	***	*****	**
	10/2018	*****	****	*****	**
Pennsylvania					
Greenery Center for Rehab and Nursing	Current	***	***	***	**
	06/2016	*	*	*	*
Connecticut					
The Villa at Stamford	Current	****	****	****	***
	01/2016	****	**	*****	*****
Ohio					
Washington Square Healthcare Center	Current	***	**	*****	**
	01/2014	**	**	****	***
Missouri					
Big Bend Woods Healthcare Center	Current	*	*	***	*
	01/2016	*	*	****	***
Florida					
TimberRidge Center for Rehabilitation & Healing	Current	**	*	*****	***
	09/2019	***	****	***	*

Data date: 01/2025

End-Dated Ownership					
Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
Missouri					
Abbey Woods Center for Rehabilitation and Healing	06/2019	**	*	*****	**
	04/2017	***	**	**	****

Enforcement History

New York

A review of the operations of Bellhaven Center for Rehabilitation and Nursing Care under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$10,000 pursuant to Stipulation and Order NH-24-002 for surveillance findings on 07/28/2023. Deficiencies were found under 10 NYCRR §415.12(h)(2) Quality of Care – Accident-Free Environment. Specifically, facility staff failed to follow the care plan requiring two-person assist for turning and positioning in bed, resulting in the resident falling to the floor and sustaining fractures to both legs. A federal CMP in the amount of \$7,901 was also assessed on 07/28/2023 under F689 at a G level.
- The facility was fined \$2,000 pursuant to Stipulation and Order NH-22-066 for surveillance findings on 10/19/2021. Deficiencies were found under 10 NYCRR §419.19(a) Infection Control. The facility failed to ensure staff members wore the proper PPE gown when in the room of a resident on contact droplet precautions. A federal CMP in the amount of \$5,000 was also assessed on 10/19/2021 under F880 at a D level.
- The facility was assessed federal CMPs of \$3,575 on 12/13/2021, \$3,250 on 11/29/2021, \$2,925 on 11/22/2021, \$2,600 on 11/15/2021, \$2,293 on 09/20/2021, \$1,965 on 09/13/2021, \$1,625 on 08/23/2021, \$1,300 on 06/28/2021, \$975 on 06/14/2021 and \$650 on 03/22/2021 for failing to report COVID data under F884 at a F level.

A review of the operations of Dumont Center for Rehabilitation and Nursing Care under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$18,000 pursuant to Stipulation and Order NH-16-061 for surveillance findings on 04/13/2015. Multiple deficiencies were found under 10 NYCRR as follows: §415.3(e)(1)(ii) Residents Rights: Advance Directives, §415.5(g) Quality of Life: Social Service, §415.12 Quality of Care: Highest Practicable Potential, §415.26 Administration: Administration and §415.15(a) Administration: Medical Director. A federal CMP in the amount of \$40,000 was also assessed on 04/13/2015 for multiple deficiencies, including: F155 at an H level, F250 at an H level, F309 at an L level, F490 at an I level, and F501 at an H level.

A review of the operations of St. James Rehabilitation & Healthcare Center under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of The Grand Pavilion for Rehab & Nursing at Rockville Centre under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

A review of the operations of Westhampton Care Center under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$14,000 pursuant to Stipulation and Order NH-22-116 for surveillance findings on 01/18/2022. Deficiencies were found under 10 NYCRR §415.19(a)(1)(2) Infection Control and §415.12(h)(2) Quality of Care, Accidents. For §415.19(a)(1)(2), the facility failed to enter the rooms of residents on droplet precautions without doffing and donning PPE. For §415.12(h)(2), the facility failed to provide two persons, as required, to bathe a totally dependent resident. The resident fell out of the shower chair and sustained a head injury, was transferred to the hospital and admitted with a diagnosis of a subdural hematoma. A federal CMP in the amount of \$11,435 was also assessed on 01/18/2022 under F689 at a G level.

- The facility was fined \$10,000 pursuant to Stipulation and Order NH-19-003 for surveillance findings on 09/10/2018. Deficiencies were found under 10 NYCRR §415.4(b) Abuse, Verbal, Sexual, Physical and Mental, Corporal Punishment, and Involuntary Seclusion.
- The facility was assessed a federal CMP of \$7,036 on 04/20/2018 for failure to provide sufficient nursing staff under F725 at an E level.

A review of the operations of Ten Broeck Center for Nursing & Rehabilitation under 10 NYCRR §600.2 requirements for approval reveals no enforcements.

Pennsylvania

A review of the operations of Greenery Center for Rehab and Nursing under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was cited by the state of Pennsylvania on 01/29/2025 under §483.25(d)(1)(2) for failure to ensure that the resident environment remains free of accident hazards and that each resident receives adequate supervision and assistance devices to prevent accidents. The facility was also cited under F689 at a J level.
- The facility was assessed a federal CMP of \$33,400 on 05/24/2024 for failure to provide and implement an infection prevention and control program under F880 at an E level. Specifically, the facility failed to store medications in a safe and sanitary manner for one of the three medication carts reviewed.
- The facility was assessed a federal CMP of \$27,688 on 09/27/2019 for failure to ensure that a nursing home area is free from accident hazards and provide adequate supervision to prevent accidents under F689 at a J level (immediate jeopardy) and for failure to provide appropriate treatment and care according to orders, resident's preferences, and goals under F684 at a G level.

Connecticut

A review of the operations of The Villa at Stamford under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a federal CMP of \$9,160 on 12/12/2022 for failure to ensure that a nursing home area is free from accident hazards and provide adequate supervision to prevent accidents under F689 at a G level. Specifically, the facility failed to develop a care plan with interventions for the resident's known behavior of pushing their bed against the heating system and laying their head on the radiator unit to prevent an injury, a neck burn.
- The facility was assessed a Connecticut state fine of \$720 on 09/04/2020 for violation of Connecticut State Agency Public Health Code Section 19-13-D8t(t)(2); Class B in accordance with Section 19a-527-1(b)(18). Specifically, the facility failed to complete weekly testing for COVID-19 for 2 consecutive weeks following a positive case as per CDC, CMS, and DPH recommendations.
- The facility was assessed a federal CMP of \$3,320 on 03/28/2017 for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent avoidable accidents under F689 at a G level.

Ohio

A review of the operations of Washington Square Healthcare Center under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was cited by CMS on 10/05/2023 for failure to provide appropriate pressure ulcer care and prevent new ulcers from developing under F686 at a G level.
- The facility was assessed a federal CMP of \$6,500 on 12/09/22 for failure to provide and implement an infection prevention and control program under F880 at an F level.

Missouri

A review of the operations of Big Bend Woods Healthcare Center under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a federal CMP of \$131,040 and a payment denial on 02/08/2024 for failure to provide appropriate care for a resident to maintain and/or improve range of motion

(ROM), limited ROM, and/or mobility unless a decline is for a medical reason under F688 at a G level.

- The facility was cited by CMS on 07/21/2023 for failure to provide safe, appropriate pain management for a resident who requires such services under F697 at a G level.
- The facility was assessed a federal CMP of \$100,045 and a payment denial on 05/25/2023 for failure to provide safe, appropriate pain management for a resident who requires such services under F697 at a G level and for failure to provide appropriate pressure ulcer care and prevent new ulcers from developing under F686 at a G level.
- The facility was assessed a federal CMP of \$33,311 on 09/09/2022 for failure to provide safe, appropriate pain management for a resident who requires such services under F697 at a G level. In addition, the facility failed to provide or obtain laboratory tests/services when ordered and promptly told to by the ordering practitioner of the results under F773 at a G level. Specifically, for F697, a resident developed an infection, experienced severe pain, and was not provided effective pain management. The facility also failed to administer pain medication to alleviate pain during dressing changes for two residents with pressure ulcers. For F773, the staff failed to communicate a positive lab result to the resident's physician and the resident required hospitalization.
- The facility was assessed a federal CMP of \$26,811 on 08/09/2022 for failure to provide appropriate treatment and care according to orders, residents' preferences, and goals under F684 at a G level. Specifically, the facility failed to ensure that residents received treatment and care in accordance with professional standards of practice when staff failed to recognize, assess, and notify the physician regarding a resident's expressed pain experienced during the resident's care and failed to provide pain medications for approximately 12 hours after a resident suffered a fractured proximal ulna.
- The facility was assessed federal CMPs of \$1,625 on 07/05/2021, \$1,300 on 06/28/2021, \$983 on 06/21/2021, and \$655 on 06/07/2021 for failure to report COVID data under F884 at an F level.
- The facility was assessed a federal CMP of \$56,162 and a payment denial on 05/24/2021 for failure to provide appropriate treatment and care according to orders, resident preferences, and goals under F684 at a G level. Also, the facility failed to provide appropriate pressure ulcer care and prevent new ulcers from developing under F686 at a K level (Immediate Jeopardy). Specifically, for F684, the facility failed to notify one resident's physician of a critical lab result, and that resident was later admitted to the hospital for a related condition. For F686, the facility failed to have a process to ensure Certified Nurse Aides (CNAs) reported new or worsening skin conditions and soiled or missing dressings to the nurse when identified. In addition, the facility failed to ensure nurses applied treatments to wounds with soiled or missing dressings timely, completed weekly skin assessments, and ensured treatments were applied as ordered.
- The facility was assessed a federal CMP of \$44,782 on 01/04/2021 for failure to provide appropriate treatment and care according to orders, resident preferences, and goals under F684 at a J level (Immediate Jeopardy). Specifically, the facility failed to monitor the resident after a choking incident. The facility also failed to properly administer the Heimlich maneuver or call 911 after the resident became unresponsive. The resident expired at the facility.
- The facility was assessed a federal CMP on 03/18/2020 for failure to provide basic life support, including CPR, prior to the arrival of emergency medical personnel, subject to physician orders and the resident's advance directives – past non-compliance under F678 at a J level (Immediate Jeopardy).
- The facility was assessed a federal CMP of \$19,910 on 01/28/2020 for failure to provide appropriate treatment and care according to orders, resident preferences, and goals under F684 at a D level.
- The facility was assessed a federal CMP of \$11,443 on 03/03/2017 for failure to give residents proper treatment to prevent new bed (pressure) sores or heal existing bed sores under F314 at a G level.
- The facility was cited by CMS for Environmental Deficiencies on 08/15/2016. The facility failed to ensure that a nursing home area is free from accident hazards and provide adequate supervision to prevent avoidable accidents under F323 at a G level.

- The facility was assessed a federal CMP of payment denial on 07/05/2016 for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent avoidable accidents under F323 at a G level.
- The facility was assessed a MO DOH state fine of \$11,443 in 2016 for a licensing violation related to the transfer of an out-of-state RN license of the facility's Director of Nursing.

A review of the operations of Abbey Woods Center for Rehabilitation and Healing under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a federal CMP of Payment Denial on 10/22/2019 for failure to provide appropriate pressure ulcer care and prevent new ulcers from developing under F686 at a G level.
- The facility was assessed a CMS payment denial on 11/16/2017 for failure to provide necessary care and services to maintain or improve the highest well-being of each resident under F309 at a D level.
- The facility was cited by CMS for Environmental Deficiencies on 07/18/2017. The facility failed to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent avoidable accidents under F323 at a G level.
- The facility was assessed a federal CMP of \$6,500 on 06/20/2017 for failure to ensure services provided by the nursing facility meet professional standards of quality under F281 at a D level.

Florida

A review of the operations of TimberRidge Center for Rehabilitation & Healing under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was assessed a federal CMP of \$119,636 on 01/19/2024 for failure to protect each resident from all types of abuse such as physical, mental, sexual abuse, physical punishment, and neglect by anybody under F600, for failure to administer the facility in a manner that enables it to use its resources effectively and efficiently under F835 and for failure to set up an ongoing quality assessment and assurance group to review quality deficiencies and develop corrective plans of action under F867. All citations were at a J level (Immediate Jeopardy). Specifically, a resident was not provided the needed oxygen, experienced a cardiac arrest, and did not survive. In addition, the facility failed to implement policies and procedures for transporting residents to appointments and providing emergency care (oxygen) as well as failed to investigate, develop, and implement an effective performance improvement plan to prevent the same issues from reoccurring.
- The facility was assessed a Florida state fine of \$500 on 07/05/2023 because one employee lacked documentation that a background screening was conducted within the past 5 years under state tag CZ816.
- The facility was assessed a federal CMP of \$5,000 on 12/02/2021 for failure to implement an effective Infection Control Program to prevent the transmission of infections during wound care change, administering meds via a G-tube, and during suprapubic catheter dressing change under F880 at an E level.
- The facility was assessed a federal CMP of \$655 on 05/10/2021 for failure to report COVID data under F884 at an F level.
- The facility was assessed a federal CMP of \$20,635 on 04/03/2020 for failure to ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents under F689 at a J level (Immediate Jeopardy).

Conclusion

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

Financial Analysis

Operating Budget

The applicant has submitted an operating budget, in 2025 dollars, for the first and third years after the change in operator, summarized below:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>Revenues</u>						
Medicare FFS	\$570.25	\$15,463,923	\$570.24	\$17,010,315	\$570.24	\$17,010,315
Medicare MC	\$570.25	\$1,926,290	\$570.22	\$2,118,919	\$570.22	\$2,118,919
Medicaid FFS	\$232.67	\$6,286,967	\$232.67	\$6,915,664	\$232.67	\$6,915,664
Medicaid MC	\$232.67	\$2,095,656	\$221.03	\$2,189,960	\$221.03	\$2,189,960
Private Pay	\$595.81	\$7,646,028	\$595.82	\$8,410,631	\$595.82	\$8,410,631
Other Revenues		<u>\$114,205</u>	-	<u>\$114,205</u>	-	<u>\$114,205</u>
Total Revenues		\$33,533,069		\$36,759,694		\$36,759,694
<u>Expenses</u>						
Operating	\$363.29	\$28,829,543	\$363.10	\$31,696,325	\$364.28	\$31,799,218
Capital	<u>\$55.29</u>	<u>\$4,387,753</u>	<u>\$50.26</u>	<u>\$4,387,753</u>	<u>\$50.26</u>	<u>\$4,387,753</u>
Total Expenses	\$418.58	\$33,217,296	\$413.37	\$36,084,078	\$414.55	\$36,186,971
Net Income		\$315,773		\$675,616		\$572,723
Utilization: (Days)		79,357		87,293		87,293
Occupancy		75.75%		83.33%		83.33%

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

- Revenues are based on current reimbursement methodologies.
- Nonoperating income consists of miscellaneous income.
- Reimbursement rates are based on current historical experience, other than Medicaid FFS and Medicaid MC, which are slightly increasing based on the 2023 Medicaid rate sheet.
- Occupancy for the facility in 2023 was 75.75%. The facility achieved average occupancy of 82.04% through June 30, 2024.
- The applicant has indicated the facility will increase occupancy by focusing on communication and relationship building with area doctors, hospitals, and residents' family members regarding future improvements that will be made at the facility. Additionally, there is an expected population growth of the elderly in the future.
- The facility's Medicaid admissions were 16.1% in 2021, 15.2% in 2022, and 32.7% in 2023 while the 75% threshold for Clinton County was 14.8% in 2021, 17.2 % in 2022, and 25% in 2023.

Utilization broken down by payor source is as follows:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
<u>Payor</u>	<u>Patient Days</u>	<u>%</u>	<u>Patient Days</u>	<u>%</u>	<u>Patient Days</u>	<u>%</u>
Medicare FFS	27,118	34.17%	29,830	34.17%	29,830	34.17%
Medicare MC	3,378	4.25%	3,716	4.25%	3,716	4.25%
Medicaid FFS	27,021	34.07%	29,723	34.07%	29,723	34.07%
Medicaid MC	9,007	11.34%	9,908	11.34%	9,908	11.34%
Private Pay	<u>12,833</u>	<u>16.17%</u>	<u>14,116</u>	<u>16.17%</u>	<u>14,116</u>	<u>16.17%</u>
Total	79,357	100.00%	87,293	100.00%	87,293	100.00%

Asset Purchase Agreement

The applicant has submitted an executed asset purchase agreement, which is summarized below:

Date	November 17, 2022
Seller	CGSR, Inc.
Purchaser	Meadowbrook Operating, LLC
Assets Acquired	Business and operations of the facility, Seller's right, title and interest in and to the A&R Lease, all assignable contracts, agreements, leases, undertakings, commitments and other arrangements entered into on or after the Newco Date with the consent of the Executed Employee, resident funds held in trust, the name "Meadowbrook Healthcare" and any and all other trade names, logos, trademarks and service marks associated with the facility and the Basic Assets, all policies and procedures manuals and computer software, all telephone numbers, telefax numbers and domain names used by the facility, all resident/patient records relating to the Facility, all employee and payroll results, goodwill, copies of all other books and records relating to the Facility and/or Basic Assets, Seller's Medicare and Medicaid provider agreements and provider numbers and all leasehold improvements, furniture, fixtures and equipment owned or leased by Seller.
Assumed Liabilities	All obligations relating to rendering of services and operation of business at the Facility on or after the Newco Date, Seller's account payable, Seller's ongoing obligations relating to periods from and after the Newco Date pursuant to the Assumed Contracts and all wages, salaries, bonuses, commissions, rebates, expenses, benefits and other compensation or fees of any nature that arise and accrue in connection with operation of the Facility prior to the Newco Date.
Purchase Price	\$376,324
Payment of Purchase Price	Cash not less than two business days prior to the Closing Date

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 February 6, 2025, the facility had outstanding liabilities of \$525,373.

Lease Rental Agreement

The applicant has submitted a draft lease assignment for the nursing home site. The current lease of the nursing home site is summarized below:

Date	November 17, 2022
Lessor	Meadowbrook Propco, LLC
Lessee	CGSR, Inc.
Term	35 years
Rental	\$4,300,000
Provisions	The lessee shall be responsible for real estate taxes, maintenance, and utilities.

The applicant has submitted an affidavit indicating that the lease arrangement will be a non-arm's length lease arrangement. The applicant has submitted two real estate letters attesting to the reasonableness of the per-square-foot rental.

Capability and Feasibility

The purchase price for the operations is \$376,324 and will be funded with equity from the proposed members' personal resources. Working capital requirements are estimated at \$6,014,013, equivalent to two months of first-year expenses, and will be provided with equity from the personal resources of the proposed members. The applicant has submitted an affidavit indicating that equity will be provided disproportionate to ownership interest. Attachment A is the personal net worth statements of the proposed members of Meadowbrook Operating, LLC., indicating the availability of sufficient funds for the equity contribution.

The submitted budget indicates a net income of \$675,616 and \$572,723 during Years One and Three, respectively. Revenues are based on current reimbursement methodologies. The submitted budget appears reasonable.

Attachment B is Meadowbrook Healthcare's financial summary for the period ending October 31, 2023. The facility had a positive working capital position and a positive net asset position through October 31, 2023, and achieved a net income of \$2,642,800.

Attachment C is the financial summary of the other New York State-owned nursing facilities the proposed members own. As shown, all the entities had a positive net asset position for the period. The following facilities achieved a net income: St. James Rehab. Ten Broeck and Dumont Center. The following facilities had net losses in 2022: Westhampton Care Center and Golden Hill, with it noted that the reason for the Golden Hill loss was the slight decrease in occupancy.

Conclusion

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

Attachments

LTCOP Attachment	Long-Term Care Ombudsman Program Recommendation
BHFP Attachment	Map
BFA Attachment A	Personal Net Worth Statement for Proposed Members
BFA Attachment B	Financial Summary- Meadowbrook Healthcare
BFA Attachment C	Financial Summary- NYS RHCFs Owned by the Proposed Members.



Project # 241267-E
Morningstar Residential Care Center

Program: Residential Health Care Facility
Purpose: Establishment

County: Oswego
Acknowledged: June 17, 2024

Executive Summary

Description

Morningstar Care Center, Inc., is requesting approval to add one additional shareholder to the ownership structure of Morningstar Residential Care Center (Morningstar), a 120-bed Article 28 residential health care facility (RHCF) at 17 Sunrise Drive, Oswego (Oswego County)

Currently, Joseph Murabito, the sole shareholder and President of Morningstar Care Center, Inc. owns 100% of the membership interest. Elemental Management Group, LLC currently provides administrative services to Morningstar Residential Care Center. As part of his employment and equity compensation plan with Elemental Management Group, Ryan Gilmartin will receive 2% ownership interest per year over the next five (5) years until Ryan achieves 10% ownership interest. There will be no change to the beds, or operations as a result of this application.

OALTC 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

There is no project cost or purchase price associated with this application. The proposed budget is as follows:

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$11,186,107	\$11,409,868
Expenses	<u>11,127,614</u>	<u>11,363,975</u>
Net Income	\$58,793	\$45,893

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Public Health Law §2802-B.

Recommendations

Long-Term Care Ombudsman Program

The LTCOP recommends Approval. (See LTCOP Attachment A)

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 an executed Joinder (assignment and assumption agreement for the 2%) 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 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]
2. Upon approval, the applicant is required to file Courtesy Notices with the Bureau of Project Management to document the effective date of each 2% membership interest transfer. [LTC]

Council Action Date

April 10, 2025

Program Analysis

Project Proposal

	Existing	Proposed
Facility Name	Morningstar Residential Care Center	Same
Address	17 Sunrise Drive Oswego, New York 13126	Same
RHCF Capacity	120 beds	Same
ADHCP Capacity	N/A	N/A
Type of Operator	Business Corporation	Same
Class of Operator	Proprietary	Same
Operator	Morningstar Care Center, Inc. <u>Membership:</u> Joseph Morabito 100%	Morningstar Care Center, Inc. <u>Membership:</u> Joseph Murabito* 90% Ryan Gilmartin** 10%† *President **Vice President †Ownership interest will increase by 2% per year over the next five (5) years until Ryan Gilmartin has 10% total ownership interest.

Ryan Gilmartin is receiving equity in Morningstar Care Center, Inc. as part of his equity compensation plan and employment with Elemental Management Group, with 2% awarded each year for five (5) years until Ryan Gilmartin receives 10%. To receive stock in Morningstar Care Center, Inc., Ryan Gilmartin is being awarded and granted the stock in exchange for services rendered.

On January 1, 2019, Morningstar Care Center, Inc. entered into an administrative/consulting services agreement (CASA) with Elemental Management Group, LLC. Upon approval of this application, the CASA will continue (the agreement expired on December 31, 2021, however, there is an automatic 1-year term renewal unless terminated). The president and sole member of the consulting entity, Joseph Murabito, is the current sole shareholder of Morningstar Residential Care Center, Inc. There is a relationship between the proposed new owner and the consultant. Ryan Gilmartin, the proposed new owner, is employed by the consulting entity as the Chief Operating Officer. The services provided by the CASA include billing/collection, purchasing, payroll, HR, consulting, food service management, compliance, and other administrative services.

Character and Competence

Ryan Gilmartin lists current employment as Chief Operating Officer at Elemental Management Group, a senior living and long-term care management company, in Oswego, NY. Previously, Ryan was a Senior Program Administrator at Highland Hospital and a Division Administrator at the University of Rochester Medical Center (UR Medicine) in Rochester, NY. Both positions involved working in post-acute care overseeing UR Medicine's Geriatrics Group through Highland Hospital and, subsequently, for the Division of Geriatrics and Aging through UR Medicine's School of Medicine and Dentistry. Prior to working in New York, Ryan was employed as a Licensed Nursing Home Administrator at ManorCare Health Services, Erie, PA, and as Executive Director/Licensed Nursing Home Administrator at Golden Living Center Western Reserve, Erie, PA. Ryan holds a master's degree in health administration from the University of Scranton and a bachelor's degree in political science from Augsburg University. Ryan was previously licensed as a nursing home administrator in Pennsylvania and is a licensed nursing home administrator in New York. Ryan Gilmartin did not disclose any healthcare facility ownership interests.

Quality Review

The proposed owner has been evaluated, in part, on the distribution of CMS Star ratings for their portfolio. For the proposed owner, the distribution of CMS star ratings for their facilities meets the standard described in state regulations.

CMS Star Rating Criteria					
		Duration of Ownership*			
		< 48 Months		48 months or more	
Proposed Owner	Total Nursing Homes	Number of Nursing Homes	Percent of Nursing Homes with a Below Average Rating	Number of Nursing Homes	Percent of Nursing Homes with a Below Average Rating
Ryan Gilmartin	0	0	N/A	0	N/A

*Duration of Ownership as of 04/10/2025

Data date: 01/2025

A review was conducted of the two Pennsylvania facilities where Ryan Gilmartin worked as the licensed nursing home administrator (Golden Living Center – Western Reserve from February 2013 to July 2016 and ManorCare Health Services – Erie from July 2016 to August 2017) with the following results:

Facility	Administrator Since*	Overall	Health Inspection	Quality Measure	Staffing
New York					
Morningstar Residential Care Center	Subject Facility	*	*	**	*
Pennsylvania					
End-Dated as Administrator					
ManorCare Health Services – Erie	08/2017	*****	****	*****	***
	07/2016	***	**	*****	***
Golden Living Center – Western Reserve	07/2016	***	***	**	**
	02/2013	**	**	***	**

Data date: 01/2025

*Please note: Ryan Gilmartin was not the operator of the above facilities but was serving as the administrator. Information is being presented for information purposes and is not subject to 10 NYCRR §600.2(b)(5)(iv).

Enforcement History

Pennsylvania

A review of the operations of ManorCare Health Services – Erie for the time period indicated above reveals the following:

- The facility was assessed a federal CMP of \$13,000 on 03/31/2017. The facility was also cited by the state of Pennsylvania under §483.12(b)(1)-(3) for failing to prohibit mistreatment, neglect, and exploitation of residents and misappropriation of resident property as well as §483.25(d)(1)(2)(n)(1)-(3) for failing to ensure the resident environment is free of accident hazards and each resident receives adequate supervision and assistance devices to prevent accidents.

A review of the operations of Golden Living Center – Western Reserve for the time period indicated above reveals the following:

- The facility was cited by CMS on 09/04/2015 for failure to give residents proper treatment to prevent new bed (pressure) sores or heal existing bed sores under F314 at a G level. The facility was also cited by the state of Pennsylvania under §483.25(c).

Conclusion

The individual background review indicates the applicant has met the standards as set forth in Public Health Law §2801-a(3).

Financial Analysis

Operating Budget

The applicant has submitted an operating budget, in 2025 dollars, for the first and third years, summarized below:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
<u>Revenues</u>	<u>Per Day</u>	<u>Total</u>	<u>Per Day</u>	<u>Total</u>	<u>Per Day</u>	<u>Total</u>
Medicare FFS	\$574.86	\$2,529,953	\$600.00	\$2,854,800	\$606.65	\$2,911,896
Medicare MC	\$565.44	294,030	\$627.00	229,482	\$632.62	234,071
Medicaid MC	\$210.54	6,357,594	\$216.75	6,822,442	\$220.92	6,958,891
Medicaid FFS	\$199.57	75,438	\$216.75	79,331	\$218.69	80,917
Private Pay	<u>\$360.72</u>	<u>1,380,105</u>	<u>\$358.85</u>	<u>1,182,052</u>	<u>\$365.36</u>	<u>1,205,693</u>
Resident Service Revenue		10,637,120		11,168,107		11,391,468
Other Revenue		759,559		0		0
Other Operating Revenue		17,447		\$18,300		\$18,400
Total Revenue		<u>\$11,414,126</u>		<u>\$11,186,407</u>		<u>\$11,409,868</u>
<u>Expenses</u>						
Operating	\$248.64	9,777,197	\$235.29	9,472,610	\$238.63	9,626,241
Capital	\$42.8	1,683,007	\$41.11	1,655,004	\$43.08	1,737,734
Total Expenses	<u>\$291.45</u>	<u>11,460,204</u>	<u>\$276.39</u>	<u>11,127,614</u>	<u>\$281.7</u>	<u>\$11,363,975</u>
Net Income/(Loss):		<u>(\$46,078)</u>	=	<u>\$58,793</u>	=	<u>\$45,893</u>
Patient Days		39,322		40,260		40,340
Occupancy		89.77%		91.91%		92.10%

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

- Revenues are based on current reimbursement methodologies.
- Other operating revenue is IV therapy, vending machines, etc.
- Expenses are based on the Current Year's experience and projected with some increased occupancy. Occupancy is projected to increase from 89.77% Current Year to 92.10% in Year Three. The total number of FTEs will increase from 99.40 FTEs in the Current Year to 103.3 FTEs in Year One and 104 FTEs in Year Three. Aides, orderlies, and attendants will increase from 43.4 FTEs in the Current Year to 44 FTEs in Years One and Three, respectively. Licensed Practical Nurses increase from 11.8 FTEs to 17.5 FTEs by Year Three.

Utilization broken down by payor source is as follows:

<u>Payor</u>	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Medicare MC	11.19%	11.82%	11.90%
Medicare FFS	1.32%	0.91%	0.92%
Medicaid MC	76.79%	78.18%	78.09%
Medicaid FFS	0.96%	0.91%	0.92%
Private Pay	<u>9.73%</u>	<u>8.18%</u>	<u>8.18%</u>
Total	100.00%	100.00%	100.00%

Assignment and Assumption Agreement (Joinder Agreement)

The applicant has submitted a draft assignment and assumption agreement summarized below:

Assignor	Morningstar Care Center, Inc. Sole 100% Shareholder, Joseph Murabito
Assignee	Ryan Gilmartin
Proposed Agreement	Assignment and Assumption of 2% of the initial shares from Joseph Murabito.
Agreement	2% every year will be deemed separate and distinct for 5 years to total 10%.
Provision's	Control or voting rights are not covered until 10% is exceeded in ownership.

Lease Rental Agreement

The applicant has submitted the existing executed lease rental agreement for Morningstar Care Center, Inc. which is summarized below:

Premises	17 Sunrise Drive, Oswego, (Oswego County)
Lessor	17 Sunrise Drive, LLC
Lessee	Morningstar Care Center, Inc.
Term	November 30, 2055
Rental	\$130,000 per month
Provisions	The lessee shall be responsible for real estate taxes, maintenance, and utilities.

The applicant has submitted a notarized affidavit that the lease arrangement will be an arm's length lease agreement as there is a relationship between the current operator and PropCo. Joseph Murabito owns 98% of 17 Sunrise Drive, LLC, and Ryan Gilmartin owns 2% of 17 Sunrise Drive, LLC. From the affidavit, it is the intent to eventually have Ryan also be gifted with 10% to vest over 5 years and own 10% of the realty for site control.

Administrative Services Agreement

The applicant has provided an executed consulting services agreement, summarized below executed on January 1, 2019, and is still operating and providing Administrative Services currently:

Established Operator:	Morningstar Care Center, Inc.
Consultant:	Elemental Management Group, LLC
Term:	1-year, automatic renewal thereafter for successive 1-year periods unless terminated by either party with 30 days written notice.
Consulting and Advisory Services:	At the request of the established operator, Elemental Management Group, Inc. shall provide administration and operational functions but not limited to, accounts receivable/payable, budgeting, billing, accounts payable, payroll, reports, bookkeeping, recruitment, and cash planning services.
Marketing:	Elemental Management Group, LLC shall assist the established operator in developing and implementing a marketing plan, including admission services.
Fees:	\$240,000 annually or \$20,000 monthly.
Provision:	Fee may be adjusted upon mutual agreement of both parties.

Joe Murabito is the sole shareholder of the RHCF and the sole member of Elemental Management Group, LLC. This transaction would be an arm's length agreement. The ultimate authority will remain with the President of Morningstar for all decisions.

Capability and Feasibility

There is no project cost or purchase price associated with this application. There is no working capital required for this application. The submitted budget indicates an operating Income of \$58,793 and \$45,893 during Years One and Three, respectively.

BFA Attachment A, 2022–2023 Certified Financial statement of Morningstar Care Center, Inc. shows an average positive working capital position and an average positive net asset position from 2022 through 2023. The facility incurred a net loss of (\$170,563) and (\$33,024) during 2022 and 2023, respectively.

The applicant stated the reasons for the losses are due to the lingering effects of the COVID-19 pandemic, insurance reimbursements that have not kept up with inflationary costs of supplies, and staffing with low census numbers.

BFA Attachment B, 2024 Internal Financial Statement of Morningstar Care Center, Inc., shows a positive working capital, positive net asset position, and a net loss of (\$170,899). The applicant stated losses were attributable to the facility's reduced Medicaid rate as a result of residual equity and capital cuts; the costs to operate continue to rise. Strategic hiring and controlled salary and wage growth, as well as, Ryan Gilmartin's expertise and leadership are expected to improve financial viability.

Conclusion

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

Attachments	
LTCOP Attachment A	Long-Term Care Ombudsman Program Recommendation
BFA Attachment A	2022-2023 Certified Financial Statement of Morningstar Care Center, Inc.
BFA Attachment B	2024 Internal Financial Statement of Morning Star Care Center, Inc.



Project # 242133-E

**Delmar SNF Operations Associates, LLC d/b/a
Delmar Center for Rehabilitation and Nursing**

Program: Residential Health Care Facility

County: Albany

Purpose: Establishment

Acknowledged: September 23, 2024

Executive Summary

Description

Delmar SNF Operations Associates, LLC d/b/a Delmar Center for Rehabilitation and Nursing, a New York limited liability company, is requesting approval to be established as the new operator of Good Samaritan Lutheran Health Care Center, Inc. d/b/a Bethlehem Commons Care Center, a 120-bed, voluntary, Article 28 residential health care facility (RHCF) at 125 Rockefeller Road, Delmar (Albany County). Good Samaritan Lutheran Health Care Center, Inc. is the previous Operator and Kenneth Rozenberg has operated the RHCF under receivership since May 28, 2020.

On December 10, 2019, Delmar SNF Operations Associates, LLC entered into an asset purchase agreement (APA) with Good Samaritan Lutheran Health Care Center, Inc., for the sale and acquisition of the RHCF operations and all operating assets for \$900,000. Concurrently, Delmar SNF Realty Associates, LLC, whose current sole member is Yisroel Herzka, entered into a Real Estate Purchase Agreement (REPA) with Good Samaritan Lutheran Health Care Center, Inc., for selling and acquiring the real property for \$5,100,000.

On December 12, 2019, Good Samaritan Lutheran Health Care Center, Inc., and Kenwood Manor Inc. entered voluntary Chapter 11 Bankruptcy in the United States District Court for the Northern District of New York. On March 13, 2020, the Bankruptcy Court joined the Sale Order, under which the Bankruptcy Court approved the sale of Delmar SNF Operations Associates, LLC for the operations and real

property. The APA and REPA will close simultaneously upon the approval of the application by the Public Health and Health Planning Council (PHHPC) and bankruptcy court.

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

Current Operator

Delmar SNF Operations Associates LLC
(Receiver)

Member:

Kenneth Rozenberg	100%
-------------------	------

Proposed Operator

Delmar SNF Operations Associates, LLC

Members:

Moshe Goldstein*	90%
Herbert Paul Konstam	10%

*Managing Member

OALTC Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services due to this application. As of February 5, 2025, the facility reported 97.5% occupancy of staffed beds and Albany County reported 92.8% occupancy of staffed beds.

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 project costs associated with this application. The total purchase price for the operations is \$900,000, funded by a \$900,000 loan for 24 months at 9.63% interest. Repayment is interest only. Delmar SNF Realty Associates, LLC will purchase the real property

for \$5,100,000, funded by a \$5,100,000 loan for 24 months at 9.63%. Repayment is interest only.

The proposed budget is as follows:

<u>Budget</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$16,122,426	\$16,202,697
Expenses	<u>15,794,935</u>	<u>15,700,151</u>
Net Income	\$327,491	\$502,546

Health Equity Impact Assessment

This project does not meet the requirements for a Health Equity Impact Assessment under Public Health Law §2802-B.

Recommendations

Long-Term Care Ombudsman Program

The LTCOP recommends Approval. (See LTCOP Attachment A)

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 an executed operating loan commitment acceptable to the Department of Health. [BFA]
2. Submission of an executed working capital loan commitment acceptable to the Department of Health. [BFA]
3. Submission of an executed real property loan commitment acceptable to the Department of Health. [BFA]
4. Submission of one rent reasonable letter acceptable to the Department of Health. [BFA]
5. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR].
6. Submission of a plan to continue to enhance access to Medicaid residents. At a minimum, the plan should include, but not necessarily be limited to, ways in which the facility will: a. Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program; b. Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility; and c. Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy. [RNR].

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

April 10, 2025

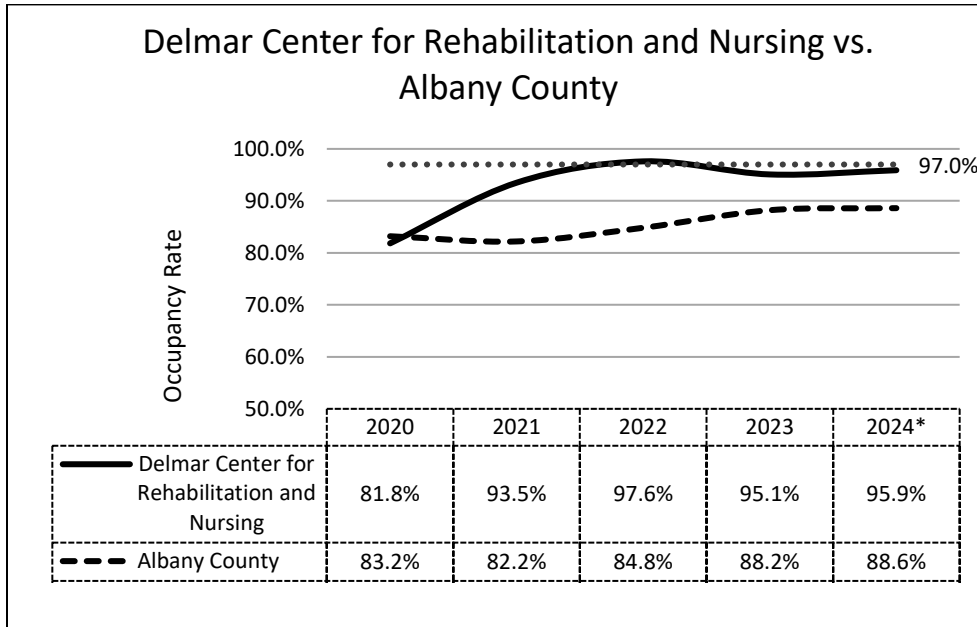
Need Analysis

Background and Analysis

The primary service area is Albany County, which has a population projected to increase to 322,394 by 2030, based on Cornell Program of Applied Demographic estimates. Demographics for the primary service area are noted below, including a comparison with New York State.

Demographics	Albany County	New York State
Total Population (2023 Estimate)	315,374	19,872,319
Hispanic or Latino (of any race)	7.0%	19.6%
White (non-Hispanic)	69.0%	53.4%
Black or African American (non-Hispanic)	11.4%	13.6%
Asian(non-Hispanic)	7.2%	8.8%
Other (non-Hispanic)	5.4%	4.6%

Source: 2023 American Community Survey (5-Year Estimates Data Profiles)



*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHCF cost reports.

There will be no changes to beds or services due to this application. The facility reported that 100% of their 120 licensed beds are staffed and 97.5% occupied as of February 5, 2025, for a 97.5% occupancy of staffed beds. Albany County had 97.8% of the county's 1,835 licensed beds staffed and 90.9% occupied for a 92.8% occupancy of staffed beds.

The table below shows the CMS Rating and the utilization of the closest RHCFs to the Delmar Center for Rehabilitation and Nursing.

Facility Name	CMS Overall Rating	Number of Beds	Distance from other RHCs	Occupancy			
	As of 2/2025		Miles/Time	2021	2022	2023	2024*
Delmar Center for Rehabilitation and Nursing	1	120	0 miles/0 mins	93.5%	97.6%	95.1%	95.9%
St. Peter's Nursing & Rehab	3	160	5.2 miles/13 mins	68.7%	67.7%	65.1%	65.8%
Eddy Village at Beverwyck	4	24	6.8 miles/14 mins	97.2%	99.5%	97.8%	98.3%
Hudson Park Rehab	1	200	8.0 miles/13 mins	78.0%	80.5%	85.0%	90.9%
Rosewood Rehab (Rensselaer County)	2	80	11.5 miles/16 mins	86.4%	93.3%	90.9%	88.3%
Evergreen Commons (Rensselaer County)	2	240	11.6 miles/18 mins	96.7%	97.6%	97.2%	97.5%
Daughters of Sarah Nursing	3	210	11.9 miles/18 mins	83.2%	85.8%	93.4%	93.5%

*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHC cost reports.

The following table provides the Case Mix Index (CMI) for the facility and the surrounding RHCs, which reflects the relative resources predicted to provide care to a resident. The higher the case mix index weight, the greater the resource requirements for the residents.

Case Mix Index	2021		2022		2023	
	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only
Delmar Center for Rehabilitation and Nursing	1.188	1.21	1.2842	1.2946	1.2576	1.2303
St. Peter's Nursing	1.121	1.018	1.2421	1.1723	1.2122	1.1973
Eddy at Beverwyck	1.035	0.911	1.0933	1.0306	1.162	1.1714
Hudson Park Rehab	1.408	1.389	1.0389	0.9576	1.0829	1.0044
Rosewood Rehab (Rensselaer)	1.241	1.057	1.3015	1.2525	1.2617	1.2178
Evergreen Commons (Rensselaer)	1.124	0.958	1.1185	0.9575	1.0978	0.9949
Daughters of Sarah Nursing	1.166	0.978	1.162	1.0461	1.1583	1.0467

Medicaid Access

To ensure that the Residential Health Care Facility needs of the Medicaid population are met, 10 NYCRR §670.3 requires applicants to accept and admit a reasonable percentage of Medicaid residents in their service area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. This benchmark may be increased or decreased based on the following factors:

- the number of individuals within the planning area currently awaiting placement to a residential health care facility and the proportion of total individuals awaiting such placement that are Medicaid patients and/or alternate level of care patients in general hospitals;
- the proportion of the facility's total patient days that are Medicaid patient days and the length of time that the facility's patients who are admitted as private paying patients remain such before becoming Medicaid eligible;
- the proportion of the facility's admissions who are Medicare patients or patients whose services are paid for under provisions of the federal Veterans' Benefits Law;
- the facility's patient case mix based on the intensity of care required by the facility's patients or the extent to which the facility provides services to patients with unique or specialized needs;
- the financial impact on the facility due to an increase in Medicaid patient admissions.

An applicant will be required to make appropriate adjustments in its admission policies and practices to meet the resultant percentage. The facility's Medicaid admissions rate was above the threshold of 75% of the Albany County rate for 2021 and below the threshold of 75% of the Albany County rate for 2022 and 2023.

Medicaid Access	2021	2022	2023
Albany County Total	29.5%	28.0%	29.8%
<i>Albany Threshold Value</i>	22.2%	21.0%	22.4%
Delmar Center for Rehab	24.9%	18.2%	21.4%

Conclusion

There will be no changes to beds or services due to this application. The facility reported 97.5% occupancy of staffed beds and Albany County reported 92.8% occupancy of staffed beds.

Program Analysis

Project Proposal

	Existing	Proposed
Facility Name	Delmar Center for Rehabilitation and Nursing	Same
Address	125 Rockefeller Road Delmar, NY 12054	Same
RHCF Capacity	120 beds	Same
ADHCP capacity	N/A	N/A
Type of Operator	Voluntary Receivership	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	Delmar SNF Operations Associates, LLC (Receiver) <u>Membership:</u> Kenneth Rozenberg 100%	Delmar SNF Operations Associates, LLC <u>Membership:</u> Moshe Goldstein* 90% Herbert P. Konstam 10% <i>*Managing Member</i>

On December 12, 2019, Good Samaritan Lutheran Health Care Center, Inc. and Kenwood Manor, Inc. filed voluntary petitions for Federal Chapter 11 Bankruptcy in the United States Bankruptcy Court for the Northern District of New York, main case # 1:19-bk-12215. This application is part of the court-approved Federal Chapter 11 Bankruptcy plan.

Good Samaritan Lutheran Health Care Center, Inc., as the owner of the operations, entered into an agreement with Delmar SNF Operations Associates, LLC to become the licensed operator, as the receiver, effective 5/28/2020. The subject facility is currently operated by the receiver. The legal entity for the proposed permanent operator is the same legal entity as the current receiver, though the individual members of the LLC will differ. The receivership will terminate upon completion of the proposed transaction and issuance of a new operating certificate to the permanent operator.

Character and Competence

Moshe Goldstein lists current employment as the Administrator of Golden Hill Nursing and Rehabilitation Center in Kingston, NY. Previously, Moshe Goldstein was the Assistant Administrator at Ten Broeck Center for Rehabilitation & Nursing in Katrine, NY. Moshe holds a Master of Business Administration degree from Touro University Worldwide and is a licensed nursing home administrator in New York. Moshe Goldstein discloses no health facility interests.

New York Adult Care Facility

Albany Center for Independent Living (90%)

Pending

Herbert Paul Konstam lists current employment as the owner of Lone Eagle, LLC, a health care and real estate consulting company in Brooklyn, NY. Previously, Herbert Konstam was the Operator and Administrator of Suffolk Center for Rehabilitation and Nursing in Patchogue, NY. Herbert holds a Master of Business Administration degree from Baruch College and is a licensed nursing home administrator in New York. Herbert Konstam discloses the following health facility interests:

New York Nursing Homes

Suffolk Center for Rehabilitation and Nursing (95%)

05/2007 to 07/2022

New York Adult Care Facility
Albany Center for Independent Living (10%)

Pending

Quality Review

The proposed owner has been evaluated, in part, on the distribution of CMS Star ratings for their portfolio. For the proposed owner, the distribution of CMS star ratings for their facilities meets the standard described in state regulations.

CMS Star Rating Criteria					
		Duration of Ownership*			
		< 48 Months		48 months or more	
Proposed Owner	Total Nursing Homes	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating	Number of Nursing Homes	Percent of Nursing Homes With a Below Average Rating
Moshe Goldstein	0	0	N/A	0	N/A
Herbert Konstam	0	0	N/A	0	N/A

*Duration of Ownership as of 04/10/2025

Data date: 01/2025

Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
New York					
Delmar Center for Rehabilitation and Nursing	Subject Facility	*	*	****	*

Data date: 01/2025

End Dated Ownership					
Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
New York					
Suffolk Center for Rehabilitation and Nursing	07/2022	**	**	*****	*
	05/2007*	*	**	***	*

*Data as of 01/2009

Enforcement History

New York

A review of the operations of Suffolk Center for Rehabilitation and Nursing under 10 NYCRR §600.2 requirements for approval reveals the following:

- The facility was fined \$10,000.00 pursuant to Stipulation and Order NH-17-026 issued January 31, 2017, for surveillance findings on September 18, 2016. Deficiencies were found under 10 NYCRR §415.12 Quality of Care Highest Practicable Potential. The facility failed to provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care subject to the resident's right of self-determination.

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 provided the Current Year (2023) results and the Years One and Three operating budgets after the change in ownership in 2025 dollars, summarized as follows:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
Revenues	Per Diem	Total	Per Diem	Total	Per Diem	Total
Medicaid FFS	\$231.62	\$5,310,345	\$250.64	\$5,890,084	\$250.64	\$5,919,534
Medicaid MC	\$231.62	694,628	\$238.11	731,938	\$238.13	735,598
Medicare FFS	\$399.96	3,539,224	\$399.97	3,627,705	\$399.94	3,645,843
Medicare MC	\$399.96	1,808,608	\$399.96	1,853,823	\$399.98	1,863,092
Private	\$1,391.12	3,270,515	\$1,390.99	3,352,278	\$1,391.02	3,369,039
Assessment Fees		0		598,458		601,451
Other Operating *		<u>413,798</u>		<u>68,140</u>		<u>68,140</u>
Total Revenues		\$15,037,118		\$16,122,426		\$16,202,697
<u>Expenses</u>						
Operating	\$336.27	\$14,005,030	\$335.85	\$14,337,193	\$336.97	\$14,456,909
Capital	<u>\$21.74</u>	<u>905,477</u>	<u>\$34.15</u>	<u>1,457,742</u>	<u>\$28.98</u>	<u>1,243,242</u>
Total Expenses	\$358.01	\$14,910,507	\$370.00	\$15,794,935	\$365.95	\$15,700,151
Net Income (Loss)		<u>\$126,611</u>		<u>\$327,491</u>		<u>\$502,546</u>
Patient Days		41,648		42,689		42,903
Utilization %		95.09%		97.46%		97.95%

* Other Operating: Management fee \$169,428, Investment Income \$68,140, and Health Workers Bonus \$176,230. The investment income of \$68,140 is expected to continue in Years One and Three.

The following is noted concerning the submitted RHCF operating budget:

- The Current Year reflects the facility's 2023 revenues and expenses.
- The Medicaid Fee for Service (Medicaid FFS) rate is based on the facility's most recent Medicaid rate sheets. The Medicaid Managed Care rate is 95% of the Medicaid FFS rate.
- Medicare and Private Pay rates are based on the 2023 rates.
- Projected staffing is based on Current Year staffing, adjusted for increased utilization and hiring permanent staff rather than relying on temporary staffing agencies.
- Expenses are based on 2023 operating expenses, increased by 2% for most non-payroll items, and reflect the reduction of certain operating expenses, including a reduction in purchased services and professional fees. The reductions stem from decreased reliance on temporary staffing agencies and expected operating efficiencies. Capital costs increased due to an increase in rent expenses.
 - The projected percentage of direct care staffing costs to projected facility revenues is 45.2% in Year One and 47.1% in Year Three, exceeding the 40% requirement in Public Health Law §2808.
 - The percentage of direct resident care costs to projected facility revenue is 86.3% in Year One and 90.6% in Year Three, exceeding the 70% requirement in Public Health Law §2808.
 - The facility's projected profit percentage is forecasted to be 2.0% in Year One and 3.1% in Year Three, less than the 5% maximum outlined in Public Health Law §2808.
- Projected occupancy is based on the facility's 2023 occupancy of 95.09%. The facility's annual average occupancy rates for 2020, 2021, 2022, and 2023 were 81.83%, 92.54%, 97.63%, and 95.09%, respectively. Occupancy was 97.5% for the week ended January 5, 2025 (self-reported information to the Department). The applicant's plan to maintain its current occupancy includes:
 - Strengthening relationships with discharge planners and referral sources.
 - Developing relationships with existing staff that will encourage retention.
 - Staff training, development, and support.
 - Acceptance of clinically complex residents.
 - Implementation of staff recruitment and retention initiatives.
 - Community outreach.

- Implementing a tracheostomy care program to serve a more diverse resident population.

Utilization by payor source is summarized below:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
<u>Payor</u>	<u>Days</u>	<u>%</u>	<u>Days</u>	<u>%</u>	<u>Days</u>	<u>%</u>
Medicaid FFS	22,927	55.05%	23,500	55.05%	23,618	55.05%
Medicaid MC	2,999	7.20%	3,074	7.20%	3,089	7.20%
Medicare FFS	8,849	21.25%	9,070	21.25%	9,116	21.25%
Medicare MC	4,522	10.86%	4,635	10.86%	4,658	10.86%
Private Pay	<u>2,351</u>	<u>5.64%</u>	<u>2,410</u>	<u>5.64%</u>	<u>2,422</u>	<u>5.64%</u>
Total	41,648	100%	42,689	100%	42,903	100%

- The facility's Medicaid admissions of 24.9% in 2021 was above Albany County's 75% threshold rate of 22.2%. In 2022, the facility's Medicaid admissions of 18.2% were below Albany County's 75% threshold rate of 21.0%. In 2023, the facility's Medicaid admission of 21.4% was below Albany County's 75% threshold of 22.4%.
- The breakeven utilization is projected at 95.89% in the first year.

Asset Purchase Agreement (APA)

The applicant submitted an APA to acquire the operations and operating assets associated with the RHCF, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	December 10, 2019
Seller/Debtors:	Good Samaritan Lutheran Health Care Center, Inc.
Buyer:	Delmar SNF Operations Associates, LLC
Asset Acquired:	Rights, title, and interest in the purchased assets as approved by order of the Bankruptcy Court. Includes pre-closing accounts receivables, rate appeals, universal settlement, tangible property, intellectual property, contracts, records, permits, goodwill, phone numbers, e-mail addresses, warranties, and Medicare and Medicaid provider agreements.
Excluded Assets:	Cash and equivalents, CBA and Union Agreements, personal property leases, intercompany receivables, personnel files of non-hired, insurance proceeds, personal items, tax refunds, security deposits, charitable gifts, or bequests.
Assumption of Liabilities:	Liabilities and obligations arising concerning the operation of the Facility after the Closing Date;
Excluded Liabilities:	Free and clear of liabilities, Liens, claims against, or Obligations of Sellers, including liabilities from CBAs and Union Agreements.
Purchase Price	\$900,000
Payment of the Purchase Price	\$900,000 <u>90,000</u> Deposit at signing \$810,000 Due at closing

The purchase price for the operations of \$900,000 is to be satisfied via a loan for 24 months at 9.63%, 1-month CME Term Secured Overnight Financing Rate (SOFR) plus 5.25% (7.75% minimum rate)

Emerald Debt, LLC has provided a letter of interest. Upon the Bankruptcy Court approval, Moshe Goldstein and Herbert P. Konstam are anticipated to execute the Asset Purchase Agreement for the operating assets.

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 surcharges, assessments or fees due from the transferor under Article 28 of the Public Health Law concerning the period before the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of January 16, 2025, the facility had no outstanding Medicaid liabilities.

Assignment of Membership Interest (AMI)

The terms of an executed assignment of membership in Delmar SNF Operations Associates, LLC, to Moshe Goldstein and Herbert P. Konstam are summarized below:

Dated:	September 4, 2024
Assignor:	Kenneth Rozenberg
Assignees:	Moshe Goldstein and Herbert Paul Konstam
Action:	Assignor agrees to assign, transfer, and convey to the Assignees all rights, titles, and interests of Assignor in and to 100% of the Membership Interest of Delmar SNF Operations Associates, LLC.
Effective:	Effective on the closing date under the Asset Purchase Agreement between Good Samaritan Lutheran Health Care Center Inc. and Delmar SNF Operations Associates, LLC.
Consideration:	For good and valuable consideration

Real Estate Purchase Agreement

The applicant has submitted a REPA to acquire the RHCf real property, as summarized below.

Date:	December 10, 2019
Realty Owners:	Good Samaritan Lutheran Health Care Center, Inc.
Buyer:	Delmar SNF Realty Associates, LLC
Premises Real Property:	Building and improvements located at 125 Rockefeller Road, Delmar, Town of Bethlehem – Block 86.1, Lot 1
Payments by Buyer:	\$5,100,000 510,000 deposited at the signing \$4,590,000 balance at closing

The purchase price for the real property of \$5,100,000 is funded by a \$5,100,000 loan for 24 months at 9.63%, 1-month SOFR plus 5.25% (7.75% minimum rate)

Upon the Bankruptcy Court approval, Yisroel Herzka is anticipated to execute the Real Estate Purchase Agreement. Yisroel Herzka has also provided an affidavit stating Yisroel will personally fund the \$5,100,000 loan balance should the terms acceptable to the Department of Health be unavailable during refinancing. Yisroel provided a letter from Merrill Lynch stating they are holding assets in excise of \$8 million that could be used for paying off this obligation.

Assignment of Membership Interest in the Real Property (AMI)

The terms of an executed assignment of membership in Delmar SNF Realty Associates, LLC to Yisroel Herzka are summarized below:

Dated:	September 4, 2024
Assignors:	Daryl Hagler 99% and Jonathan Hagler 1%
Assignee:	Yisroel Herzka
Action:	Assignors agree to assign, transfer, and convey to Assignee all rights, title, and interest of Assignors in and to 100% of the Membership Interest in Delmar SNF Realty Associates, LLC (Company) to the Assignee. Provide that as of the effective date, the United States Bankruptcy Court of the Northern District of New York approves this Assignment. Assignment and the transfer of the Transferred Interest hereunder shall be effective on the date of closing under the Purchase and Sale Agreement between Good Samaritan Lutheran Health Care Center, Inc. and Delmar SNF Realty Associates, LLC (the "Effective Date")
Consideration:	For good and valuable consideration

Lease Agreement

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

Date:	September 4, 2024
Premises:	A 120-bed RHCF, located at 125 Rockefeller Road, Delmar, New York. 12054
Landlord/Lessor:	Delmar SNF Realty Associates, LLC
Lessee:	Delmar SNF Operations Associates, LLC
Term:	Ten years
Rent:	\$739,192 (includes annual debt service plus a distribution). No principal payment during the first two years
Provisions:	Triple Net

The lease arrangement is an arm's length agreement that has been attested to. The applicant has provided one letter from NYS licensed realtors attesting to the reasonableness of the rental rate.

Capability and Feasibility

There is no project cost associated with this application. The total purchase price for the operations is \$900,000, funded by a \$900,000 loan for 24 months at 9.63%, 1-month CME Term Secured Overnight Financing Rate (SOFR) plus 5.25% (7.75% minimum rate). Repayment is interest only. Delmar SNF Realty Associates, LLC will purchase the real property for \$5,100,000, funded by a \$5,100,000 loan for 24 months at 9.63%, 1-month SOFR plus 5.25% (7.75% minimum rate). Repayment is interest only. Emerald Debt, LLC has provided a letter of interest for the loans. The lender is to make a preliminary determination for HUD qualification.

The working capital requirement of \$2,632,489 is estimated at two months of first-year expenses. Funding is provided by \$1,332,489 from members' equity and a \$1,300,000 loan for 24 months at 9.63%, 1-month SOFR plus 5.25%. Repayment is interest only. Emerald Debt, LLC has provided a letter of interest. BFA Attachment A, Net Worth Summary for Delmar SNF Operations Associates, LLC members, shows sufficient overall resources to meet the working capital requirements. Herbert P. Konstam has provided a disproportionate share affidavit to cover Moshe Goldstein's equity shortfall.

The submitted budget projects a net income of \$327,491 and \$502,546 in Years One and Three, respectively. BFA Attachment B, Pro Forma Balance Sheet of Delmar SNF Operations Associates, LLC, shows the entity will start with \$1,332,489 in members equity as of the first day of operations. The budget appears reasonable.

BFA Attachment C, 2021-2023 Financial Summary of Good Samaritan Lutheran Health Care Center, Inc. d/b/a Bethlehem Commons Care Center, shows the RHCF had an average positive working capital position, average negative net asset position, and average positive net income for the period. The June 30, 2024, Internal Financial Statement shows the RHCF had a negative working capital position, a positive net asset position, and a net income of \$677,162.

Conclusion

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

Attachments

LTCOP Attachment	Long-Term Care Ombudsman Program Recommendation
BFA Attachment A	Members' Net Worth of Delmar SNF Operations Associates, LLC
BFA Attachment B	Pro Forma Balance Sheet, Delmar SNF Operations Associates, LLC
BFA Attachment C	Financial Summary Good Samaritan Lutheran Health Care Center, Inc. d/b/a Bethlehem Commons Care Center, 2023 Certified Financial Statement and June 30, 2024, Internal Financial Statements.