

STATE OF NEW YORK
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

AGENDA

April 10, 2025

*Immediately following the Committee on Codes, Regulations and Legislation Meeting
(Codes scheduled to begin at 10:15 a.m.)*

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

I. INTRODUCTION OF OBSERVERS

Jeffrey Kraut, Chair

II. APPROVAL OF MINUTES

February 6, 2025 PHHPC Meeting Minutes

III. 2026 PHHPC MEETING DATES

2026 PHHPC Meeting Dates

IV. REPORT OF DEPARTMENT OF HEALTH ACTIVITIES

A. Report of the Department of Health

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

B. Report of the Office of Public Health

Elizabeth Whalen, M.D., M.P.H., DipABLM, Medical Director, Office of Public Health

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

Douglas G. Fish, M.D., Deputy Commissioner, Office of Health Care Delivery

V. PUBLIC HEALTH SERVICES

Report on the Activities of the Public Health Committee

Anderson Torres, Ph.D., LCSW-R, Vice Chair of Public Health Committee

VI. HEALTH POLICY

Report on the Activities of the Health Planning Committee

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

VII. REGULATION

Report of the Committee on Codes, Regulations and Legislation

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

For Adoption

23-22 Amendment of Section 405.45 of Title 10 NYCRR (Trauma Centers – Nurse Reviewer

For Information

24-22 Amendment of Section 405.4 of Title 10 NYCRR (12-Week Rule for Foreign Medical School Graduates and Limited Permit Allowances)

VIII. PROJECT REVIEW RECOMMENDATIONS AND ESTABLISHMENT ACTIONS

Report of the Committee on Establishment and Project Review

Peter Robinson, Chair of Establishment and Project Review Committee

A. APPLICATIONS FOR CONSTRUCTION OF HEALTH CARE FACILITIES

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

CON Applications

Acute Care Services – Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	251013 C	Montefiore Mount Vernon Hospital (Westchester County)	Contingent Approval

Ambulatory Surgery Center – Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	242333 C	Endoscopy Center of Western New York, LLC (Erie County)	Contingent Approval

Certified Home Health Agency - Construction

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

CATEGORY 2: Applications Recommended for Approval with the Following:

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

CON Applications

Acute Care Services – Construction

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	242268 C	Hospital for Special Surgery (New York County) Dr. Lim – Interest	Contingent Approval
2.	242324 C	Long Island Jewish Medical Center (Queens County) Mr. Kraut – Recusal Dr. Lim – Interest	Contingent Approval

CATEGORY 3: Applications Recommended for Approval with the Following:

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

NO APPLICATIONS

CATEGORY 4: Applications Recommended for Approval with the Following:

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

NO APPLICATIONS

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

NO APPLICATIONS

CATEGORY 6: Applications for Individual Consideration/Discussion

NO APPLICATIONS

B. APPLICATIONS FOR ESTABLISHMENT AND CONSTRUCTION OF HEALTH CARE FACILITIES

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

CON Applications

Residential Health Care Facilities – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	222053 E	VS Servicer at Beacon LLC d/b/a Taconic Rehabilitation and Nursing at Beacon (Dutchess County)	Contingent Approval
2.	222054 E	VS Servicer at Fishkill LLC d/b/a Taconic Rehabilitation and Nursing at Hopewell (Dutchess County)	Contingent Approval
3.	222055 E	VS Servicer at Ulster LLC d/b/a Taconic Rehabilitation and Nursing at Ulster (Ulster County)	Contingent Approval
4.	231043 E	Meadowbrook Operating LLC d/b/a Meadowbrook Healthcare (Clinton County)	Contingent Approval
5.	241267 E	Morningstar Residential Care Center (Oswego County)	Contingent Approval

Certificates

Certificate of Amendment of the Certificate of Incorporation

<u>Applicant</u>	<u>E.P.R.C. Recommendation</u>
The Bethel Springvale Nursing Home, Inc.	Approval

Certificate of Dissolution

<u>Applicant</u>	<u>E.P.R.C. Recommendation</u>
International Center for the Disabled, D/B/A Institute for Career Development	Approval
VNS CHOICE Community Care	Approval
Presbyterian Senior Care of Western New York, Inc.	Approval

CATEGORY 2: Applications Recommended for Approval with the Following:

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

CON Applications

Ambulatory Surgery Centers - Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	242292 E	Crystal Run Ambulatory Surgery Center of Middletown (Orange County) Dr. Friedrich – Interest/Abstaining	Approval
2.	251014 E	Atrium Endoscopy (Suffolk County) Mr. Kraut Interest	Contingent Approval
3.	242221 B	Ambulatory Surgery Center of Williamsburg (Kings County) Dr. Lim – Interest	Contingent Approval

Diagnostic and Treatment Center – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	242263 B	Medical Center of Williamsburg (Kings County) Dr. Lim – Interest	Contingent Approval

CATEGORY 3: Applications Recommended for Approval with the Following:

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

CON Applications

Residential Health Care Facilities – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	231220 E	CLRNC Operating LLC d/b/a Clinton County Nursing Home (Clinton County) Mr. LaRue – Opposed at EPRC Ms. Mazzacco – Opposed at EPRC Ms. Monroe – Abstained at EPRC	Contingent Approval

- | | | | |
|----|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 2. | 232241 E | WRNC Operating LLC d/b/a Wells Rehabilitation and Nursing Center (Fulton County)
Mr. LaRue – Opposed at EPRC
Ms. Mazzacco – Opposed at EPRC
Ms. Monroe – Abstained at EPRC | Contingent Approval |
| 3. | 202251 E | Hoosick Falls Center LLC d/b/a Hoosick Falls Rehabilitation and Nursing Center (Rensselaer County)
Mr. LaRue – Opposed at EPRC
Ms. Mazzacco – Opposed at EPRC
Dr. Torres – Opposed at EPRC | Contingent Approval |
| 4. | 242133 E | Delmar SNF Operations Associates, LLC d/b/a Delmar Center for Rehabilitation and Nursing (Albany County)
Ms. Mazzacco – Opposed at EPRC | Contingent Approval |

CATEGORY 4: Applications Recommended for Approval with the Following:

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

NO APPLICATIONS

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

NO APPLICATIONS

CATEGORY 6: Applications for Individual Consideration/Discussion

NO APPLICATIONS

IX. NEXT MEETINGS

Wednesday, June 4, 2025 (NYC)
Wednesday, June 18, 2025 (NYC)

X. ADJOURNMENT

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

State of New York
Public Health and Health Planning Council

Minutes
February 6, 2025

The meeting of the Public Health and Health Planning Council was held on Thursday, February 6, 2025, at 90 Church Street, 4th Floor CR 4 A/B, New York, New York.
Mr. Jeffrey Kraut, Chair presided.

COUNCIL MEMBERS PRESENT

Dr. Howard Berliner	Mr. Stanford J. Perry
Dr. Lawrence Eisenstein	Mr. Peter Robinson
Dr. Marcus Friedrich	Dr. John Rugge
Dr. Gary Kalkut	Mr. Hugh Thomas
Mr. Jeffrey Kraut	Dr. Anderson Torres
Mr. Scott LaRue	Dr. Kevin Watkins
Mr. Harvey Lawrence	Dr. Wendy Wilcox
Dr. Sabina Lim	Dr. Patsy Yang
Ms. Michelle T. Mazzacco	Commissioner McDonald –Ex-Officio -Zoom

DEPARTMENT OF HEALTH STAFF PRESENT

Ms. Olutomisin Akanbi – NYC	Ms. Wajiha Kazmi – Zoom
Ms. Zahra Alaali – Zoom	Ms. Colleen Leonard – NYC
Ms. Lynn Baniak – Zoom	Mr. George Macko – Albany
Ms. Maclain Berhaupt – Zoom	Ms. Karen Madden – Zoom
Mr. Jacob Bintz – NYC	Ms. Kathy Marks – Zoom
Mr. Josh Breden – Zoom	Ms. Mary McCormick – Albany
Mr. Jason Corvino – Zoom	Mr. Robert Moon – Albany
Ms. Val Deetz – Albany	Ms. Johanne Morne – Zoom
Ms. Alyssa DeRosa – NYC	Ms. Shaymaa Mousa – Zoom
Ms. Danielle DeSouza – Zoom	Ms. Marthe Ngwashi – NYC
Mr. Vince DiCocco – Albany	Mr. Jason Riegert – Zoom
Mr. Kenneth Evans – Zoom	Ms. Carol Rodat – Zoom
Dr. Douglas Fish – NYC	Mr. Robert Serenka – Zoom
Ms. Kayleigh Gekakis – Zoom	Ms. Jaclyn Sheltry – NYC
Ms. Shelly Glock – Albany	Dr. Stephanie Shulman – Zoom
Ms. Sarah Gold – Zoom	Mr. Michael Stelluti – NYC
Mr. Ryan Greenberg – Zoom	Mr. George Stathidis – Zoom
Ms. Kacey Griffin – Albany	Mr. Christopher Squillacioti
Mr. Michael Heeran – Zoom	Ms. Laura Trolio – Zoom
Dr. Eugene Heslin – Zoom	Ms. Gina Wierzbowski – Zoom
Ms. Geraldine Humbert – Zoom	Dr. Elizabeth Whalen – Zoom
Mr. Jonathan Karmel – Zoom	Ms. Patricia Wrobel – Albany

INTRODUCTION

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

ELECTION OF OFFICERS

Mr. Kraut opened up the Annual meeting portion of the meeting and motioned to elect Dr. Boufford to serve as the Council's Vice Chair. Dr. Kalkut seconded the motion. The motion carried unanimously. Please refer to pages 2 and 3 of the attached transcript.

APPROVAL OF THE MINUTES OF DECEMBER 5, 2024

Mr. Kraut asked for a motion to adopt the December 5, 2024 Minutes of the Public Health and Health Planning Council meeting. Dr. Berliner motioned for approval which was seconded by Mr. Robinson. The motion to adopt the minutes passed. Please refer to page 3 of the attached transcript.

REPORT OF DEPARTMENT OF HEALTH ACTIVITIES

Report of the Department of Health

Mr. Kraut introduced Dr. McDonald to provide the Council with an update on the department's activities since the last meeting.

Dr. McDonald thanked Mr. Kraut and greeted the attendees, mentioning that he was joining them from his office in Corning Tower. He explained that he had originally planned to attend in person but was unable to due to pressing matters. Before presenting Department updates, he took a moment to acknowledge Black History Month, emphasizing its significance to both himself and the Department of Health. He reflected on its purpose, to honor the contributions of Black Americans. Dr. McDonald highlighted Dr. David Satcher, a former Surgeon General who served from 1998 to 2002. Dr. Satcher was the only individual to have held both the roles of Surgeon General and Assistant Secretary for Health. Dr. McDonald expressed admiration for Dr. Satcher's commitment to eliminating health disparities, calling it one of the noblest priorities for anyone leading public health initiatives. He noted that Dr. Satcher's distinguished career included earning over fifty honorary degrees and participating in the World Health Organization's Commission on Social Determinants of Health. He also mentioned that the Trust for America's Health offers a resource on notable Black Americans and their contributions to public health.

Dr. McDonald then shifted focus to the Federal transition, stressing the importance of maintaining the New York State Department of Health's mission, which is to protect and promote the health and well-being of all individuals, with a foundation in health equity. He assured the Council that, despite Federal changes, the Department remained committed to its responsibilities. He noted that the Federal transition, had already caused confusion and disruption, but reaffirmed that his priority was protecting New Yorkers. He also pointed out that the Governor remained focused on challenging Federal actions that threatened the state's people and values. He acknowledged the record number of Executive Orders issued at the Federal level and the numerous temporary restraining orders and injunctions granted in response. He expressed gratitude for New York Attorney General Letitia James and others across the country working to uphold checks and balances.

Turning to public health, Dr. McDonald provided an update on highly pathogenic avian influenza. He stated that since the last meeting, New York had seen an increase in detections due to a rise in the wild bird population carrying the virus. He explained that as birds migrate, the virus spreads, leading to spillover in the state. Dr. McDonald emphasized the severity of the disease, noting that it is called “highly pathogenic” because it rapidly kills nearly all affected birds. He also pointed out that there are no vaccines or treatments available for birds, meaning that infected flocks must be depopulated, which contributes to rising egg prices.

Dr. McDonald commended local health departments, particularly those in Suffolk and Putnam counties, for their quick responses to potential human exposures. He reported that approximately twenty people had been tested in Suffolk County, with some testing positive for seasonal influenza but none for H5N1. He reassured the Council that, as of now, no human cases of H5N1 had been reported in New York from any source, including poultry, birds, cows, or other animals. He urged farm workers to follow biosecurity measures and wear personal protective equipment when handling poultry or livestock. Commissioner McDonald reiterated that while H5N1 remains highly contagious among birds, human-to-human transmission remains low, and the department continues to monitor the situation closely.

Dr. McDonald then noted signs of normalcy returning to parts of the Federal government. He was encouraged by a recent call with Health and Human Services, in which state health officials, the FDA, CDC, USDA, and ASPR discussed H5N1 developments nationwide. He viewed the continuation of such meetings as a positive indication of potential Federal cooperation.

Providing updates on other infectious diseases, Dr. McDonald noted that flu season was ongoing but appeared to be stabilizing in New York. He explained that Influenza A typically arrives first, followed by a lower peak of Influenza B. While flu remained widespread, the overall trend suggested a steady decline. Regarding COVID-19, he stated that cases in New York appeared to have peaked a few weeks earlier and that hospitalizations had been lower in January than in August. He speculated that the virus might be settling into a seasonal pattern and observed that, five years into the pandemic, the situation was markedly improved compared to previous years.

Dr. McDonald also provided an update on the Consumer Directed Personal Assistance Program (CDPAP), explaining that the transition had been proceeding smoothly. Since the last meeting, at least 25,000 members and 21,000 workers had successfully transitioned. He acknowledged significant misinformation surrounding the transition and noted that the Department had launched a public service announcement to clarify the facts. He reiterated the State’s commitment to the 250,000 New Yorkers who rely on the program and emphasized the importance of sound financial stewardship in maintaining its integrity.

Regarding the upcoming budget, Dr. McDonald reminded attendees that the Department of Health's budget hearing was scheduled for Tuesday, February 11, 2025, at 9:30 a.m. in the Legislative Office Building in Albany and was open to the public and available online. He highlighted several budget initiatives, noting a strong emphasis on affordability and health and wellness. Among these initiatives, he discussed a proposal for distraction-free schools, addressing the increasing use of phones in classrooms. He argued that multitasking is a myth and that limiting phone use in schools would promote student engagement and social interaction. Dr. McDonald noted that nineteen states had recently implemented similar policies.

Dr. McDonald also expressed enthusiasm for the proposal of universal free school meals in New York. He explained that under this initiative, all students, regardless of income, would have access to free breakfast and lunch, saving affected families an estimated \$1,600 per student annually and benefiting at least 300,000 children. He emphasized the importance of providing nutritious food to students without financial barriers. Additionally, he highlighted a \$1 billion capital investment in the Safety Net Transformation Program, aimed at improving access to care and financial stability for hospitals. He cited Jamaica Hospital's partnership with Memorial Sloan Kettering to establish a comprehensive cancer care center in Queens as an example of how such funding could enhance healthcare quality. He also mentioned a \$142 million investment in St. Barnabas Hospital in the Bronx to expand its emergency department and improve care for individuals with complex mental health conditions.

Dr. McDonald continued to outline several other budget investments, including increased funding for nutrition programs such as the Hunger Prevention Nutrition Assistance Program, the Nourish New York Program, and WIC. He also noted efforts to address workforce shortages in healthcare, including a proposal to allow certified medication aides to administer medications in nursing homes, a practice already adopted in thirty-eight states. Additionally, Dr. McDonald expressed optimism about legislative interest in allowing medical assistants to administer vaccines.

In closing, Dr. McDonald revisited the Federal transition, acknowledging the widespread concern surrounding it. He reiterated the Department's commitment to its mission and assured the Council that a dedicated team was closely monitoring all Federal Executive Orders, injunctions, and restraining orders to assess their impact on state health programs and funding. He emphasized that the Department remained vigilant and steadfast in its responsibilities.

He then paused to invite questions from the Council. Mr. Kraut thanked Dr. McDonald for his report. To view the complete report and Council members questions and comments, please see pages 4 through 12 of the transcript.

Report of the Office of Aging and Long-Term Care

Ms. Deetz stated that the Office of Aging and Long-Term Care is responsible for administering \$50 million in awards through the Statewide Health Care Transformation Program. These funds support residential and community-based alternatives to traditional care models. Applications for these grants remain under active review, with the number of qualifying submissions exceeding the available funds. The Department anticipates moving forward with these awards in 2025.

Ms. Deetz reported that the Department will fund 20 qualified organizations to implement the state-funded Community Aging in Place – Advancing Better Living for Elders (CAPABLE) initiative. This evidence-based intervention, developed by the Johns Hopkins University School of Nursing, aims to help low-income elderly individuals remain in their homes. The program deploys a registered nurse, an occupational therapist, and a handyman to provide care and assistance with safety and independence.

Ms. Deetz noted that a solicitation of interest, released in November 2024, gauged potential applicants' interest, resulting in 44 responses. The Department anticipates releasing a Request for Proposals (RFP) in the coming weeks and will keep the Council informed of ongoing progress.

Ms. Deetz stated that the New York State Master Plan for Aging continues to be a collaborative effort, with significant involvement from the council. The final report is expected to be issued later in February, providing a framework for addressing aging-related issues through infrastructure proposals and both immediate and long-term action plans. Ongoing public input, including contributions from over 400 stakeholders involved in the initial process, will help monitor the plan's implementation. The Office of Aging and Long-Term Care expressed gratitude to the individuals and organizations who contributed time and expertise to developing comprehensive and forward-thinking proposals.

Ms. Deetz reported that the Center for Residential Surveillance, led by Heidi Hayes, has conducted extensive education and training for nursing home, adult care, and assisted living providers. These training efforts will continue through the 2026 state fiscal year. The Department has hosted all training materials on its learning management system, ensuring that new leadership and staff in residential facilities can access them as needed.

Ms. Deetz stated that the Department has begun evaluating the effectiveness of training initiatives. A review of data following a targeted training on advanced directives showed a complete absence of citations, incidents, or complaints related to the topic. The Department recognized this as a success and extended appreciation to the surveillance teams for their work under Hayes' leadership.

Ms. Deetz noted that the Department remains actively engaged in cross-sector quality and education workgroups, collaborating with industry partners to maintain consistency in mission-focused quality care. Recent efforts related to assisted living facilities, enacted in the budget last year, focus on food service, overdose prevention, case management, life safety, and resident safety issues. Progress on these long-term care quality initiatives will continue to be reported in the coming months.

Ms. Deetz reported that the Department continues to oversee the nursing home Certificate of Need (CON) review process, ensuring the delivery of high-quality healthcare services aligned with community needs. Staff members perform application reviews for nursing homes, home care agencies, hospices, adult care facilities, and assisted living facilities across the state. The process includes assessments of character, competence, financial viability, and legal compliance.

Ms. Deetz explained that the review cycle involves thorough assessments by the Center for Licensure, which evaluates all projects before presenting recommendations to the Council. The State's Long-Term Care Ombudsman Program is also engaged to provide insight on quality issues based on site visits.

Ms. Deetz noted that recent months have seen an increase in complex applications requiring in-depth departmental reviews. Many of these involve governance structures and intricate organizational arrangements, leading to extended review times as the Department requests additional information and collaborates with inter-agency partners. She expressed the Department remains committed to ensuring that approved operators maintain operational control and possess the necessary financial resources to sustain nursing home operations.

Ms. Deetz reported that the Department is currently reviewing 46 full-review nursing home projects, with approximately half requiring additional information from applicants. As part of its quality assurance program, outreach has been initiated to applicants who have yet to respond to requests for further details. Applications without responses may be closed. The Department is also refining internal processes to improve efficiency while maintaining rigorous quality controls. An increasing number of applications are expected to appear on the Public Health and Health Planning Council agenda in the coming months.

Ms. Deetz reaffirmed the Office of Aging and Long-Term Care's commitment to ensuring high-quality long-term care services and maintaining thorough oversight of licensure and funding initiatives. Ms. Deetz thanked the Council for its ongoing engagement and support.

Mr. Kraut thanked Ms. Deetz for the report and updates. Please see pages 12 through 18 of the transcript.

Report of the Office of Health Equity and Human Rights

Mr. Kraut introduced Ms. Akanbi, who proceeded to deliver a PowerPoint presentation on the report of the Office of Health Equity and Human Rights.

Ms. Akanbi began by introducing herself as the Director of the Health Equity Impact Assessment (HEIA) Unit within the Office of Health Equity and Human Rights. She was joined via Zoom by Mary McCormick, the Executive Operations Manager within the office. Ms. Akanbi provided a brief update on the first year of HEIA implementation, reviewing programmatic data, successes, and the results of engagements with independent entities and healthcare facilities. Additionally, she addressed guidance distributed to stakeholders regarding protected health information and the HEIA. Since the law's enactment, the HEIA Unit has been actively reviewing and analyzing HEIAs, meeting with stakeholders, and developing guidance. The unit is preparing to release its first annual progress report, which will offer a comprehensive overview of the first year's requirements, including data, findings, trends, and recommendations.

Ms. Akanbi then moved on to the next slide, highlighting key activities accomplished by the HEIA Unit. The unit has engaged with various stakeholders, conducting five webinars, two listening sessions, and several presentations. A dedicated email mailbox has been established for inquiries, along with an email listserv for announcements and updates. Additionally, the unit reached out to local health departments in the spring to create a main contact list, aiming to streamline communication between these departments and independent entities while encouraging greater engagement with public health experts at the local level.

Ms. Akanbi continued by summarizing important data points covering the reporting period from June 22, 2023, to September 30, 2024. A breakdown of HEIA reviews by facility type showed that 38 HEIAs were reviewed during this period, with nine undergoing full reviews, 15 administrative reviews, and 14 limited reviews. The majority of submitted HEIAs pertained to

bed or service expansions and changes in location, while less than a quarter involved the elimination or reduction of services, beds, or operational hours. The cost analysis indicated that full reviews were the most expensive, averaging \$38,950, while administrative and limited reviews were comparatively less costly.

Ms. Akanbi then presented a slide displaying the geographic distribution of the 38 reviewed projects across New York State. Slightly more than half of these projects were located downstate, including in New York City, Westchester, Rockland County, and Long Island. The remaining 18 projects were situated upstate, with several serving rural communities.

Ms. Akanbi moved on to discuss the HEIA Unit's collaboration with independent entities. During the reporting period, the unit worked with 16 independent entities, primarily consisting of individual consultants or consultant groups. As required, applicants must engage an independent entity to complete an HEIA using an evidence-based five-step approach. These entities analyze demographic information, assess unintended health equity impacts on medically underserved populations, and facilitate meaningful community engagement. The timeline for independent entity assessments varied, with much of the time spent awaiting stakeholder feedback. However, as independent entities gained experience, the process duration improved. Applicants were required to submit a conflict-of-interest form along with HEIA documents to ensure independent entities met expertise requirements and maintained impartiality.

Ms. Akanbi then provided an overview of HEIA requirements and the internal review process. The HEIA consists of multiple sections, beginning with project information and a summary of findings. The main assessment includes demographic scoping, health equity impact analysis, meaningful community engagement, and mitigation and monitoring plans. Healthcare facilities are required to attest to reviewing the HEIA and must publish related documents on their websites. The HEIA Unit evaluates submissions based on the validity, strength, and value of the information provided, conducting concurrent reviews with other parts of the Certificate of Need (CON) application. To streamline communication, the unit has adopted a request for additional information (RAI) form letter, along with phone and video calls for further clarification. During the reporting period, all 38 HEIAs were approved.

Ms. Akanbi then addressed confidentiality concerns regarding protected health information. To enhance confidentiality, the HEIA Unit implemented two updates to the Frequently Asked Questions (FAQ) Guidance Document in 2023. In June, an identifier system was introduced for the meaningful engagement process, requiring independent entities to use identifiers instead of names unless stakeholders explicitly requested disclosure. In December, additional guidance clarified that field notes and records maintained by independent entities could be subject to Freedom of Information Law (FOIL) requests if received by the department. These updates were disseminated through the listserv and published on the department's website.

Ms. Akanbi then transitioned to discussing feedback received from key partners. The HEIA Unit actively sought input through independent entity listening sessions, a voluntary survey for Article 28 facilities, and individual stakeholder meetings. Healthcare facilities reported difficulties in identifying independent entities, particularly those with reasonable pricing. Independent entities expressed concerns about the accountability and mitigation process, noting that some facilities did not meaningfully incorporate community concerns. They recommended additional accountability measures to ensure mitigation strategies were properly implemented, though financial feasibility remained a challenge for some applicants.

Ms. Akanbi continued by discussing insights into the meaningful engagement component. Challenges in building community trust and fostering relationships were frequently reported. Many community members lacked awareness of available healthcare services and upcoming facility projects. Successful engagements often occurred when healthcare facilities facilitated introductions through local community organizations or advisory councils. While concerns about stakeholder feedback fatigue were acknowledged, overall, the community appreciated opportunities to provide input on facility projects.

Ms. Akanbi then addressed feedback on the HEIA process. Healthcare facilities suggested modifications, including reducing the number of expansion or relocation projects subject to HEIA requirements and eliminating stakeholder feedback collection for smaller projects. Many requested additional training and resources to better navigate the HEIA process. Independent entities, on the other hand, expressed interest in meeting regularly with the department and each other to exchange ideas and best practices.

Ms. Akanbi concluded the presentation with two success stories illustrating the impact of the HEIA. In one case in downstate New York, stakeholder feedback led a healthcare facility to develop a mitigation plan addressing concerns about accessibility, parking, and traffic flow for a hospital expansion project. The facility constructed a replacement parking lot with greater capacity and improved accessibility at building entrances. In another instance, a healthcare facility in a large city proposed closing its rehabilitation unit and converting all 16 beds to medical-surgical beds. Following community engagement, which included feedback from over 400 stakeholders—96% of whom opposed the project—the facility revised its plan. Instead of eliminating all rehabilitation beds, it retained five while converting the remaining 11.

Ms. Akanbi emphasized that these examples highlighted the HEIA's role in incorporating community perspectives into facility project planning. By listening to stakeholder concerns, healthcare facilities have opportunities to make informed modifications that better serve their communities.

Ms. Akanbi concluded the presentation by thanking the committee for the opportunity to provide an update and welcomed any questions.

Mr. Kraut thanked Ms. Akanbi for her report and updates. To view the complete report and members questions and comments please see pages 19 through 32 of the transcript.

Report on the Activities of the Health Planning Committee

Mr. Kraut introduced Dr. Rugge, who provided an update on the Health Planning Committee.

Dr. Rugge reminded the Council that, during the last meeting, a new and revised charge for the Health Planning Committee was adopted. This decision was based on a highly engaged Health Planning Committee session focused on redefining responsibilities and setting a foundation for future initiatives. He emphasized that, given PHHPC's legislative authority, the Committee plays a critical role in health planning and serves as a valuable resource for the Health Department.

Dr. Rugge stated that the healthcare delivery system is constantly evolving, making planning a continuous and necessary process. He stressed the importance of maintaining a strong working relationship with the Department of Health rather than functioning as an isolated advisory body. Instead, the Committee aims to drive change and revise regulations in collaboration with department officials.

Dr. Rugge reported that, following the revised charge and the initial Committee meeting, several preparatory sessions were held. He, along with Vice Chair Ms. Monroe, Dr. Heslin, and Ms. Sheltry, worked on structuring an upcoming Committee meeting to set clear objectives. Two primary goals were identified: first, for the Department of Health to determine which regulations require updates, and second, for the Committee to select a policy topic that needs focused attention and possible regulatory revisions.

Dr. Rugge acknowledged that collaboration with various offices within the Health Department had taken longer than expected, causing a delay in scheduling the next Committee meeting. Originally planned for an earlier date, the meeting was postponed to allow further coordination. A tentative date of April 9th, the day before the next Full Council meeting, was proposed, with the possibility of an additional meeting if necessary.

Dr. Rugge concluded by welcoming any questions or concerns from council members.

Mr. Kraut thanked Dr. Rugge for his report and updates. Please see pages 32 through 33 of the transcript.

REGULATION

Dr. Yang provided the Report of the Committee on Codes, Regulations and Legislation.

Report of the Committee on Codes, Regulations and Legislation

For Information/Discussion

23-22 Amendment of Section 405.45 of Title 10 NYCRR (Trauma Centers – Nurse Reviewer)

24-12 Repeal and Replace of 710.1 of title 10 NYCRR (Approval of Medical Facility Construction)

Dr. Yang stated 23-22 Amendment of Section 405.45 of Title 10 NYCRR (Trauma Centers – Nurse Reviewer) and 24-12 Repeal and Replace of 710.1 of title 10 NYCRR (Approval of Medical Facility Construction) were presented for information and discussion and will return for adoption Please see page 33 of the transcript.

PROJECT REVIEW RECOMMENDATIONS AND ESTABLISHMENT ACTIONS

A. Report of the Committee on Establishment and Project Review

Gary Kalkut, MD. Vice Chair of Establishment and Project Review Committee

APPLICATIONS FOR CONSTRUCTION OF HEALTH CARE FACILITIES

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

CON Applications

Acute Care Services- Construction

<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1. 242222 C	Montefiore Nyack (Rockland County)	Contingent Approval

Dr. Kalkut called application 242222. Dr. Kalkut motioned for approval; Dr. Berliner seconds the motion. The motion passes. Please see page 34 of the transcript.

CATEGORY 2: Applications Recommended for Approval with the Following:

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

CON Applications

Acute Care Services- Construction

<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1. 242176 C	NYU Langone Hospitals (Westchester County) Dr. Kalkut- Recusal	Contingent Approval
2. 242247 C	South Shore University Hospital (Suffolk County) Mr. Kraut – Recusal Dr. Berliner – Abstained at EPRC	Contingent Approval

Mr. Robinson called application 242176. Mr. Robinson noted for the record that Dr. Kalkut has a conflict and has excused the meeting room. Mr. Robinson motioned for approval; Dr. Berliner seconds the motion. The motion passes with Dr. Kalkut's noted recusal. Dr. Kalkut returned to the meeting room. Please see page 34 of the transcript.

Dr. Kalkut called application 242247. Dr. Kalkut noted for the record that Mr. Kraut has a conflict and has exited the meeting room. Dr. Kalkut motioned for approval; Dr. Berliner seconds the motion. The motion passes with Mr. Kraut's noted recusal. Mr. Kraut returns to the meeting room. Please see page 35 of the transcript.

CATEGORY 3: Applications Recommended for Approval with the Following:

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

NO APPLICATIONS

CATEGORY 4: Applications Recommended for Approval with the Following:

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

NO APPLICATIONS

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

NO APPLICATIONS

CATEGORY 6: Applications for Individual Consideration/Discussion

NO APPLICATIONS

APPLICATIONS FOR ESTABLISHMENT AND CONSTRUCTION OF HEALTH CARE FACILITIES

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

Home Care Service Agency Licensures

New Licensed Home Care Services Agency

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	231189 E	St. Michael's Home, Inc. d/b/a St. Michael's Home Care (Please see exhibit for list of Geographical Service Area)	Approval

- | | | | |
|----|----------|----------------------------------------------------------------------------------------------------------|----------|
| 2. | 241073 E | First Class Care LLC d/b/a Homestead LHCSA
(Please see exhibit for list of Geographical Service Area) | Approval |
| 3. | 241149 E | Westchester PACE Program LLC
(Please see exhibit for list of Geographical Service Area) | Approval |

Dr. Kalkut called applications 231189, 241073 and 241149. Dr. Kalkut motioned for approval; Dr. Berliner seconds the motion. The motion passes. Please see pages 35 through 37 of the transcript.

Changes of Ownership

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	232100 E	Oyster Bay Manor Home Care, Inc. d/b/a Oyster Bay Manor Home Care (Please see exhibit for list of Geographical Service Area)	Approval
2.	241136 E	Vista on 5 th Corp. d/b/a Vista on 5th (Please see exhibit for list of Geographical Service Area)	Approval

Dr. Kalkut called applications 232100 and 241136. Dr. Kalkut motioned for approval; Dr. Berliner seconds the motion. The motion passes. Please see page 37 of the transcript.

Ambulatory Surgery Centers – Establish/Construct Residential Health Care Facilities – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	232078 E	Brooklyn-Queens Nursing Home (Kings County)	Approval

Dr. Kalkut called application 232078. Dr. Kalkut motioned for approval; Dr. Watkins seconds the motion. The motion passes. Please see page 38 of the transcript.

Ambulatory Surgery Centers – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	242152 E	Central New York Eye Center (Dutchess County)	Contingent Approval

2.	242159 E	Capital Region Ambulatory Surgery Center (Albany County)	Contingent Approval
3.	242161 B	East End Surgery Center, LLC (Suffolk County)	Contingent Approval
4.	242189 B	Southern Tier Surgery Center, LLC (Broome County)	Contingent Approval

Dr. Kalkut called applications 242152, 242159, 242161 and 242189. Dr. Kalkut motioned for approval; Dr. Berliner seconds the motion. The motion passes. Please see pages 38 and 39 of the transcript.

Diagnostic and Treatment Centers – Establish/Construct

	<u>Number</u>	<u>Applicant/Facility</u>	<u>E.P.R.C. Recommendation</u>
1.	242037 B	ABC Little Clinic 115 (New York County)	Contingent Approval

Dr. Kalkut called application 242037. Dr. Kalkut motioned for approval; Dr. Berliner seconds the motion. The motion passes. Please see page 39 of the transcript.

Certificates

Certificate of Dissolution

<u>Applicant</u>	<u>E.P.R.C. Recommendation</u>
Living Resources Certified Home Health Agency, Inc.	Approval

Dr. Kalkut introduced Living Resources Certified Home Health Agency, Inc. and motioned for approval. Mr. Thomas seconds the motion. The motion passes. Please see page 40 of the transcript.

CATEGORY 2: Applications Recommended for Approval with the Following:

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

NO APPLICATIONS

CATEGORY 3: Applications Recommended for Approval with the Following:

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

NO APPLICATIONS

CATEGORY 4: Applications Recommended for Approval with the Following:

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

NO APPLICATIONS

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

NO APPLICATIONS

CATEGORY 6: Applications for Individual Consideration/Discussion

NO APPLICATIONS

ADJOURNMENT

Mr. Kraut motioned to conclude the public portion of the Council meeting and to go into executive session to consider the Report of the Committee on Health Personnel and Interprofessional Relations. Dr. Berliner seconded the motion. The motion passes, the Council went into executive session.

NEW YORK STATE DEPARTMENT OF HEALTH
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL
FULL COUNCIL MEETING
February 6, 2025, 9:30 AM
90 CHURCH STREET, 4TH FLOOR, CONFERENCE ROOMS 4A AND 4B, NYC
TRANSCRIPT

Mr. Kraut Well, let me just say, unfortunately, we do not have a quorum yet to call the meeting. We can't do official business and take votes. Can I start the reporting?

Mr. Kraut I can't ask the Commissioner to speak or anything.

Mr. Kraut How many do we have?

Mr. Kraut We're counting the Commissioner.

Mr. Kraut The Commissioner is on the camera.

Mr. Kraut We're just waiting for one more individual to walk into the room so we can begin. As soon as I see a face at the door, I will do so.

Mr. Kraut Is she in the bathroom?

Mr. Kraut Could you just make sure they're not loitering in the lobby?

Mr. Kraut Scott's also here.

Mr. Kraut You know that they're not on their phones or something.

Mr. Robinson Well, it's nine minutes to 10:00am. Everybody thinks they're still early.

Mr. Kraut Hi, Dr. Friedrich.

Mr. Kraut I'm going to start the meeting.

Mr. Kraut I'm Jeffrey Kraut, and I have the privilege to call to order the meeting of the annual meeting of the Public Health and Health Planning Council on February 6th, 2025. I'd like to welcome members, Commissioner McDonald, participants and observers, as well as the department staff. If you heard Dr. Yang talk about the rules that we follow following the Joint Commission on Public Ethics. We need everyone to sign in to the meetings. We're subject to the Open Meeting Law. You heard the suggestions on how to speak during the services, during the meeting. I'd like to encourage members and the public to join the department's listserv as well to get noticed on the Certificate of Needs. We regularly send out important council information and notices such as the agenda, dates and policy matters. We would ask people to

consult with that. There are printed instructions on the reference table how to join the list serve or contact Colleen Leonard for assistance. We're going to start and open today's meeting with the annual meeting. We're going to vote on the appointment of the council's chair, and then we're going to receive reports from Dr. McDonald, Ms. Deetz and Ms. Carnaby from the Office of Health Equity and Civil Rights, followed by a report from Dr. Rugge on health policy, Dr. Yang on regulation, Mr. Robinson on recommendations of the Establishment and Project Review Committee, or maybe it's Dr. Kalkut, whoever's doing it, and then we're going to move into Executive Session and get a report on the Committee of Health Personnel and into professional relationships. Now, I think before we call the Establishment Project Review Committee, I'm going to encourage the council members to take a look at the organization of the projects that we're going to call. We've batched Certificate of Need applications. If you take a look at how we're going to call and batch applications, if anybody wants to move one to a different category for whatever reason that you have, we will do so. Please let Ms. Leonard know and we will do that. Just before we do the annual meeting, I just want to point out, I hope you've taken the time to look at the material that was sent to you. We have a wonderful compendium of the activities of the council, the codes we review, the number of applications, the dollar value of those applications, the activities of each of our committees, the subjects and topics they covered. When you look back, you know, sometimes we get lost in the day-to-day business of the council. When you have an opportunity to look back and reflect, you see it's quite a bit of activity that we've done. We've made some very meaningful changes on issues regarding reproductive rights, access to mental health services. We just started a process on CON reform and the like. I think you'll find that quite impressive. The number of applications that came before us and into the committee and the growing amount of work that the department staff performs that we really don't see. It's a significant amount of productivity. As we've come out of COVID, you've seen, you know, a growth in it. There's a lot of, as we're going to hear today coming within the next year. I'd like to now move to the election of the council's Vice Chair.

Mr. Kraut I make a motion for Dr. Jo Boufford to serve as Vice Chair.

Mr. Kraut May I have a second?

Mr. Kraut A second, Dr. Kalkut.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Kraut We didn't take this vote because she's not here. She was unable to join us. You know, like you should have showed up. You could have. She has agreed to serve

in that capacity. The standing committee leadership roles, membership remains essentially the same. Mr. Robinson as chair and Dr. Kalkut as Vice Chair of Establishment and Project Review. Dr. Boufford as Chair and Dr. Torres as Vice Chair of the Public Health Committee. Dr. Rugge as Chair and Ms. Monroe as Vice Chair of the Health Planning Committee. Mr. Holt as Chair and Dr. Yang as Vice Chair of the Committee on Codes and Regulations and Legislation. Mr. Thomas will continue to Chair the Health Personnel and Interprofessional Relations Committee, as Dr. Boufford will also Chair the Ad Hoc Committee to lead the State Health Improvement Plan. I'd like to thank all the members of the council for their work and dedication in serving on the committee's work. We are really, as you'll hear a little later from Dr. Rugge. We're really forming the agenda that will guide the activities in this coming year. We're very looking forward to another productive year, keeping in mind our goals and service in maintaining improving the health of all New Yorkers. If you love change, you're going to love health care. If you love health care, you're going to love the coming to the Public Health and the Planning Council. I'm sure there is a lot of things we can't even anticipate that we're going to have to deal with in the coming year.

Mr. Kraut With that, I'd like to conclude the annual meeting and turn to today's meeting.

Mr. Kraut I'll start by having a motion to adopt the December 5th, 2024, Public Health and Health Planning Council Meeting minutes.

Mr. Kraut May I have a motion?

Mr. Kraut Dr. Berliner.

Mr. Kraut A second?

Mr. Kraut Mr. Robinson.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Kraut I'd now like to call on Dr. McDonald, who's going to update the council about the department's activities since our last meeting.

Mr. Kraut Dr. McDonald.

Dr. McDonald Thank you, Jeff.

Dr. McDonald Good morning, everybody. I'm joining you today from my office here in Corning Tower. I just had planned to be there in person, my friends, but there's a lot going on. Let me just tell you a little bit about what's going on right now. The first thing I wanted to acknowledge, though, is February's Black History Month. Obviously, that's very important to me and to the Department of Health. I think it's a time for everyone just take a moment and just reflect on the purpose of Black History Month, which is to look at the contributions of Black Americans in our country. I particularly want to just focus on one individual, if I could, please. There are many to pick from, but I chose Dr. David Satcher. It would just be important just to think about his contributions. He's still alive, but he was the Surgeon General from 1998 to 2002. He was also the only person who served not just the Surgeon General, but the Assistant Secretary for Health. I just think that's just really an important distinction. You know, one of the things about Dr. Satcher, his priority is something I really resonate with was his real priority was to eliminate health disparities. I just can't think of a more noble priority for someone who is Surgeon General or for someone who is leading health and human services. To me, that is just one of the noblest priorities to eliminate health disparities. Because really in a civilized culture, we shouldn't be having health disparities. He talked about that in 2010. He's had a really accomplished career, by the way. Dr. Satcher has earned over fifty honorary degrees. Still very active. He was someone who was part of the World Health Organization Commission on Social Determinants of Health as well. Really an accomplished career. If you're just looking for one source, you can learn about Notable Black Americans and their Contributions to Public Health the United States. The Trust for America's Health has a nice web page on this. It's just one little place to look. There's a lot of people who have made wonderful contributions. With that, as I start my comments that I just do want to be mindful of the federal transition. I do think it's just important to really just call this out a little bit. I just want to make sure you guys hear this from me time and time again. You know, as the State Health Commissioner, I'm focusing on the mission of the New York State Department of Health. I think it's really important that you know that. Our mission is to protect and promote the health and well-being for all built on a foundation of health equity. Our mission doesn't change. That's what I'm focusing on. You know, when you look at New York State, when I'm focusing on, the Governor's focusing on is just continuing to deliver for New Yorkers. It's evident to me there's just a lot coming on right now. Believe it or not, the federal transition is seventeen days old. Yet for a short period of time, it's certainly caused a fair amount of confusion and disruption. I can just promise you what I'm focusing on is my mission protecting New Yorkers. I know what the Governor is focusing on is challenging federal actions. We need to be. Quite frankly, if it threatens our people, our values, that's where you'll see that. I think one of the things you've noticed has been a record number of Executive Orders. I'm sure you've also invested in a fair number of temporary restraining orders and injunctions granted as well. You know, very thankful for the Attorney General we have in New York State, Letitia James, but also for all those throughout the United States who are working just to make sure there's checks and balances. You know, the disruptions that we're seeing, it doesn't look to me like an orderly transition of government. I think it's really important that we know that we're focusing on our mission here. A couple of other things that I want to talk about today. You know, I talk to you often about highly pathogenic avian influenza. It's an important

topic. The department remains vigilant on this. We talk daily to AG & Markets, Department of Environmental Conservation. One of the things you're seeing in New York definitely since I talked to you last time is we're seeing more detections in New York. Now, I just want to make sure you understand why that's the case. What we're seeing is an increase in the wild bird population with highly pathogenic avian influenza. Therefore, you're seeing spillover. Keep in mind, birds migrate. We're seeing spillover in New York state. One of the points I want to raise, though, is that it's called highly pathogenic avian influenza for a reason. Highly pathogenic means almost all the birds die and die really quickly. There isn't a vaccine for birds. There aren't drugs for birds. They die. When you think about what happens to the price of eggs. I think some people wonder, why are eggs so expensive? Well, eggs are expensive because eggs come from chickens and chickens are birds. When you get H5n1, where there's chickens, all the chickens have to be depopulated. That's a way of saying they're put to death. Quite frankly, that's why we're seeing egg prices as high as they are. I think just as importantly, though, I've really been happy to see how the local health departments have responded right now to what we're seeing in New York State. You know, Suffolk County, Putnam County Health Department, some other health departments have responded quite quickly doing the right thing. In other words, if there's human beings who are exposed to the birds, whether it's ducks or whatever, assessing the exposure, testing those who are appropriate and offering prophylaxis with Tamiflu if needed. Suffolk County in particular, just to name one, tested about twenty people. A couple of people had seasonal influenza. No one had H5n1. That's still the case in New York State. Right now, as of today, there's no reports in New York State of a human being acquiring H5n1, whether it's from poultry, a bird, a cow or any animal. That's still the case in New York right now. Having said that... You know, farms are practicing biosecurity, but if you're someone who's working with poultry or cows, really important for people not just to follow the biosecurity, but to wear the personal protective equipment. It should go without saying, but if you're dealing with a dead animal, you really shouldn't be dealing with a dead animal unless you're trained. You definitely need to be wearing personal protective equipment. H5n1 very contagious among birds. We still very low transmission. We aren't seeing human to human transmission. This is something we're very vigilant about. The New York State Department health is committed to this. We're doing a lot in this space. It's something of the other conversation with us over here. I do work with the federal government as well. As I mentioned the federal transition, I am seeing some normalcy return to some parts of the federal government. I was heartened to have a recent call with Health and Human Services. This was a call I saw that continued from the legacy administration where FDA, CDC, USDA and ASPR, Administration Secretary for Preparedness Response get together and talk to state health officers and representatives from Governor's offices about what's going on with H5n1 across the United States. These types of national calls are important. Everybody's on the same page of getting information. I was heartened that the administration has continued that. That makes me a little bit optimistic that we'll see some federal cooperation, at least with H5n1. I want to cover a couple other infectious disease rather quickly. You know, we're still in flu season, my friends. I think we're seeing flu in New York stabilized. Keep in mind, in New York, Influenza A comes first, Influenza B usually comes second. Usually, we get a slower bump of Influenza B, a

lower bump, if you will. We are seeing this. Keep in mind, flu season lasts in New York usually for a couple more months here. This is one of those things where we're keeping a close eye on what's going on with influenza, but we're seeing some stabilization here. It's still widespread New York. It's still a threat. Virus seems to be declining. We're still seeing some in New York, but we're now in a steady decline. That's got some encouraging news. COVID may have peaked in New York a couple of weeks ago. It looks like COVID has peaked a couple of weeks ago. One thing is interesting about COVID, you know, we're in our fifth year of COVID. It might be settling into a seasonal pattern. I think one of the things that's interesting, though, when you look at hospitalizations, we had a much higher peak of hospitalizations in August than we did here in January, which is interesting. There could be a lot of reasons for that. Again, one of those things where I think five years into this, it's certainly not what it was before. That's good. Another topic I want to touch base with you is just where we are with a consumer directed personal assistance program, also known as the CDPAP program. Mentioned this last time, but since we talked last time we are seeing the transition going smoothly. There's been at least 25,000 members who have transitioned over. We've seen at least 21,000 workers transitioned over the transition to going as it was expected. The way the transition was designed by the vendor PPL is slow transition, then get into a higher transition that's going. It's going as designed. Keep in mind, we're very committed to the 250,000 New Yorkers who rely on this for this program to continue. Since I saw you last, we did make a public service announcement to really just address the misinformation about the transition. There's been just an enormous amount of misinformation about this. It showed up in everyone's mailboxes. It's on TV. You can't escape the misinformation on this. You know, I really just think this is just important that we, the department just felt we really needed to just set the record straight, as it were. You know, the bottom line is we're moving the program over. We're protecting the program. As you look at the federal future, I think it's really important that we have sound stewardship of health care dollars. It's really important that the program be maintained and protected. That's what we're committed to doing here in New York State. I do want to talk a little bit about the upcoming budget. Just for those who are interested, the Department of Health's budget hearing is Tuesday morning at 9:30am. If you're in the Albany area, you want to stop by. It's open to the public. It's in the legislative office building. Anybody can attend. You don't need special permission, but it is available online as well. Anybody can watch it online. I certainly welcome people to attend. I do think there's some nice budget initiatives, though, that I just want to give you a few examples. I think when you look at the whole budget in its aggregate, there's a couple of messages you pick up. One is there's real emphasis on affordability. Affordability is so important, right? You know, we all have limited financial resources, at least I think we do. It's just great to see us trying to get New York to be more affordable. The other theme I see in this budget was there last year and the year before too is there's real emphasis on health and wellness. Not every proposal in health department budget, but when you look at all these proposals in aggregate, you can usually see a connection to it's probably improving someone's health and wellness, more specifically, helping improve people's social determinants of health. Here are just a few examples. One initiative is distraction free schools. You know, more and more we see people using phones in school. More and more studies show how common this is. There's a myth. I

think people think they're multitasking. By the way, you really aren't multitasking. When you're multitasking, you're really what's called switch tasking. In other words, the way our brains are wired we don't usually think about two things at once. You think about one thing, then you switch to another thing. I think we could all agree it just doesn't benefit kids learning to be distracted. There's really, to me, a momentum to move from distraction to interaction in schools, right? Get kids interacting with each other, learning our social skills, being polite to each other and getting off the phones during school. I think it's a wonderful proposal. Nineteen other states have done something in this space. They're states have all different political persuasions. It's nice to see there's some agreement on this. A lot of these states did it in 2024. I think you're seeing now what the country saying is really and really what you see in this proposal is \$13 half million dollars for schools to develop a storage solution. Every school must come up with a local solution. The schools still have the autonomy they need. If a student needs to contact their parent during the day, they can still do that. We're just trying to create some normalcy in classrooms where kids are on their phones. It's funny. I was talking to my sister-in-law who's a teacher. She was like, "Oh my gosh, this is long overdue". Teachers shouldn't have to fight for kids' attention from phones in school. By the way, parents, you shouldn't have to fight for that either. You know what I mean? Make a rule at the dinner table, if you don't mind. We're eating for ten minutes. Can we please put the phones away. I think it's a great proposal. There's another proposal I'm really excited about, which is universal free school meals in New York. In other words, you don't have to demonstrate an income problem to get breakfast at school or lunch at school to be afforded nutritious food. This is going to save families who are affected by this \$1,600 a student. It's going to help at least 300,000 New York students. A nice proposal for a lot of regions so kids can access nutritious food in school, save families money, save families, time in the morning. A lot of kids want to eat when they get to school. I think it's a nice thing. \$1,600 a year for families that's real money. One of the proposals we have that's in the Health Department budget that I'm excited about is building on the success of the Safety Net Transformation Program that started last year. There's a nice \$1 billion capital investment in this year's budget. That's a billion with a B. I'm really happy to see that. The Safety Net Transformation Program was designed to help hospitals form partnerships, but really to find ways to transform so we can improve access to care, but also financial stability here. These partnerships have so far been very helpful. We were really impressed with how many applications we got. It was thrilling to me to see that there's another investment going in this year. There were some great awards that have already been given. A couple the Governor announced. I was happy to see we gave \$188 million in funding to Jamaica Hospital. They're partnering with Memorial Sloan Kettering to establish a comprehensive care center in Queens. I love this particular investment for a lot of reasons. One is world class cancer care. Improving quality of care, improving access to care. The partnership helps both partners. This is a nice example of just how we can use our tax dollars to really improve health and wellness. Another investment I want to just draw your attention to is St Barnabas Hospital in the Bronx. \$142 million to help construct a new Emergency Department. They've got a wonderful partnership with City Block. They're going to have to do some incremental changes to help reduce their Emergency Department wait times. Help also people with complex mental health disease get the treatment they need

in the appropriate setting, but also, quite frankly, expand their Emergency Department. You know, St Barnabas during the pandemic, the way they expanded their Emergency Department from forty-six beds to ninety-two beds. They just simply divided the existing spaces with curtains. It was a really pragmatic solution. You can imagine how cramped it is for them. I think this is just a wonderful example of another sound investment. Really glad to see that. Couple of other investments I want to draw to your attention. There's a nice emphasis this year on nutrition. One of the things I'm happy to see is we're seeing a nice investment in the Hunger Prevention Nutrition Assistance Program, another \$23.5 million, bringing the same investment over to \$57 million. You know, the Hunger Prevention Nutrition Assistance Program provides hundreds of thousands of meals throughout the year. Really just a very successful program. There's an additional \$5 million for the Nourish New York Program, bringing our investment there to \$55 million a year, which I'm excited to see. There's also a \$9.5 million increase in our WIC program, bringing our state investment up to \$26 million. The federal government does give us a fair amount of money for WIC, but it's been flat over the recent years. I do hope as the federal Government puts their budget together this year, I hope they remember that when you don't increase funding for WIC over the years that creates a problem across the whole United States or of people going hungry. I think we all know that no one benefits when people are hungry. Certainly, a country like ours should be able to feed everybody. It's exciting to see our budget initiatives there. Other things I'm excited about is workforce you know is a problem for us. I think you've heard me talk about workforce quite a bit. I'm very pleased to see that we're still pushing for a certified medication aide to give medicines and nursing homes. I think that's important. I've been to a lot of places in the last year. I hear this all the time. We'd like to join the other thirty-eight states that are doing this. I think the time is now for us to really do this so that we can have nurses be nurses and really help just other people deliver routine medications with appropriate training of course doing that. Another proposal I'm glad to see there's some legislative interest. We've been working with the State Education Department. We've really enjoyed our partnership with the State Education Department on medical assistance giving vaccine. I recently got the Chair of the Health Committee, Amy Paul, and met with our team and is interested in this proposal. I'm optimistic that she might be able to help us get this through this year. I think it's a wonderful proposal. I want to end a little bit where I started, though, with the federal transition folks. I know it's top of mind for folks. When you look at the media, it's really all over the place. I think it's just important to remember we're the Health Department. We're going to focus on our mission. We're going to protect and promote the health and well-being for all built on a foundation of health equity. We're not going anywhere. We plan on really sorting this out through there. Having said that, just so you know. I have a team of people that meet every day who go through all the federal Executive Orders and all of the injunctions and all the restraining orders and just really assess the impact. New York State Department, we're looking at how it affects grant funding and everything else. We're very closely monitoring the federal transition. I just I know that we are vigilant about this as well. Let me stop there for just a few minutes and see what questions you guys have for me this morning.

Mr. Kraut Thank you very much, Commissioner.

Mr. Kraut Anybody have questions for the Commissioner?

Mr. Kraut Dr. Berliner.

Dr. Berliner Thank you, Commissioner.

Dr. Berliner Just kind of an off the wall question. Is the department or the state going to be offering guidance to either individual hospitals or systems about how to deal with kind of immigrant issues?

Dr. McDonald It's certainly not an off the wall question. I'm glad you're asking it. What I'm seeing right now is hospitals are offering guidance. I'm looking at whether we need to do that as well. I think one of the things we're struggling with is... You know, health care providers we are not wired up to be in the middle of this. What we're wired up to do is take care of people. You know, when we see people in our practices or hospitals where we are we don't check their immigration status because it doesn't really relate to the health care need there. I think what's happened because of what's going on, the federal government has created a very uncomfortable space for health care workers. What we've been advising as hospitals to have a liaison who deals with this and make sure health care workers know what to do. In other words, a health care worker, you can ask someone for identification to make sure they are a law enforcement person. You can ask to make sure there's a warrant. Really, I think hospitals need to liaison so this can be handled. I certainly hope law enforcement knows you just simply can't take an ill person out of a hospital regardless of who you are. If people are in a hospital, they're generally sick and need health care. I think it's very unfortunate that this federal government chose to head in this direction. I think it's unfortunate with the direction they're heading with many things right now. There's a way to do things that are orderly that have a fair amount of just compassion to it as well. They're going in spaces right now that traditionally the federal government hasn't gone in. To me, this intrusion is quite unwelcome. The department is looking at what kind of guidance we can build. We've seen some hospital systems right now that will be proactive on this, but we would be saying the same thing they've been saying. I think that it's important for us to all be on the same page on this. Thanks for asking.

Dr. Berliner Thank you.

Mr. Kraut Mr. Robinson.

Mr. Robinson Two issues just to ask you to comment on, so I won't put a preamble around them. Could you comment at all on the status of the 1115 waiver and where that is? And also, the Attorney General's announcement with regard to transgender patients.

Dr. McDonald I expect the federal government to honor the contracts they signed with us. Just to be really blunt about that. I expect them to honor the word they have with us. The 1115 Amendment it's also called the New York Health Equity Reform 1115

Amendment is slated to go until March 31st, 2027. I expect that to be honored. There's no change right now in that. I don't see any change going on there. I expect that that agreement will stay in place. Regarding the Attorney General, I'm glad she's speaking to where she is speaking. I think right now it's important for hospitals and all of us to get on the same page with this, because what's happening with this Executive Order that I just think was very poorly thought out and mean spirited. Quite frankly, just grounded in medical science or even reason. It's really disproportionately affecting people in New York. There are thousands of people, tens of thousands of people in New York who this is affecting. I think it's inappropriate for any executive to target individuals' health care. It is their health care. I think what's important for health care providers to know is as health care providers, we can't abandon our patients. That's a professional obligation. We just simply can't abandon an individual no matter what is going on out there. I think this is where health care providers are really getting caught in between the federal Executive Order and what's going on at the state level, because there are state laws are just basically say you have to keep doing this. You can't discriminate. What we're hoping for is a court to step in. There's been litigation that's been put forward. There was a preliminary injunction that was asked for. It was a forty-four-page complaint. I looked at it Tuesday night. I find their case to be compelling. You know, I think they're able to find injured parties across the United States from this because I think it was a very poorly thought-out Executive Order. I think they're in lines what we're waiting for is a court to step in. This is why it's so important to have an Attorney General who's got the courage to move forward and a Governor who's very committed to challenging these things that, quite frankly, are just inappropriate. I think all of us look for a government with checks and balances. There's a way to do these things through a legislative process where at least the public can speak to these things and representatives can offer a voice to this thing. It's just concerning to many of us how unilateral this is occurring and how abruptly it's occurring. I think one of the things that this area that you're seeing a lot of Executive Orders, but you're also seeing a lot of temporary restraining orders and injunctions going on as well.

Mr. Kraut Dr. Kalkut and I'll go Mr. La Rue, and then Dr. Eisenstein.

Dr. Kalkut Thank you, Dr. McDonald, for the report.

Dr. Kalkut I have a question also about immigration issues. Have there been federal agents seeking illegal immigrants in health care facilities in the state? Have we had any incidents thus far?

Dr. McDonald I haven't seen it yet. It hasn't been reported to me yet. It hasn't gotten wind to me yet, which doesn't mean it's not occurring. It just means it hasn't been reported to me yet.

Dr. Kalkut Thank you.

Mr. Kraut Mr. La Rue.

Mr. La Rue Good morning, Commissioner. Scott La Rue, member of the council. These are more a couple of comments than they really are a question. First of all, I'd like to thank the executive branch for the proposals they put forward around scope of practice, med tax and also the recognition for the necessity of an increase in the Medicaid rate that was included in the budget proposal absolutely needed. I just continue to remind the team that the state legislature passed a staffing mandate for nursing homes, which continues to be unfunded. It's causing severe problems for nursing homes across the entire state. The Medicaid increase that's being proposed is insufficient to cover the requirements of that staffing mandate. I also wanted to mention I do appreciate the commercial that you referenced than that you did, because the number of people that we serve have come forward having seen the commercial, followed up with questions and provided them some comfort in terms of the continuity of their care and what's happening as it relates to the process. Thank you.

Mr. Kraut Dr. Eisenstein.

Dr. Eisenstein Good morning. Dr. Larry Eisenstein, council member.

Dr. Eisenstein Thank you, Dr. McDonald.

Dr. Eisenstein Going back to the Medicaid 1115 waiver. We're all hopeful certainly that the three-year window that was promised is kept. We're almost a third of the way through that now. I was just going to ask you if you had a perspective or can give some statewide perspective on the progress being that we are so far along. It seems like in most cases we're still in the very early establishing processes and protocols and the time is going quickly. I just wondered if you had any perspective on that.

Dr. McDonald It's actually going well. I think one of the things I want to put forward when I talk about the 1115 waiver, just so people know what that is, is these are when you're doing a waiver, you should ask yourself what am I being waived from, by the way? Because if it's a waiver, what am I being way from, right? Center for Medicaid and Medicare Services after over a year of really intense detailed negotiation with us, came to an agreement that they would allow us to do these demonstration projects and therefore we'd be waived from traditional rules of CMS so we could get money from the federal government with a state contribution to spend it differently. The demonstration projects, though, are designed to actually show return on investment. It's in the Federal Government's best interest for our demonstration projects to be successful. Now, we have established the social care networks, in other words, that the team at the Office of Health Insurance Programs, Amir Busari, Amanda Northrup, Salena Hodges, great work, great people doing great work. We've partnered with these nine social networks throughout New York State. We have \$3.4 billion committed to them. The social care networks are active doing what we said they would do, right? Helping improves individual social determinants of health. That's a great thing. We have partnered, though. Workforce was a big part of our investment. In other words, we have a \$694 million commitment to improving workforce in New York State. We all know we need more health care workers, right? We had these three workforce innovation

organizations throughout the state. When what they're doing is helping people, one, be interested in health care, also helping them get through health care training and get connected to health care jobs and really sorting out what are the issues you need to do to do that. There's also a sizable commitment to do global budgeting. There's a lot going on in the 1115 Amendment. It's a very significant investment that New York has put forward. It's \$7.5 billion in aggregate. The federal government gave us \$6 billion. We put up \$1.5 billion. We have a lot invested in this. It's really important that continue. By the way, there's other things that are important to continue as well. I expect the federal government to honor their word on everything. I signed a contract with them with specific terms and conditions about the Affordable Care Act. Our Affordable Care Act is supposed to run to the December 31st of 2029. I expect them to honor the contract we signed that just another example of like when you make an agreement your yes should be a yes. That's what I'm expecting.

Mr. Kraut Any other questions for the Commissioner?

Mr. Kraut Well, Commissioner, thank you so much. We appreciate it. Every passing day, I think you're a little busy up there based on what comes out of Washington. Keep up the good fight.

Dr. McDonald I have a great team, Jeff. We can handle it. We're doing fine.

Mr. Kraut There you go.

Dr. McDonald Thank you so much, everybody.

Mr. Kraut Well, thank you so much, Commissioner. Thank you again.

Mr. Kraut I'm now going to ask Ms. Valerie Deetz to give a report on the activities of the Office of Aging and Long-Term Care.

Ms. Deetz Good snowy morning, everybody. I'm Val Deetz. I'm the Deputy Director for the Office of Aging and Long-Term Care. Thanks for having me. The Commissioner is always a tough act to follow, but I'm going to do my best. Just a couple of quick updates. I know everyone has a copy of the report that was submitted Statewide Health Care Transformation Program, the statewide grants. We are responsible within the Office of Aging and Long-Term Care to administer the \$50 million in awards for residential and community-based alternatives to the traditional model of care. Those are applications are under active review. Of course, I'd be remiss if I didn't say that we received many more qualifying submissions with requests totaling far more than what is available. We do look forward to moving those awards forward here in 2025. Next, I want to talk a little bit about the capable program, which is community aging in place, advancing better living for elders. The Office of Aging and Long-Term Care will be funding twenty qualified organizations to implement this state funded initiatives and their communities. This grant opportunity was actually... Is an evidence-based intervention for low-income elders. It was developed by the Johns Hopkins University School of

Nursing. The goal of this is to provide care in the home and allow individuals, the elderly, individuals, to remain in their home. They will receive care from teams of an RN, an occupational therapist and a handyman to help with keeping them safe in their communities and helping them to meet goals that they, with their teams, create to support their independence. We look forward to releasing that RFP in the next several weeks. We did go out with a solicitation of interest just so we could kind of gauge what folks were thinking about. We let that solicitation of interest out in November of 2024. We were so happy to see that we had about forty-four respondents said that they would be interested in applying for that grant funding. As we move forward with that grant funding, we will certainly apprise the council of where we are. Next, I just want to touch a little bit about the Master Plan for Aging, and I know that council has been involved from the very beginnings of the New York State Master Plan for Aging. We do expect that the final report will be issued later this month. That report hopefully will provide a framework for approaching aging with proposals for infrastructural, immediate and long-term actions that can be taken to achieve the vision of the actual master plan. We also anticipate that there will be ongoing processes in which input from the public, including the over 400 stakeholders that were involved in the initial process, it will give them an opportunity to continue to monitor and our implementation of the master plan. I want to publicly thank the individuals and the organizations that devoted numerous hours to this effort, enabling us to have a strong support for this initiative and what we believe to be some very comprehensive and sound proposals for the future and aging. Next, I want to talk a little bit about our Center for Residential Surveillance. This team, led by Heidi Hayes, has been doing an enormous amount of education and training for both nursing home and adult care and assisted living providers. As we move forward through state fiscal year 2026, we will continue those training efforts. We have hosted all of our trainings on our learning management system. As leadership and other physicians' turnover in the residential facilities, new members of their teams will have an opportunity to call down that information, review, and hopefully make some meaningful changes within that organization. We took it a step further. We started to evaluate our education and training. What we have identified is based on some targeted training that's been done by the surveillance groups what we've noticed is a decrease in the number of citations in specific areas. For example, advanced directives. We did train on that a few months back. We took and looked at the next order worth of data. There were no citations. There were no incidents. There were no complaints with respect to advance directives. I call that success. I say, hats off and thank you to our surveillance teams for doing that under the direction of Heidi Hays. Lastly, we are involved in numerous cross-sector quality and education work groups. We have engaged our actual industry partners in that. We collaborate with them to provide consistency and mission focused quality care. We are working on our assisted living facility work which was enacted into budget. The following metrics were enacted into budget late last year. We are looking at food service, overdose prevention, case management, life safety and resident safety issues as well. We're really, really looking forward to working and reporting on our quality initiatives in long term care over the next several months I also was asked Jeff, you had asked me to just briefly touch upon the nursing home CON review process. I do want to bring that up. First, I want to give a big thank you to my team for the outstanding work that they do on CON applications and licensure activities on a daily basis. Our

teams perform those application reviews for nursing homes, for a home care, for hospice, for adult care facilities and for assisted living facilities from across the state. The objectives of the Certificate of Need process are to promote delivery of high-quality health care and ensure that services are aligned with community need. That's first and foremost. We embrace that every day. Every cycle for PHHPC, our Center for Licensure Index reviews of all of those projects that I just referenced, whether they be nursing homes, whether they be homecare agencies, whether they be assisted living providers. They're very thorough and very thoughtful in their reviews to be presented as a recommendation to the PHHPC members. It's imperative for our staff to have a complete application and all of the required information necessary to enable the review units to issue a sound recommendation. Our process includes, but is not limited to the character, competence, financial and legal reviews of these applications that come before us and also the additional step of involving and engage our state Long Term Care Ombudsman Program to opine on quality issues that they may or may not have regarding specific onsite visits that they've made at the facilities. Over the last several months, the department has been presented with some very complicated applications which require the department's in-depth review. Based on governance structures and in general complex organizational presentations this is taking longer. Often, the intensive review leads to additional requests for information from the applicants. It involves collaborating across agency with our partners in different offices. When we review these applications and extends, unfortunately, it has extended the review time necessary to ensure that the proposed operator maintains operational control and that finances are in place to support ongoing nursing home operations. It's important to remember that the intent is to issue licenses to applicants committed to providing high quality care. It's not about the number of applications that are being issued and moving forward. It's imperative that the department continues its thorough review of the information on the application. We have a complete understanding of the governance and operational authority and ensure that ample finances are available to sustain the operations of nursing homes for which so many frail elders call home. Currently, we have about forty-six nursing homes full review projects that are under review of which approximately half have request out to the applicant for additional information. As part of our quality assurance program, the department is initiated outreach to the applicants that to date have failed to provide a response. If we do not receive response, we will consider those applications closed. We are looking at tightening up our processes, making sure that quality controls are in place and will continue to correspond as appropriate with the applicants for nursing home applications. We are hopeful that over the next few cycles excuse me, that you will see more applications on the Public Health and Health Planning Council agenda. I think that's it. Thank you.

Mr. Kraut Thank you so much.

Mr. Kraut Are there any questions?

Mr. Kraut Yes, Dr. Torres.

Dr. Torres Good morning. Could you clarify the name? You mentioned the first core grant. Was that the Capable Program? Am I correct?

Ms. Deetz Yes, Dr. Torres. Community aging in place, advancing better living for elders.

Dr. Torres Thank you so much.

Mr. Kraut Any other questions?

Mr. Kraut Mr. La Rue.

Mr. La Rue Good morning. Scott La Rue, member of the council. I just didn't hear the number that you said. Was it forty-six?

Mr. Kraut Well, forty-six were pending and about half of those are missing information.

Ms. Deetz Correct. Yes, a little less than half are missing information and need additional clarifying information. Forty-six is our number.

Mr. La Rue Thank you very much.

Mr. Kraut You know, with respect to those. First of all, I appreciate the information, and I know Mr. Holt who posed also the question last time. Hopefully, maybe he'll be viewing, or he'll review it. I think you've thoroughly answered the questions that were posed. Obviously, we don't want applications coming here that are not fully complete, particularly on character and competence. The star ratings are frozen. I think they're still frozen. Who knows what's posted or not posted any more. We rely on that to look at the past record of potential applicants. I would just hope the group that is doing that character and competence review are diving deep into here to be able to ask the questions when it comes in front of us because that's a particular focus. I just have a question. In a previous conversation, we discussed the revision of the need methodologies for CHAAs and particularly hospices. Could you give us an update when we will see those changes come to the council?

Ms. Deetz I don't know if I can give you a date certain there, Jeff, but I can tell you that our staff from the new Center for Hospice and Palliative Care are working diligently on perfecting that hospice need methodology. Hopefully, we'll see something over the next couple of cycles.

Mr. Kraut This has been a problem. I mean, end of life issues, the restriction on hospice care. It's really being a challenge. We're getting... At least I'm getting questions from the industry about where this is at. I just don't understand why it would take a couple of cycles to revise a need methodology that we've been discussing for over a year. I would suggest that we'd like to see that come back to us the next cycle. If it can't, a reason why it can't come back to us. As we said at the educational retreat, we're going to take a more active role in setting some of the agenda of the issues that come before us. That's

one of them as well. I would just ask that if it's not coming to us at the next cycle to give us an explanation of what it's taking and what are the issues that prevent it from doing so.

Ms. Deetz Thank you.

Mr. Kraut Ms. Mazzucco.

Ms. Mazzucco Hi. First of all, on the topic of hospice, I just want to give a shout out for the proposed additional hospice funding in the state's proposed budget that's needed by the existing hospice in order to provide education. Because we remain one of or the lowest states in the country in the utilization of hospice. It is definitely an education issue. I was wondering if at a future meeting, if we might be able to receive data about closure plans pending by type of provider, sorted by region of the state as well as perhaps maybe a one or two year look back at what some of those trends have been in terms of closures.

Mr. Kraut Specific to long term care or just all that all license---

Ms. Mazzucco Certified home health agencies, hospices, skilled nursing facilities.

Mr. Kraut Okay.

Ms. Deetz Thank you, Michelle. Well, I'll take that back and pull some information together.

Ms. Mazzucco Thank you, Val.

Mr. Kraut Dr. Rugge and then Mr. La Rue.

Dr. Rugge John Rugge, member of the council. Thanks for this presentation. It is quite the continuum of care being offered for the aging population. One of those new initiatives is the renewed development of PACE programs. I wonder how is a policy that's being regarded or supported? I have a question after that too.

Ms. Deetz I didn't hear.

Mr. Kraut Do you want us to repeat it?

Ms. Deetz Dr. Rugge, I think you're asking me about the new case regulations under 29 EE.

Dr. Rugge Yes, and how you may or may not be supporting the development of those PACE programs as one part of the continuum of care being now offered.

Ms. Deetz I think maybe in our next report we will definitely articulate on that. I will let you know that the assessment of public comment is just under its final stages of review. The team is working across the agency. This is just not a novice of aging and long-term care. There's also the managed care component to this. We're working very closely with our partners in the Office of Health Insurance Programs. Really move forward on this program and hopefully be able to expand PACE organizations in New York State. We recently just approved a PACE, first one in ten years. We're very happy about that. We'll continue. I'm glad that you're interested in that, and I'd be happy to report on that in future meetings.

Dr. Rugge Just one more question. Given the complexity of opportunities, is there any compendium or guidebook available to consumers in choosing for themselves or for family members what would be best for them?

Ms. Deetz In choosing services for a family member?

Dr. Rugge Yeah, choosing where to go for the right services and the right level of service when now so many opportunities are being developed.

Ms. Deetz I'm not aware of any newer additions of any compendiums. There was one that was released in 2021, a caregiver guide that we distributed over 400 copies of that compendium.

Dr. Rugge I would only---

Ms. Deetz That's something that we can take back and consider.

Dr. Rugge I would just suggest that might be helpful in this day and age with emphasis on age.

Dr. Rugge Thank you.

Ms. Deetz Thank you.

Mr. La Rue Good morning again. I just want to jump back to hospice for a second. I don't know whether it's the case or not, but it's possible this whole hospice CON review is somewhat being delayed because of the debate around allowing for profit hospice into the state or not, which, of course I think would be a mistake given the history that for profit hospice has across this country. If that is the case, and again, I don't know that it is, perhaps that particular issue could be kicked down the road and we could move forward under the current nonprofit rules but modified the CONs. I certainly know there are a number of hospice providers existing that are looking for opportunities to expand. As the health care environment has evolved with palliative care and expanded services, both as it relates to palliative care and end of life care, I don't think there's ever been a greater need for an expansion of our hospice services here in the state. Those are just my comments. Thank you.

Ms. Deetz Thanks, Scott.

Mr. Kraut Go ahead.

Ms. Deetz No, that's okay.

Ms. Deetz I just want to address what Scott just said. One of our big accomplishments over the past year was standing up the Center for Hospice and Palliative Care. The team is out. They are visiting different hospice agencies and residences across the state. One of the long-term, longer-term objectives which we'll continue throughout this year and into future years is providing education and training on end-of-life care. And I say end of life care, because not everyone will like the hospice benefit, and some will want to move to palliative care. Thanks, Scott. I appreciate that.

Mr. Kraut I guess that's why the focus is on that need methodology for the existing providers. They are poised to enter new areas to continue that would automatically create more people providing education when as was just mentioned, we have among the lowest utilization of hospice, end of life, the people that are in the last two months of life spending in the ICU. This just seems that we are falling behind. We have the opportunity to maybe change the direction of that trend. We can't do so if we're not permitting the current level of providers to essentially innovate and expand into different market areas of the moratorium that we have on this justifies good health policy. It relates to the Commissioner's statement about affordability. So much of the cost of have the \$5 trillion we spend is in the last two years of life. It just would seem that there would be some sort of urgency to move this forward. That's all I would say.

Ms. Deetz Thank you.

Ms. Mazzucco Just following your statement and Dr. Rugge's just throwing an idea out along those same lines regarding PACE. That if there was a more fast-tracked process for existing PACE plans to open new centers on a fast-track basis, that might be a way to bring that model to more patients and families. It gets at the same affordability issue that you mentioned because the co-pay burden that people are paying for. All of these fragmented services are addressed in the PACE model.

Mr. Kraut Well, this is all under the umbrella of what we started the Codes Committee about, and we'll talk a little later is about reforming the health code. That there's these many, many opportunities. We're picking a few here. There is a theme here. I think the Commissioner has committed to identifying those areas. Any suggestions that members have and or the public has, we want to encourage them so they can be considered, and we can get them in a more organized framework to pursue and create a holistic agenda on this matter.

Mr. Robinson I think there is another theme that at least some members of the council are expressing, which is a general concern about the issue of moving more of health

care in New York to the for-profit sector. I think at least some of us want to express some concern about that. It's certainly because hospice is at the forefront at the moment in terms of what we're looking at that's where the focus is. I think there's a broader based issue around for-profit health care in the state and our ability to preserve our not-for-profit model which distinguishes New York and benefits New Yorkers.

Mr. Kraut Mr. La Rue.

Mr. La Rue I'm sorry. I just feel compelled to make one more comment. I don't think it's ever in the best interest of the people we serve when an organization's primary objective is improving the wealth of their shareholders versus a nonprofit whose mission is to serve the community and the people of New York and reinvest in those services.

Mr. Kraut Well, when those regs come to us, you'll have the ability to express that point of view if it's not codified in there. I think there's a general consensus in many areas. There may be different points of view in other areas where we need capital investment and we're not willing or unable to make that investment. It'll be situationally specific. I'm going to now introduce Ms. Akanbi to give us an update on the Health Equity Impact Assessments. I just want to say as an introduction here, thank you for coming. This is coming out of a discussion that we've had as we've considered different projects with the HEIA requirements questioning why they are included, and the office conducted, as you know, a kind of a listening tour of applicants and the independent assessors. We've asked them to come and kind of give us first impressions. I just want to modify expectations here. You know, I'm not sure if they're up to recommendations here, but they just want to share what current thinking and some feedback. You'd have the opportunity to add your voice and perspective to this.

Ms. Akanbi Thank you.

Ms. Akanbi Good morning. My name is Toni Akanbi. I'm the Director of the Health Equity Impact Assessment Unit within the Office of Health Equity and Human Rights. I'm joined today on Zoom by Mary McCormick, who is the Executive Operations Manager within the office. We're both happy to be here. This morning I'll be providing a brief update on the first year of implementation and how that went for the Health Equity Impact Assessment, commonly known as the HEIA. I'll be sharing a review of programmatic data and successes. We'll share the results of our engagements with our independent entities and health care facilities. I'll also touch on the guidance distributed last year to our stakeholders related to protected health information and the HEIA. Since the law went into effect, the HEIA Unit has been very busy reviewing and analyzing HEIA's, meeting with stakeholders and developing guidance. We will soon be releasing our first annual progress report. This report will provide a comprehensive overview of the first year of the year requirement and will include data, findings, trends and recommendations.

Ms. Akanbi Next slide, please.

Ms. Akanbi Since the start of the program, the HEIA Unit has accomplished several activities, many of which are listed on the slide. Notably, the unit has been working hard to engage with a variety of stakeholders and has conducted five webinars, two listening sessions and several other presentations. My team has also established a dedicated email mailbox for questions and an email listserv for announcements or updates for guidance documents. I'll finally add that we have reached out to our local health departments last Spring to create a main contact list for the year. This was done to help streamline communications between them and independent entities and also to encourage more engagement with public health experts at the local level.

Ms. Akanbi Next slide, please.

Ms. Akanbi Let's take a look at a summary of important data points. The reporting period for this data is from June 22nd, 2023, through September 30th, 2024. Starting on the left side of the slide, this chart breaks down the number of HEIAs that were reviewed by the department by facility type. A total of thirty-eight HEIAs were reviewed by the department within the reporting period, nine of which were for full reviews, fifteen were administrative reviews, and fourteen were limited. Moving to the right side of the slide, a majority of submitted HEIAs or for expansion of beds or services and change in location projects. Less than a quarter of projects were for the elimination of services or reduction of beds, services or hours. At the bottom of the slide, you can see the average cost for an HEIA by review type. As expected, for reviews come out on top at \$38,950 and administrative and limited reviews cost a bit less.

Ms. Akanbi Next slide, please.

Ms. Akanbi This slide shows the distribution of thirty-eight projects across the state of New York. As you can see, slightly more than half of the projects were located downstate, including in New York City, Westchester and Rockland counties in Long Island. Eighteen of the projects were located Upstate, and several of those projects were based in rural communities.

Ms. Akanbi Next slide, please.

Ms. Akanbi Within the reporting period, we worked with sixteen different independent entities who mostly were individual consultants or consultant groups. As a refresher, an objective independent entity must be hired by the applicant to complete the HEIA using an evidence based five step approach. This entity is tasked with determining demographic information within the service area and identifying unintended health equity impacts on medically underserved groups. Importantly, they must meaningfully engage with the community and receive feedback about proposed facility projects. During the reporting period, the average amount of time it took for independent entities to start and finish an entity is illustrated on the right part of the slide. They report that much of this time is spent waiting for stakeholder feedback as part of the meaningful engagement requirement. What we've seen is that as an independent entity conducts more HEIAs and becomes more familiar with the process, this completion time has

been going down. When it comes to the approval of these independent entities, applicants are required to submit a conflict-of-interest form alongside the other HEIA documents. This conflict-of-interest form must be completed in full and signed by the independent entity. Independent entities must possess a baseline level of expertise and have no conflict of interest as outlined in the form. So far we've been able to accept independent entities based on these factors.

Ms. Akanbi I'm going to briefly mention what is required for the HEIA and we'll talk about our internal review process. The HEIA has different sections with the first section capturing project information and a summary of HEIA findings. The second section is the assessment itself, which includes scoping of demographic information, health equity impacts, a section to meaningfully engage with the community and develop mitigation and monitoring plans. The last part of the HEIA, the health care facility is required to attest to having reviewed the HEIA and must then share the HEIA documents publicly on their website. In terms of the internal review process, my team will review and evaluate an HEIA based on the validity, strength and value of the information presented. Similar to the other review units within the department, the team reviews submitted assessments concurrently with other parts of the CON application. In these early days, we've seen the need to simplify the communication process. You know that back and forth with the applicants and the independent entities in order for them to clearly understand what needs to be revised in an HEIA. So much like the other review units, we use a request for additional information form letter to communicate. We also do phone and video calls if further support is needed. Once all of the request for additional information letter are addressed, my team finishes the review of the HEIA and submits a final recommendation. During the reporting period for those thirty-eight HEIAs all thirty-eight were approved. To better ensure confidentiality of protected health information in the HEIAs, the team did release two updates last year in our Frequently Asked Questions Guidance Document. In June, we developed an identifier system for the meaningful engagement process. This system requires that the independent entities use identifiers and place of names when interviewing community members unless the contributing stakeholder explicitly requests that their name be disclosed. They also are responsible for informing the stakeholders that any direct quotes or statements may be posted publicly as part of the HEIA and that their names may be requested by the department. In December, we shared further guidance that any of the field notes or records created and maintained by the independent entity are subject to a FOIL request when these records are received by the department. All of this information was shared through our listserv and posted on our website.

Ms. Akanbi Excuse me.

Ms. Akanbi Let's shift gears and discuss some of the feedback that we've been hearing from our key partners. The unit has been a very intentional in creating opportunities to listen and better understand challenges and insights related to the HEIA process. So, for example, the team convened independent entities in July for two listening sessions. They also disseminated a voluntary survey for the Article 28 facilities in August. We also have been documenting feedback that's been shared during individual meetings with

these same partners. So far, health care facilities have reported challenges in finding independent entities, particularly ones that are reasonably priced. With regards to accountability and mitigation, independent entities have seen that some facilities are not meaningfully considering community concerns and would like to see accountability measures added to the requirement to ensure that mitigation strategies are implemented. We also do recognize that some applicants see these mitigation strategies as financially unfeasible at times.

Ms. Akanbi Next slide.

Ms. Akanbi Insights into the meaningful engagement component really center around the challenges with building relationships and gaining trust in the community. There is a general lack of understanding when it comes to the types of services offered by local health care facilities and the lack of awareness of current or upcoming facility projects. Most successful engagements occur when the health care facility can facilitate soft introductions with existing partners such as with local community organizations or advisory councils. While there is some concern for feedback fatigue among stakeholders that are repeatedly engaged, overall, the community has really appreciated the outreach conducted to get their feedback on facility projects. Finally, feedback on the overall process. For some of the health care facilities they would like to see changes to the requirements, specifically to reduce the number of expansion or change in location projects that have to do in HEIA. They would also like to take away the requirement to collect stakeholder feedback for smaller projects. Most of these health care facilities are looking for additional training and resources to better understand what to expect before, during and after an HEIA is conducted. And then on the other side, for many of the independent entities, they would like to regularly meet with the department and each other to share ideas and best practices. I just wanted to share a couple of success stories that we've seen in this first year and a half. I think these illustrate how the tool could be used for facility projects. The first one is just in Downstate New York. We saw one case where stakeholders were interviewed for the meaningful engagement component. They had significant feedback about a hospital expansion project. In response to findings from the HEIA and this community engagement, the health care facility decided to develop a mitigation plan to address their concerns about accessing building entrances, parking traffic, etc. The plan that they implemented included constructing a replacement parking lot with larger capacity. They made sure that the entrances were accessible. They basically addressed all of their concerns about parking and traffic. Another example, a facility in a large city proposed to close their rehabilitation unit and convert all sixteen of their beds to medical surgical beds. The independent entity engaged with over 400 stakeholders, with only 4% expressing support for the project. Their primary concern centered around reduced access to services, diminished quality of care, potential transportation challenges as well as perceived adverse health outcomes. Due to the strong opposition from the community, the independent entity worked with the facility to revise the project. Instead of eliminating all sixteen rehab beds, they decided to only convert eleven to med bed search beds, maintaining five beds, five rehab beds and their rehabilitation gym. These are just two examples of many to show how the tool has the potential to provide that on

the ground insight into what are some of the challenges communities are facing. Health care facilities have this opportunity to listen to concerns shared in the HEIA and consider making informed changes to their project plans. With that, thank you so much for this opportunity to provide this update to the committee. We do welcome any questions.

Mr. Kraut As you get your questions, we have members of the council that are watching that because of the weather weren't able. They're texting in questions. I'm going to start with those and then I'll go around the table. This is coming from Ms. Monroe. Just to clarify, for information as part of the HEIA, what's the expectation in collecting stakeholder input; public meetings, surveys, one on one? There are three questions. Let me ask them and go ahead. I don't want to just throw them all out at the same time.

Ms. Akanbi In terms of meaningful engagement, the expectation is that the independent entity will meet with a variety of stakeholders, and this meaningful engagement has to be commensurate to the size, scope and complexity of the CON project.

Mr. Kraut There's no one size fits all. It's dependent on the parameters. She acknowledges the successes. Depending on where you're sitting, you see a success. She said there's obviously been problems. What are the major problems that you believe have to be addressed with the HEIA process?

Ms. Akanbi I think that's a great question. I mean, one of the issues that comes to mind is just getting used to the HEIA. You know, this program has been around for a year and a half and independent entities. I mean, I think we have maybe one or two independent entities who've done more than like five or more HEIAs. The rest have done one, two, three HEIAs. What we've seen is that as they do more and more, they get better at it. I think part of the like one of the major challenges right now is just kind of this run up period of getting used to conducting these.

Mr. Kraut Her last question for the moment is... These are good questions. She noted that you mentioned the length of time it takes for it to be completed. It's somewhere in the little north of seventy days. Does that affect the department's review cycle and timing? You don't even look at the application until the HEIA has been completed and submitted. There are no interim conversations. How does the delay? Is it adding seventy-five more days to preparing applications? How quickly do you guys review it once you get it?

Ms. Akanbi I'm not sure if I have the data to answer that first part of the question. That might be a question for the Certificate of Need team. The independent entity doesn't have to start doing the HEIA after the Certificate of Need is done. They can actually start it while the Certificate of Need is being completed. As far as I know, there hasn't been too much change in time. Again, I would defer to the Certificate of Need team for that.

Mr. Kraut Got it.

Ms. Glock Hi. Thank you for the question. Because the CON... The requirement is that the CON is submitted with the Health Equity Impact Assessment. They come in together at submission. The CON is not considered complete without the submission of the Health Equity Impact Assessment. Because the Office of Health Equity and Human Rights begins to review that concurrently while the other reviews are going on, we have not seen any noticeable delay in the processing time with the CON waiting for those Health Equity Impact Assessment Reviews. I think that the Office of Health Equity, Human Rights has done a fantastic job at reviewing those timely.

Mr. Kraut Thank you.

Mr. Kraut I'm going to go to Dr. Kalkut and Dr. Eisenstein, then Dr. Berliner.

Dr. Kalkut Thank you very much for the report.

Dr. Kalkut I'm Gary Kalkut, member of the council. I also appreciate what the effort you've gone through to get feedback. I'm going to provide a little feedback also. The first thing I wanted to ask about, and you had it in one of the slides about how do you build trust in the community? One of the things that we found was early on our independent assessor was in the interaction with stakeholders saying your name would not be released. If you provide some statement now there's a way that---

Mr. Kraut Your mic is not on.

Mr. Kraut Thank you.

Dr. Kalkut A verbatim statement if we can be shared, the name could be shared if they consent to that. Apparently what was clarified, I think it was clarified in the FAQs that the state, DOH can request the names of people who were associated with identifiers. I guess my question is, why is that necessary? It's not part of the law. It inhibits true feedback to provide names because these are patients of all sorts. Why would they do that? I think part of the problem with feedback and perhaps repetitive inquiries to groups that are willing to provide this and take the risk of having their names identified, but I think it chills the interaction. I think it doesn't get truly objective information. I'm just not sure why that's necessary. There's another part to this which you've addressed, which is about FOIL requests. Could you answer the first one first. Why collect names?

Ms. Akanbi Just to provide some context, independent entities need to maintain a record of names as part of the identifier system used for community engagement. These identifiers must be used in place of names unless a contributing stakeholder wants their name to be shared publicly. We implemented that identifier system back in June basically as a response to the feedback from our independent entities that publicly posting names wasn't a great way to maintain confidentiality and also encourage stakeholders to provide feedback. That identifier system, again, went into place back in

June. Similar to the other sections of the HEIA, the department does reserve the right to request further documentation to clarify details presented in the submission. It could be this list of names. It could be we need to see this document or that document in order to better clarify the details in the HEIA. That's why the list of names is included, because it's part of the identifier system itself. I think it's important for the committee to know that. So far we haven't actually requested a list of stakeholder names from any submitted HEIA.

Mr. Kraut It doesn't make sense. We're going to look at what the state is doing to protect the names and identities of people dealing with reproductive health issues. Let's say we have an HEIA on reproductive health. You're actually undermining what the state is doing. People are very concerned now. Notwithstanding the confidentiality that you keep, we know from all the cybersecurity risks here, you can't guarantee that. Either you trust the independent entity to do the work they're doing, or you don't trust it. This is a major, major issue that is coming up in almost every discussion about people. The issue, Dr. Kalkut said. You've never asked for it. Why not? I mean, that means you're not trusting the independent entity. If you're not trusting the independent entity. There's a different issue here. I mean, this is really an issue that has to be addressed.

Ms. Akanbi Thanks, Jeff.

Dr. Kalkut I had another question.

Ms. Akanbi We don't have a reply but thank you.

Dr. Kalkut You know, we've had to stop telling the stakeholders that we cannot protect, can't assure them that their names will not be shared, particularly, as you point out, in the FAQs. Anything in the possession of the department can be foiled. You address someone who the issue of foiling and said you would do your best to redact names in there. That was from, I think, one of the either listening tour or a phone call with members of the department. There apparently is no written policy on that about how you can protect the names of stakeholders who are subject if you request to a FOIL that would make their names public.

Mr. Kraut I think they've heard the issue.

Dr. Kalkut Is there a policy?

Mr. Kraut Is there a policy? I think what we're asking to do is to take our feedback under consideration here, because I know we're not going to particularly answer it right here in the room.

Dr. Eisenstein Larry Eisenstein, council member.

Dr. Eisenstein I wanted to ask about on Page 3 of your presentation, the cost. Are those numbers just the cost that was given to the independent entity on average?

Ms. Akanbi Yes, that's the average cost of contracting with an independent entity.

Dr. Eisenstein I'd like to add that it's significantly more expensive to do this than just what we paid to the independent entity. Those costs get lost. As a Health Equity Practitioner, so to speak, practicing health equity, which we're not going to get into a whole discussion of definitions, but it's expensive and underfunded and we're trying to serve the most vulnerable and the costs to do this to show that we're successfully doing that makes it even more difficult financially to achieve that work. Having been part of them, I know what we've paid our independent entities, and I know all the other costs that go into it. Even something like as simple as if somebody is having a public forum, they might need to rent the space. That's not accounted for. I think somewhere this becomes a significant unfunded mandate as we try and serve the most vulnerable. Maybe a thought is maybe the money that providers spend proving that they're doing the work can be returned to them in some form of grant to serve the most vulnerable or a model like that. I think the costs, the manpower is understated here. I'm not opposed conceptually, but it's a lot. The requirement is a lot. At a time when more than half the hospitals in the state are losing money and half the providers are losing money. To try and do the right thing and be charged a lot of money to show that you're trying to do the right thing, I think maybe there's a better way to have that money spent.

Mr. Kraut Mr. La Rue and then Dr. Berliner and then Mr. Thomas.

Mr. La Rue Good morning. Scott La Rue. The previous speaker just mentioned some of the comments I want to make. I don't remember the name of the council member that was here that's no longer on that used to every single time bring up the discussion of cost. He's not here anymore.

Mr. Kraut Dr. Bennett.

Mr. La Rue I hope that doesn't project my future with the council.

All (Laughing)

Mr. La Rue Because here I go again.

All (Laughing)

Mr. La Rue I don't think a regulation has ever come to the Public Health Council where in that section they talk about the proposed costs of the regulation. I think every single time it says de minimis or nonexistent. I don't know whether we're talking about the cybersecurity, compliance or the Health Equity Assessment. All of these things over the last ten years have added significantly to the cost of operating our programs. It is not the minimums when your rates are so inadequate and now you're asking a nonprofit to go out and spend money that's not reimbursed or paid for. It's just adding to the problem. I am not commenting on the worthiness of the effort. It seems we have a

pattern in New York of passing legislation and passing regulations that sounds good and has good purpose and intent, but it is never funded, and it just compounds the problems that we're facing every single day in trying to maintain the services we're providing to the people we serve.

Mr. Kraut Understand. I think in order to seek redress, it's somewhere out of this room. It requires organized efforts to engage with the legislative process to address it. One of the ways that I've heard suggested that the full cost of conducting the HEIA is to deduct against the CON fees that is required. That you get a credit for incorporating the costs against that is another way to come at it, and that's another way at least to try to recover. It's not in the purview, I think, of the department necessarily or maybe in the purview of the department, but I suspect it's legislative and not regulatory. Your point is well taken, and it needs organization outside of outside of here.

Mr. Kraut Dr. Berliner.

Dr. Berliner Thank you for the presentation.

Dr. Berliner I have a couple of questions, though. How does someone become an independent entity? I don't mean like get a divorce or something like that, but for the purposes of this discussion.

All (Laughing)

Mr. Kraut That's funny.

Ms. Akanbi Someone becomes an independent entity on their own accord. We have baseline requirements in our regulation, so they have to have stakeholder and community engagement expertise and experience, health equity and anti-racism expertise and experience. Before they contract with the health care facility, they have to fill out that conflict of interest form.

Dr. Berliner Are they vetted by your department, or they just taken by the say, I'm an independent entity and go to that provider and say choose me?

Ms. Akanbi I mean, I think it'd be helpful to hear some context first. When the law was implemented, the parameters of independent entity were broadly stated. Broadly stated but provided enough specificity to ensure that the independent entities possessed that baseline level of expertise and had no conflict of interest as required by law. Again, they have to have that baseline level that I mentioned before. As part of the process, health care facilities have to submit that conflict of interest form alongside the other HEIA documentation, and that form has to be reviewed by the applicant and the independent entity for a signature. That's basically the context of how this process started for the independent entities.

Dr. Berliner If I'm a provider and I want to do a project and I have to go through this process, if I call you up, do you provide me with a list of potential people to do this? Do I have to find someone myself? Do the two things happen at the same time? You don't provide a pre vetting of whether I could provide this service?

Ms. Akanbi That's a great question. This was something that was shared with the committee back in 2023. The department decided not to provide a pre-approved list of independent entities at that time because it was a brand-new law. The department didn't want to unintentionally take away certain entities that could potentially do this job. They left it again, broadly stated yet with these baseline qualifications.

Dr. Berliner I'm pursuing this for a reason that we'll get to in a few minutes. I watched Legally Blonde last night. Supposing I wanted to be an independent entity. I think I'm qualified. Five/ten, dark piercing eyes, swift, catlike movements, gold flecks dance in my eyes, filthy rich, devilishly handsome and built like an Adonis only better. Plus, I've been a medical school Professor and Department Chair. I've written many books and articles on health equity and things like that. What you're saying is that I don't get independently vetted as long as Scott is willing to accept my incredibly low fee. I say this to everyone out there. Not expensive. That's okay with you. This is what you call networking. I mean, at some point, you don't come back and say to Scott, "No, he doesn't qualify." Do you just say, "Yeah, if it's okay with you, it's okay with me."

Johanne E. Morne Hi, everyone. This is Johanne E. Morne, if I could respond. Thank you for allowing me to jump in. I am the Executive Deputy Commissioner here at the department. I appreciate the candid description that you've provided. What I will say in response to the question, though, is, as my colleague has indicated, there are specific criteria as to who can be that the independent reviewer or contractor. If a contractor is selected by a hospital facility, they meet the criteria and they're able to rightfully so indicate no conflict of interest, then the facility has the opportunity to work with that vendor. It was an intentional decision when the Health Equity Impact Assessment legislation was first put through, that the state would not take on the review or the selection of candidates. Certainly, as we continue to move forward in the advancement of the Health Equity Impact Assessment and continue to learn, perhaps there's a space for conversation for future, but that was an intentional decision that was made at the time in an effort to allow facilities to have broad opportunity to work with facilities that they had identified and seemed in the best interest of the process.

Dr. Berliner Thank you for that answer. But as you're probably aware, where I'm driving is I'm a member of PHHPC. Do I have an innate conflict of interest?

Mr. Kraut I would say you do.

Dr. Berliner I would be recused from any discussion or vote on a project that I was involved in, assuming I declared it.

Mr. Kraut You'd be because of the ethical guidelines for PHHPC. You can't appear or do any work on behalf of any client in front of us.

Dr. Berliner If a hospital council has a subunit that does this kind of work, why don't they have an automatic conflict of interest as I would have?

Johanne E. Morne If there's a specific case in which there is an issue or a concern, certainly we would be open to that to hearing about that. However, based on the criteria and the review process that we have in place, I'm not aware of any particular cases at this time.

Johanne E. Morne I would ask if you had anything to add.

Ms. Ngwashi Sure.

Ms. Ngwashi Thank you.

Ms. Ngwashi My name is Marthe Ngwashi. I'm counsel at the Department of Health and counsel to the Public Health and Health Planning Council. I think we do understand what you're saying as it relates to conflicts of interest. I think that we'll take the information that you have said back, and we will look at that in relation to the regulations surrounding the independent entities. But just so that you know, when the Health Equity Impact Assessment reports come in, they do look at who did it, but it is under the applicant's obligation and it's their due diligence where they have to make an assessment and determine that this is an appropriate independent entity that is providing information for us on behalf of them for the CON project. That being said, we can take all the information that you are bringing up as it relates to what the department does to make its own assessment, but right now that's not happening. We can look at that in the context of regulations as it relates to the independent entities.

Dr. Berliner I mean, thank you for that. There are... You know, in especially for a new process which is just started, and which is trying to establish a foothold, I mean, a certain degree of public optics. When a hospital project uses a subunit of a hospital council, it just looks so wrong. I would wonder and I do wonder. I'm a public member of the council. How could this possibly be approved? I'm not saying anything about the applicant. I'm not saying anything about the organization that's doing this. I'm not saying anything about the individual people who are doing this. They may be great. Everything may be great. It just looks wrong. I mean, that's the part that's really been bothering me for the last couple. Again, I want to thank the advocates who brought this at least to my attention. I just read independent, and I was satisfied. I never went back to look at who the independent entity was. Had I done that, I would have just been... Are you kidding me? What I would recommend is if the unit would actually kind of look at this with a sense of this doesn't quite sound so kosher to me. Maybe we should ask the applicant to find someone else. I mean, find a way for that particular group of people to not have that direct conflict of interest by working for an organization that does have a conflict of interest.

Ms. Ngwashi We'll absolutely take that information under consideration. I would also like to add that as a counsel, you also have a role to play as it relates to Health Equity Impact Assessment reports and also the fourth of the Certificate of Need application. When you see information in there, you have an opportunity either at the committee meeting or here at full council to further discuss some of those things and make a determination.

Dr. Berliner That's correct and that's something that we try to do. The reality is it is not fair to the applicant. You know, at the time when the application is being discussed to say, "Wait a minute. We're not happy with the independent entity that you chose." I mean, it has nothing to do with the application assuming everything else is fine. It's just the wrong time to do it. What I'm suggesting is that the department has to take a greater role in looking at this stuff before it comes to us, because it's inappropriate for us to do it at that time.

Ms. Ngwashi The other thing that I want to make sure we are clear about here is the department acts within its authority, which is prescribed by law and regulation. We cannot do something that is going to exceed what ability we already have. Understood everything that you said, and we'll take it into consideration. As I mentioned, we'll look at it in the context of regulations.

Mr. Kraut We'll have more conversation on this.

Mr. Kraut Mr. Thomas, then Dr. Kalkut.

Mr. Kraut I'm sorry. Mr. Thomas, then Mr. Lawrence, then Dr. Kalkut.

Mr. Thomas Good morning. Hugh Thomas, member of the council. Just a sort of a follow-on Ann Monroe's comment at the beginning, my colleagues. To me, this whole conversation talks about one slide on your document, which was successes. You did thirty-eight. You've chosen to present three successes. I would encourage you; this is more of a comment than a question. I would encourage you to really think long and hard about the outcomes from this process because this conversation, because of cost, because of conflicts is going to be driven by data. I appreciate the three Ann suggested where the problems are. You've talked about some of those this morning. The successes are just as important because in the end what may be extraordinarily well-meaning legislation is not having the intended effect. This is new. You're fourteen months in. I get it. I would encourage you to focus on that specifically and be willing to defend the successes to this group and to a larger audience.

Mr. Kraut Thank you.

Mr. Lawrence Mr. Thomas, you stole much of what I was going to say. I think it's really important. Harvey Lawrence, member of the council. I think it's important to have measures of success. I would say for me, one of the most important would be the

potential impact on reducing health disparities. Really having the data to show and indicate how this process is helping to reduce health disparities, not only improve health equity. With regard to costs, having been at a FQHC any unfunded mandate is an incredible burden. I was looking at the \$38,000 costs and saying to myself, is that average? Is that on a project of \$1 million project or is it on \$150 million project? The scale makes a difference. Because in fact, if it's on \$150 million project and that's probably maybe close to rounding error on that project when you look at all of the costs. It depends on the entity, the size of the entity. There are some entities that could absorb \$38,000 and write it off as just a rounding error. There are others that are suffering. I think it's important to have a progressive system in which those that can afford to pay more, maybe contribute more, and maybe that contribution could be allowed to offset others that are burdened by that \$38,000, that average cost of \$38,000 for this process. I think we all appreciate the value involved here in terms of health equity and improving the health outcomes of New Yorkers across all across the entire state, especially those that are most vulnerable. I think in terms of the cost, it's important that we look at it. I was also reflecting that when you undertake a development project or an expansion, there are some things that are embedded. I mean, we can complain about the environmental impact statements having to complete those, but that's a given. You factor that into your budget when you're about to take on a project. Maybe this is something that I think was mentioned that maybe additional grants could be made available for those that would struggle with this process. I think it's an important process for the state, and I echo Mr. Thomas's point that it's so important that we must have data that supports that is making a difference. If it's not, then we need to be able to tweak it.

Mr. Kraut Dr. Kalkut.

Dr. Kalkut One more question. I noted in your slide show that 21% of the HEIAs were related to a relocation. I think there are relocations that my organization has had HEIAs done for. Three of them were a move of 300ft or 178ft. The address was different, but it was across the street. The public transportation is the same. There was no reduction in services. In fact, there was enhancement of services. Certainly, the feedback from stakeholders was very positive because it was consolidating things. I'd asked you to consider when it comes to relocations, if there's a meaningful distance change. Again, you can probably reduce your costs if things have a low chance of actually demonstrating a problem with or disparity in worsening. The successes may go up in terms of how you spend your time. Again, a consideration for now. I really think we all are very grateful for you to come here and present answer questions as you have and do something that, as just said, we all support. We just want a year in see if we can make it more. I was going to say more better, but I won't.

Mr. Kraut Issues that come up from time to time.

Mr. Kraut I just have the last question from Ms. Monroe. Is there any discussion of applying the HEIA requirements to hospice and to Article 36, Article 40, you know, other because it's covered by hospitals, nursing homes, DNTCs.

Ms. Akanbi I'm not familiar with that. I haven't heard anything about that as of this point.

Mr. Kraut With that, on behalf of the council, thank you so much. You did great job. We really appreciated the work that went into the slides and the prep for this. Just did wonderful. Thank you. This is just another stop on the listening tour. We thank you and thank the staff for the work they've done. It could have been rolled out with a lot more problems. I think we're just thankful for how smooth it's gone, and all the work you guys have done. Thank you so much for coming to it.

Mr. Kraut I am now going to turn to Dr. Rugge, who will give a report on the Committee on Health Planning.

Dr. Rugge Thank you very much.

Dr. Rugge Can people hear me? My voice gets a little foggy.

Dr. Rugge I'll try. I don't want to shout, though.

Dr. Rugge I hope everyone here in the room, certainly everyone at the table recalls that our last council meeting there was approval of a new and revised charge for the Planning Committee of the Public Health and Health Planning Council, and that was based on a very spirited, enthusiastic meeting of the committee members and committee session, both to redefine what our responsibilities are and also to lay some groundwork for how to do a fresh start. Where do we go from here? Based on PHHPC's authority as conveyed by the legislature some time ago, there was certainly a very special and well-defined role for PHHPC. As I see it, the Planning Committee and the council as a whole has a special opportunity to focus on projects and serve as a valuable resource to the officials in the Health Department. How to bring this together and go forward is what we've been trying to do to, especially at a time when the health delivery system is changing constantly. We don't think there's going to be an expiration date for planning. This is going to continue on and on. To do this requires a very ongoing continuous, includes a relationship with members and leaders of the Department of Health. We're not simply a separate advisory committee writing a paper in the journal. We are here to work together to find new opportunities for change and new possibilities for again, renewing and revising our regulations. Based on this new charge and that early committee meeting, where, again, there was so much enthusiasm and interest, there have been several prep sessions with myself, Ann Monroe, Vice Chair, Dr. Heslin, First Deputy Commissioner Jackie Sheltry thinking about how do we prepare, how do we organize a discussion so the next committee meeting is really productive in terms of setting our direction, knowing where we're going to go and being both helpful and maybe sometimes a little annoying, but that's okay. What we identified in those prep sessions was really two needs for our next meeting. One is to identify, certainly this is more the department than the committee identifying a couple of regulations in need of update and renewal and change. A second project for the committee would be to talk through and then select one or another policy topic which

seems to have a special need or opportunity for focus and revise changes eventually probably leading to possible new regulations. Starting with an in-depth understanding of what we can do to improve one part or another part of the delivery system, knowing that there is plenty of opportunities there and we can only start someplace. That would be a decision of the committee. I'm having with Dr. Heslin and the other staff taking care, of course, to go back to their colleagues and all the offices and divisions with the Health Department. There is clearly a need for deep and systematic review and approval and approach and collaboration. As it turned out, that has taken longer than we expected as a committee. We expected to meet yesterday and not having matured enough or developed an offer of the collaboration we need are looking at our meeting to postpone that to sometime before our next council meeting. That's where we stand. Questions are very welcome as are concerns.

Mr. Kraut Dr. Berliner just asked if there's a date.

Dr. Rugge A tentative date of April 9th, the day before the next council meeting. If progress is made and we think might even need two committee meetings. This is not a final decision, but it's a preliminary idea.

Mr. Kraut The next committee day is... Well, the Planning Committee day is not the same day.

Dr. Rugge We have a separate meeting because it takes hours to work through all this.

Mr. Kraut Thank you very much, Dr. Rugge.

Mr. Kraut I'm now going to turn to Dr. Yang, who will give a report on the Codes, Regulation and Legislation Committee.

Dr. Yang Yes, there were two regulations that were presented to the committee this morning that are being forwarded to the council. One is an amendment of section 405.45 regarding trauma centers and nurse review, a component of that. Mr. Greenberg, I think was the lead for the department explaining that up in Albany. The second one, the second regulation for discussion was an amendment to 710.1 approval of medical facility construction. Ms. was the lead for that.

Mr. Kraut For those of you who weren't here for the presentation of these reports, they're both for information. They're going to come back to the council. The second is the CON kind of a construction. It's a repeal and replace that comes out of our conversations that occurred last May at the educational retreat. We had reviewed a lot of elements of that. You'll have an opportunity. It'll be put out for public comment, we'll get some reaction, and it'll come back to us at our next meeting of the Codes Committee for adoption both items. If there's any questions, we do have a staff to answer anything if you've read those documents before.

Mr. Kraut Thank you, Dr. Yang.

Mr. Kraut I'm going to turn now to Dr. Kalkut to give us a report on the actions of Establishment and Project Review.

Dr. Kalkut Montefiore Nyack in Rockland County to certify therapeutic radiology to operate two linear accelerators and perform renovations in a medical office building on the hospital campus. Both the department and the committee approved with conditions and contingency. I so move.

Mr. Kraut I have a motion.

Mr. Kraut May I have a second?

Mr. Kraut Dr. Berliner.

Mr. Kraut Any questions?

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

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Mr. Robinson 242176C, NYU Langone Hospitals in Westchester County. Noting a conflict and recusal by Dr. Kalkut, who's left the room. This is certifying a new multi-specialty ambulatory surgery hospital extension clinic at 4 Westchester Park Drive in West Harrison. Department and committee recommend approval with conditions and contingencies. I so move.

Mr. Kraut I have a motion.

Mr. Kraut Can I have a second?

Mr. Kraut Dr. Berliner.

Mr. Kraut Are any questions on this application?

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

Mr. Kraut All those in favor?

Mr. Kraut Opposed?

Mr. Kraut Abstention?

Mr. Kraut The motion carries.

Mr. Kraut Have Dr. Kalkut return to the room.

Mr. Kraut I'm going to leave the room for the next application.

Mr. Kraut Mr. Robinson will take over the responsibilities of the Chair.

Dr. Kalkut 242247C, South Shore University Hospital in Suffolk County. There's a conflict in recusal by Mr. Kraut who is out of the room. This project amends and supersedes previously approved CON 201151 to construct a new six story building in patient building with sixteen net new medical surgical beds by adding thirty ICU beds. The building will also house six ORs, two endoscopy rooms and forty-one post-acute care unit bays. The department approves with conditions as contingencies and the committee approved with conditions and contingencies with one member abstaining. I so move.

Mr. Robinson Thank you.

Mr. Robinson I have a motion.

Mr. Robinson A second by Dr. Berliner.

Mr. Robinson Any questions on this application?

Mr. Robinson Hearing none, call the question?

Mr. Robinson All in favor?

Mr. Robinson Any opposed?

Mr. Robinson Motion carries.

Mr. Robinson Have Mr. Kraut return.

Dr. Kalkut The next category will be several seconds batched. Let me start with the 231189E, St Michael's Home Inc doing business at St Michael's Home Care. There's an exhibit with a list of geographic service areas. This is to establish a new licensed homecare agency at 1220 Front Street in Uniondale. Both the department and committee recommend approval with a condition. 241073E, First Class Care LLC doing business as Homestead LHCSA. Again, a geographic service area in the exhibit. Establish First Class Care LLC as a new license homecare agency at 8245 Grenfell Street in Kew Gardens. The department and the committee recommend approval with a

condition. 241149E, Westchester PACE Program, LLC. Again, geographic surveying areas laid out in the exhibit. This is to establish a new license homecare agency at 1 Wartburg Place in Mount Vernon. The department and committee approved with a condition. I so move.

Mr. Kraut I have a motion for those applications.

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

Mr. Kraut Any questions?

Mr. Kraut Mr. La Rue.

Mr. La Rue Yes, I apologize. I wasn't at the committee meeting. I just wanted to ask in terms of process on the PACE application. Did this entity already receive full approval to operate a PACE program, and now we're approving the LHCSA? Are we approving the LHCSA, and they've not yet received full approval on the patent application?

Mr. Kraut That question was asked at the Project Review Committee. There's a condition here that it's conditional upon the approval of OHIP. We're proceeding first to approve it, and then it still has to go through a secondary approval with OHIP.

Mr. La Rue Thank you.

Mr. Kraut Any other questions?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Let's do this. We're going to amend the motion. I'm going to just ask for a vote on the first two. You made the motion. Do you agree to amend the motion to limit this to the first two applications? Just for clarity, it will be St Michael's Home. We will vote on 241073E First Class Care doing business as Homestead LHCSA.

Mr. Kraut May I have a second for the amendment?

Mr. Kraut Dr. Berliner.

Mr. Kraut Are there any questions on those two applications?

Mr. Kraut Hearing none, call for a vote.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Motion carries.

Dr. Kalkut 241149 E Westchester PACE Program LLC establish a new license homecare agency and 1 Place in Mount Vernon. Approval with condition was recommended. I so move.

Mr. Kraut We have a motion.

Mr. Kraut May I have a second?

Mr. Kraut Dr. Berliner.

Mr. Kraut Are there any other questions on this application?

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

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut All those opposed?

Mr. Kraut It's a yes to approve.

Mr. Kraut All those who indicated yes already raised their hand. Dr. Torres is opposed, voting no on this application.

Mr. Kraut The motion carries.

Dr. Kalkut Oyster Bay Manor Home Care Inc doing business as Oyster Bay Manor Homecare. Geographic Service area is available in the exhibits. This is the transfer 25% ownership interest from one shareholder to the remaining shareholder. The department committee recommend approval with a condition. 241136E, Vista on Fifth. Corporation doing business as Vista on Fifth. Geographic service area available. This is to transfer 100% ownership interest to a new member corporation. The department and committee recommend approval with the condition. I so move.

Mr. Kraut I have a motion on these two applications.

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

Mr. Kraut Are there any questions on these applications?

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

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Motion carries.

Dr. Kalkut 232078E, Brooklyn, Queens Nursing Home in Kings County. This is the transfer of 50% ownership from one existing shareholder to one new shareholder. The department and committee recommend approval with a condition. I so move.

Mr. Kraut I have a motion on this application.

Mr. Kraut May I have a second?

Mr. Kraut Dr. Berliner.

Mr. Kraut Any questions on this application?

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

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Dr. Kalkut 242152E, Central New York Eye Center in Dutchess County to transfer 100% ownership of Central New York Eye Center at 22 Green Street in Poughkeepsie. Department and committee approved with conditions and recommend with conditions and contingencies. 242159E, Capital Region Ambulatory Surgery Center in Albany County. This is the transfer 89.48% from eight withdrawing members and two existing members to seventeen new members. The department recommends approval with conditions and contingency with an expiration of the operating certificate three years from the date of issuance. The committee recommends the same, three-year operating certificate from the expiration of the operating certificate three years from the date of its issuance is recommended. 242161B, East End Surgery Center LLC in Suffolk County. This is to establish construct a single specialty amatory surgery center for Gastroenterology by converting an existing private practice at 287 Wading River Road.

Department recommends approval with condition and contingencies with it an expiration of the operating certificate five years from the date of its issuance. The committee recommends the same. 2242189B, Southern Tier Surgery Center LLC in Broome County. This is to establish construct a dual single specialty ambulatory surgery, diagnostic and treatment center for Orthopedics and Pain Management at 601 Harry L Drive Johnson City. This amends and supersedes project number 222227B. The department and committee recommend approval with conditions and contingencies. I so move.

Mr. Kraut I have a motion to move these applications.

Mr. Kraut Second, Dr. Watkins.

Mr. Kraut Are there any questions on these applications?

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

Mr. Kraut All those in favor?

Mr. Kraut Aye.

Mr. Kraut Opposed?

Mr. Kraut Motion carries.

Dr. Kalkut 242037B, ABC Little Clinic 115 in New York County. This is to establish to construct a diagnostic and treatment center at 158 East 115 Street in New York. The department and committee recommend approval with conditions and contingencies. I so move.

Mr. Kraut I have a motion.

Mr. Kraut May I have a second?

Mr. Kraut Dr. Berliner.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut The motion carries.

Dr. Kalkut The last matter is a certificate of dissolution, Living Resources, Certified Home Health Agencies. The department and committee recommend approval for the dissolution. I so move.

Mr. Kraut I have a motion.

Mr. Kraut Second, Mr. Thomas.

Mr. Kraut Any questions on the dissolution application?

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Motion carries.

Dr. Kalkut That concludes the report of the Establishment of Project Review Committee.

Mr. Kraut Thank you very much, Dr. Kalkut and committee members. I would say by any measure, this has been a pretty productive and substantive meeting. I want to thank the department and all the presenters for the work that went into preparing for the meeting and the conversation. It felt really good today. We touched on a lot of important issues. I appreciate the effort that went into that and the participation and the preparation of the council members as well. The next regularly scheduled committee day is going to be on March 27th. They'll be a separate committee day for the Planning Committee. The full council will be convening on April 10th. Both these meetings will be held in Albany location. That will all be confirmed in emails as well.

Mr. Kraut May I have a motion to adjourn the Public Health and Health Planning Council meeting?

Mr. Kraut We are going to go into Executive Session to consider a health personnel matter. Please don't leave. Well, we could take a bio break, but please don't leave. I'll ask the public to leave. I'll have the web services turned off. We have one more matter to consider. Thank you.

Public Health and Health Planning Council 2026 Timeline

<u>PHHPC Committee Meeting</u>	<u>PHHPC Full Council Meeting</u>	<u>Main PHHPC Meeting Location</u>
01/22/26	02/19/26	NYC
04/23/26	05/07/26	Albany
06/10/26 WEDNESDAY	06/24/26 WEDNESDAY	NYC
08/27/26	09/17/26	Albany
11/19/26	12/17/26	NYC

Main meeting site is listed, however there may be multiple meeting locations available for attendance by PHHPC members, applicants, and members of the general public.

Albany Location – Empire State Plaza, Concourse Level, Meeting Room 6 – Meeting begins at 10:15 a.m. (meeting location and start time is subject to change upon notice)

NYC Location - 90 Church Street, Meeting Rooms A/B, 4th Floor, NY, NY – Meeting begins at 10:00 a.m. (meeting location and start time is subject to change upon notice)

Adopted

**NYS Department of Health
Public Health and Health Planning Council
Deputy Commissioner Executive Report
April 10, 2025**

OFFICE OF PUBLIC HEALTH

Office of Public Health

Newly Appointed Deputy Commissioner

Michelle S. Davis will be joining the New York State Department of Health as the Deputy Commissioner of the Office of Public Health, on April 10th.

Michelle Davis will be joining the Office of Public Health as an experienced civil servant with over 20 years in public health at all levels of government in the U. S., as well as in the Caribbean and on the Continent of Africa. She most recently served as a special advisor for the former Health and Human Services Assistant Secretary for Health. In this role she led policy efforts for the treatment of Sickle Cell Disease, coordinated the Interagency Sickle Cell Disease steering committee, developed a Language Access Plan, coordinated agency-wide tribal affairs activities, and served on the White House Social Determinants of Health Interagency Policy Committee to develop a playbook to improve health and wellbeing.

She previously held the federal position of Health and Human Services Regional Health Administrator where she led response and recovery efforts for H1N1 and Ebola. Prior to that she held the position of Health Commissioner for the U. S. Virgin Islands where she led the public health response efforts for the two category five Hurricanes, Irma and Maria, as well as for Zika and Leptospirosis.

Finally, other notable career positions include serving as the deputy health commissioner for policy and planning for the City of Philadelphia and as deputy secretary for health planning and assessment for the Commonwealth of Pennsylvania, and as a Senior Epidemiologist and Survey Statistician with the Centers for Disease and Prevention.

Over the span of her career, Michelle Davis has served in leadership roles with city, state and national professional public health organizations and has received awards for her public health service. She received her academic training in the fields of basic science, epidemiology, statistics, health policy, maternal and child health and infectious disease and has certifications in Diversity, Equity, Inclusion.

Through all these positions she has provided leadership and oversight of public health programs and policies with a personal focus on serving vulnerable and marginalized populations within communities and improving health equity.

Laura Trolio will continue to serve as Deputy Director of the Office of Public Health after serving as Acting Deputy Commissioner of the Office of Public Health for the past 8 months.

Thank You Note from Laura Trolio, Deputy Director, Office of Public Health

I feel so honored to have served as the Acting Deputy Commissioner role for the Office of Public Health (OPH) for the past 8 months. During this time, OPH has continued to work on hundreds of initiatives to protect the public health of New Yorkers. During my time as Acting Deputy Commissioner, OPH has continued with implementation of its strategic plan, has launched the Global Health Update Report, and has added a new Division of Public Health Infrastructure, to name a few updates. I would like to thank all of OPH and the Department for the opportunity to serve in this capacity and I look forward to continuing to support the Office of Public Health as it's Deputy Director.

Wadsworth Center

Dr. Kurunthachalam Kannan Appointed to NASEM Committee on Clinical Follow-Up for Red Hill JP-5 Fuel Exposure

Dr. Kurunthachalam Kannan has been invited by the National Academy of Sciences, Engineering, and Medicine (NASEM) to serve as a member of the Committee on Clinical Follow-Up and Care for Those Impacted by the JP-5 Releases at Red Hill. This committee is charged with developing clinical guidance for monitoring the health of individuals exposed to Jet Propellant 5 (JP-5) aviation fuel, following its November 2021 release into the Joint Base Pearl Harbor-Hickam water distribution system in Hawaii.

The JP-5 fuel leak contaminated the water supply for approximately 9,694 civilian and military households, as well as schools and workplaces, affecting an estimated 93,000 individuals. In response, the committee will:

- Review scientific evidence on the potential long-term health risks of JP-5 exposure.
- Evaluate the strength of evidence for associated health effects.
- Examine existing clinical guidance and exposure assessment models.
- Provide recommendations on clinical surveillance, testing, and care.
- The final report is expected to be delivered to NASEM by June 2026.

Dr. Kannan, a globally recognized leader in exposure science and biomonitoring, has authored over 900 research papers in environmental health sciences and is one of the most highly cited researchers in his field. His appointment to this prestigious NASEM committee underscores his expertise and leadership in exposure science and reinforces the Wadsworth Center's leadership in environmental health research.

New York State Newborn Screening Program Leads Pilot for Metachromatic Leukodystrophy (MLD) Screening

The New York State Newborn Screening Program (NBSP) at the Wadsworth Center has a long history of pioneering newborn screening advancements, becoming the first state to screen for sickle cell disease, Krabbe disease, and adrenoleukodystrophy. Adding a condition to the federal Recommended Uniform Screening Panel (RUSP) requires nomination to the Advisory Committee on Heritable Disorders in Newborns and Children, which evaluates conditions based

on pilot study data, test availability, and treatment options. A disorder cannot be added to the RUSP without pilot study data and at least one case detected via newborn screening. Currently, NBSP is conducting pilot screening for 14 conditions, including metachromatic leukodystrophy (MLD), through the ScreenPlus study, led by Dr. Joseph Orsini, Deputy Director of the NBSP. ScreenPlus, which provides screening with informed consent, is funded by the Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD) in partnership with Dr. Melissa Wasserstein at the Albert Einstein School of Medicine. MLD, particularly the late infantile form, historically led to death before the age of five. However, in 2024, the FDA approved a novel gene therapy for pre-symptomatic individuals, significantly improving motor function and survival outcomes when administered early.

As a result of ScreenPlus, New York State was awarded a separate NICHD contract to implement universal MLD screening for one year, ensuring continued screening until state funding is secured. Findings from both studies will be shared with the public health and medical communities, providing essential data for expert review groups to determine whether MLD should be added to the RUSP.

Wadsworth Center's CLEP Director Beverly Rauch Joins National Panel on Laboratory-Developed Test (LDT) Regulation

The Clinical Laboratory Evaluation Program (CLEP) within the Wadsworth Center at the New York State Department of Health provides regulatory oversight for clinical testing laboratories in New York State. As part of its regulatory responsibilities, CLEP reviews and approves laboratory-developed tests (LDTs) to ensure both analytical and clinical validity. While most clinical tests are FDA-approved and sold by manufacturers, some laboratories develop their own tests for patient testing without FDA approval—these are known as LDTs. CLEP is the only regulatory body in the U.S. that requires LDT review and has done so for over 30 years, approving more than 10,000 LDTs, including those used by major national reference laboratories such as Quest Diagnostics and LabCorp. As a result, CLEP-approved LDTs are used nationwide.

In a major policy shift, the FDA recently amended federal regulations to assert oversight of most LDTs. This new final rule has triggered industry-wide discussions and at least one lawsuit, as it represents a significant departure from the FDA's long-standing approach to LDT oversight. Given CLEP's unparalleled expertise in LDT regulation, Beverly Rauch, Director of CLEP, was invited to serve as a panelist at the American Clinical Laboratory Association (ACLA) Annual Meeting in Washington, D.C., on February 27, 2025.

The ACLA, the nation's leading trade association for clinical laboratories, advocates for policies that expand access to high-quality diagnostic services, improve patient outcomes, and advance personalized medicine. The annual meeting brings together top clinical laboratories, healthcare policy experts, regulators, and political analysts to discuss:

- Emerging trends in diagnostics
- Regulatory developments and federal legislation
- Reimbursement policies

Ms. Rauch participated in the panel discussion: "Clinical Laboratory Developed Testing Services: Litigation, Legislation, and Regulation". Experts examined the implications of the FDA's final rule on LDTs, discussing its impact on clinical laboratories, patient care, and the broader regulatory landscape. Ms. Rauch's participation highlights CLEP's national leadership in LDT regulation and reinforces the Wadsworth Center's critical role in shaping the future of clinical laboratory oversight.

Center for Community Health

H5N1 Update

To date, H5N1 avian influenza has been detected in wild birds from 56 counties, including NYC, since 2022. The virus is undoubtedly in wild birds throughout the state; the particular counties in which it is identified is dependent upon where testing is conducted. The Department of Health is reminding the public to not handle wildlife including ill or dead birds and encouraging people to report dead birds to the Department of Environmental Conservation.

The Department of Health has provided guidance to several local health departments following detections of H5N1 infections in commercial and back yard poultry flocks based on the degree of human exposures. Humans with a history of exposure to infected birds have been monitored for symptoms. No human H5N1 infections have been detected in NYS to date. DOH has updated our website and is working on updating guidance for local health departments to respond to detections in birds and ensure that counties are ready to test people suspected of being infected with avian influenza.

The Department of Agriculture and Markets (AGM) has not confirmed any cases in dairy cattle in NYS. Furthermore, AGM has been testing raw milk at milk processing facilities since the end of January. There have not been any detections of HPAI in raw milk at these facilities.

Expanded Access to Vital Nutrition Programs for Mothers and Children

Governor Hochul announced in her 2025 State of the State a commitment to expand access to the Special Supplemental Nutrition Program for Women, Infants, and Children. For more than fifty years, the Special Supplemental Nutrition Program for Women, Infants, and Children program has been essential in promoting and safeguarding the health of women and children. Since 2020, Special Supplemental Nutrition Program for Women, Infants, and Children participation in New York has increased by nearly 25%. The New York State Special Supplemental Nutrition Program for Women, Infants, and Children program currently serves more than 445,000 participants (and counting), which is approximately 66% of the total eligible population. Through this investment, the Governor plans to expand the program's reach to 70% of the eligible population increasing access to healthful foods and essential services for thousands more women, infants, and children. Caseloads for Special Supplemental Nutrition Program for Women, Infants, and Children is expected to continue increasing and at the current rate, is expected to reach 500,000 by September 2026.

Hunger Prevention and Nutrition Assistance Program (HPNAP) and Nourish New York (NNY)

HPNAP and NNY have proposed budgets in this year's budget. Nourish New York is proposed to receive \$5 million in one-time executive add, which is \$750,000 more than the prior year. Hunger Prevention and Nutrition Assistance Program is proposed to receive 23.25 million in one-time executive add, maintaining the funding level.

Uncertainty about continued availability of federal funding for our programs, additionally, loss of funding in other program areas, like SNAP, could affect Division of Nutrition programs. Increasing food assistance demand and emergency meal service numbers which could be exacerbated by federal food assistance program changes.

Office of Science and Technology

The Division of Science updated eight major public-facing data dashboards and reports. We hope these dashboard applications will be useful tools for all our state and local partners, and we would like to thank our those who have contributed data and support in the development and update of these applications.

- The **Prevention Agenda (PA) Dashboard** was updated with the most recent data and is available here: <https://health.ny.gov/preventionagendadashboard>. The PA dashboard is an interactive visual presentation of the most current tracking indicator data to track progress of the New York State's Health Improvement Plan at state, county and sub-county levels. It serves as a key source for monitoring progress that communities around the state have made regarding meeting the Prevention Agenda objectives. The most current data for New York State and the Prevention Agenda objectives are presented for approximately 100 tracking indicators and compared to data from previous time periods to assess the progress for each indicator.
- The **Community Health Indicator Reports (CHIRS) Dashboard** was updated and is available here: <https://www.health.ny.gov/CHIRSDashboard>. The dashboard, which interactively displays data for over 350 indicators at state and county levels, is designed to be a key resource for Community Health Needs Assessment, County Health Improvement Plans, and Community Service Plans.
- Six topic-specific dashboards and reports:
 - [The Opioid Data Dashboard](#)
 - [The Asthma Dashboard](#)
 - [The Maternal and Child Health Dashboard](#)
 - [The Leading Causes of Death Dashboard](#)
 - [The County Health Indicators by Race and Ethnicity Report](#)
 - [The County/ZIP Code Perinatal Data Profile Report](#)

Division of Public Health Infrastructure

Interviews are underway for two Director level vacancies. These include leadership of the Office of Local Health Services, and Associate Director of the Division. The Public Health Infrastructure Grant has entered Year 3 (12/1/24-11/30/25) and is working collaboratively across the Office of Public Health to execute deliverables as described in the CDC Workplan. The Community Engagement and Outreach Unit and Public Health Continuing Education Unit have increase regional office co-location by hiring staff in each of the Regional Offices. This supports Regional Office engagement in the public health infrastructure grant and extends resources to build and sustain a skilled public health workforce statewide. The Office of Local Health Services will release the State Health Improvement Plan and State Health Assessment this month which will support local health departments and hospitals development of their community health improvement and service plans. The Office of Local Health Services in collaboration with the Office of Health Equity and Human Rights launched the Prevention Agenda Interagency Taskforce to strengthen implementation of the Prevention Agenda between 2025-2030. Taskforce members represent State Agencies, are in a leadership and liaise positions who can draw alignment of the Prevention Agenda to the work of their agencies and identify opportunities to bolster interventions and resources to support statewide and local implementation efforts. The Division has also worked collaboratively with the 1115 Waiver team to draw alignment between the Prevention Agenda, Social Care Networks, Workforce Investment Organizations and the Public Health Infrastructure grant.

New York State Public Health Corps

The New York State Public Health Corps (NYSPHC) Fellowship Program launched its second phase in August 2024. In total, 199 hired Fellows were placed in 54 host organizations, including local health departments, the State Health Department, and several community-based organizations in 48 counties. There are currently 170 active Fellows and 29 inactive Fellows. Fellows continue to actively work on their projects and participate in professional development activities. For example, all Fellows are currently enrolled in either a Cornell University or University of Miami professional certificate training program. NYSPHC shared a letter and infographic summarizing key findings from the first fellowship cohort (2021-2024) with 575 stakeholders in February 2025. A copy of the infographic will be found on ny.gov/publichealthcorps soon. A more detailed promising approach report about the Fellowship Program, and its impact, will be released later this year.

Public Health Continuing Education Unit

The Public Health Continuing Education (PHCE) Unit has made progress and continues to move workplan deliverables forward through the following activities: piloting leadership and management training, promotion of public health capacity building programs with Cornell and SUNY Albany, development of a Public Health Live! webcast aimed at strengthening the workforce covering the strategies for recruiting and retaining Generation Z. Additionally, the unit has completed training consultations with all the Office of Public (OPH) centers and has begun to analyze data to identify core competency training needs. Training summary reports and access to available training has also been provided to OPH representatives. Based on identified

needs PHCE is working with our academic and workforce development partners to advance training and educational opportunities for the OPH workforce. The unit has also established a diverse equitable and inclusive committee to work on the optimization and awareness of options in the current OPH NYLearnsPH Learning Management System (LMS) and research new LMS options to determine the appropriate platform for future Public Health needs. Recommendations for a new system will be presented by the end of June 2025.

Office of Local Health Services

The yearly State Aid Application (SAA), consisting of the Local Health Department (LHD) budget and LHD responses to the Program Questions were due for submittal February 28th. The Office of Local Health Services is working closely with the LHD program staff and fiscal staff for submissions to be accepted/approved so that State Aid may be provided to the LHDs. Guidance is provided to the LHDs as needed. Fiscal staff review claims throughout the year. Vetting of new Public Health Directors, Commissioners, and Medical Consultants for the LHDs is done on an as needed basis. Tracking lists are updated and shared with both State and LHD staff. Orientation of the new Public Health Directors and Commissioners is provided once they are vetted, and they begin their new position. Working with other State staff on revising Article 28 Public Health Law; developing a survey for LHDs regarding billing as it applies to Article 28.

Public Health Infrastructure

The Pathways to Public Health Internship program kicked off recruitment for summer internships. This program will feature 15 public health internships across all disciplines across New York State. It will also feature our Emerging Leaders Program, upskilling new supervisors to lead the interns developing both supervisory and public health leadership skills. Academic Partnership development has kicked off their spring career fair season by partnering with regional offices to support college and community career fairs promoting careers in public health. The March issue of ENERGY Magazine, an organizational wellness publication led by public health professionals will be out featuring a feature article celebrating a Department of Health employee with 25 years of service in workforce development and his legacy of building and recognizing public health employees and their work. ENERGY magazine shares stories and lived experiences of public health staff that create connection, inform and renew our energy bridging health equity and empathy to strengthen our resilience as public health professionals.

The Public Health Infrastructure Grant (PHIG) team has extended technical assistance in the form of quarterly meetings, bulletins, training and development and 1:1 engagement to support local health departments in maximizing their PHIG award. In collaboration with New York State Association of County Health Officials, five virtual quarterly meetings took place between February 2024-March 2025 reaching 85 LHD staff. To complement each meeting a Public Health Infrastructure Grant Bulletin has also been distributed four times between April 2024-January 2025, reaching 177 LHD staff. Resources developed and distributed to LHDs include: building improvement decision tree, which provides guidance on using PHIG funds for building improvement projects, an LHD Expenditure Resource Guide, followed by an updated version (LHD Expenditure Resource Guide- Version 2) which outlines 4 categories of allowable LHD

PHIG expenditures and lists nearly 100 examples of expenditures within these categories, a budget modification process flowchart which demystifies the budget modification approval process and highlights opportunities to expedite the approval process. To date all 57 LHDs have signed their PHIG contract, thus accepting PHIG funds. Year 1 (12/1/22-11/30/23) 46 budget modifications executed, Year 2 (12/1/23-11/30/24) 48 budget modifications executed, and Year 3 (12/1/24-11/30/25) 27 budget modifications executed.

Center for Environmental Health

Addressing Childhood Lead Poisoning through Proactive Rental Inspections

Creation of Public Health Law §1377 set the stage for Center for Environmental Health to implement a proactive rental registry in identified communities of concern to combat childhood lead poisoning. The Center for Environmental Health drafted regulations to administer, coordinate, and enforce lead safety inspections and remediation of conditions conducive to lead poisoning. These regulations will require lead safety inspections of all pre-1980 multi-dwelling rental units in communities of highest risk across the state, starting in Fall of 2025. Draft regulations were published in the State Register and the public comment period ended on February 23, 2025. The Department is currently reviewing the public comments and continues to work with its Advisory Council on Lead Poisoning Prevention to ensure that the regulations and associated guidance will support effective implementation of the program. While these draft regulations are not required to go before the Public Health and Health Planning Council, they reflect important work in the Center for Environmental Health, and we look forward to providing updates as the program rolls out.

OFFICE OF HEALTH CARE DELIVERY

Office of Primary Care and Health Systems Management

Dear Administrator Letters

On February 18, 2025, the Department issued [Dear Administrator Letter 25-02](#) on Continuity of Care in response to recent presidential actions concerning gender-affirming care. This communication serves as a reminder that New York hospitals and Diagnostic and Treatment Centers must ensure equitable continuity of care for patients whose care is discontinued or paused. In accordance with Public Health Law Section 2803(1)(g) and 10 NYCRR Sections 405.7 and 751.9, the Patients' Bill of Rights outlines requirements for hospitals and Diagnostic and Treatment Centers related to patient treatment and/or discharge, including that hospitals must transfer patients appropriately, provide a patient discharge plan for inpatients prior to discharge, and allow participation of the patient in care planning and continuing care.

On March 19, 2025, the Department also issued [Dear Administrator Letter 25-03](#) *Patient abandonment and equity in care* as guidance to hospitals and Diagnostic and Treatment Centers regarding meeting the requirements of professional licensure and the Emergency Medical Treatment and Active Labor Act (EMTALA); holding a license to operate a hospital in New York State; and participating in federal and state reimbursement programs. This serves as a reminder that health care providers must treat all patients equally when patients seek treatment.

Hospital Capacity Direct Access

The Department is nearing completion of the project to build the Hospital Capacity Direct Access system. We anticipate the final group of hospitals will begin operating in the system within the next few months. As a reminder, this is a health data modernization effort that will relieve hospitals of manual reporting requirements by automating the process of submitting data to the Department.

Hospital at-Home

Congress extended Centers for Medicare and Medicaid Services' (CMS) Acute Hospital Care At Home program through the end of September 2025. CMS launched the "Hospital Without Walls" initiative in March 2020, using authorities under section 1135 of the Social Security Act permitting the Secretary of Health and Human Services to waive or modify certain facility standards during Public Health Emergencies (PHEs), such as the COVID-19 PHE. In December 2022, Congress passed the Consolidated Appropriations Act (CAA), 2023, which extended the Acute Hospital At Home program through December 31, 2024. The CAA, 2023, also required CMS to conduct a study to evaluate several aspects of the AHCAH initiative. The [Report on the Study of the AHCAH Initiative](#) was published on September 30, 2024, and describes early lessons on quality, patient experience, and cost of care.

Quality of care - "Three different quality metrics were calculated for quality-of-care comparisons: 30-day mortality rates; 30-day readmission rates; and hospital-acquired condition rates. CMS analysis found that AHCAH beneficiaries generally had a lower 30-day mortality rate than their brick-and-mortar inpatient counterparts."

Patient Experience - "Findings suggest that patients and caregivers who provided feedback had positive experiences with the care provided through the AHCAH initiative, which is broadly consistent with patient experience outcomes with Hospital at Home programs."

State Emergency Medical Services (EMS)

Our State EMS team has been moving through the next phase of creating the State EMS Taskforce. Part of that effort is onboarding staff who will operate the Surge Operations Center. The Surge Operations Center is open 24 hours a day, 7 days a week. As a reminder they can always be reached at (917) 909-2676.

Office of Aging and Long-Term Care (OALTC)

Direct Caregiver Flexibility

On December 3, 2024, OALTC released a Request for Applications for funding to support training of Personal Care Aides, Home Health Aides and Certified Nursing Aides, direct caregivers, throughout the State.

The application period closed on January 7, 2025, and applications are under review for the awards that will support free training with stipends, referral to support services, and information on employment opportunities available for specific certifications.

OALTC is aiming for an October 1, 2025, start date for the selected vendors which must be Department of Health or State Education Department-approved training programs.

Center for Residential Surveillance

Surveillance activities continue to be prioritized in the Center for Residential Surveillance by addressing historical backlogs using data metrics used to track and reduce the backlog.

Additionally, the Center continues to invest in training of its surveillance teams and facility staff, underscoring the importance of quality performance and ongoing improvements. The Center staff chair and co-chair numerous stakeholder workgroups to design policies and education to streamline the delivery of cross-continuum services. These efforts are specifically designed to ensure that residents of long-term residential settings receive safe, person-centered care.

Finally, the Center continues to develop and promote culturally sensitive and customer- friendly practices to ensure that its constituents, i.e., residents, staff, and families, are informed of the Department's efforts to promote health and safety of all individuals.

OFFICE OF HEALTH EQUITY AND HUMAN RIGHTS

AIDS Institute

Sexually Transmitted Infection Surveillance Report

The New York State Department of Health's new and improved New York State Sexually Transmitted Surveillance Annual report is [now available](#). The report summarizes 2023 New York State (NYS) surveillance data for the three notifiable bacterial sexually transmitted infections (STIs)—chlamydia, gonorrhea, and syphilis—as well as mpox, which is new to the Department's report this year.

Doxycycline Post-Exposure Prophylaxis or Doxy-PEP

Doxycycline Post-Exposure Prophylaxis or Doxy-PEP is a way to help prevent getting the sexually transmitted infections (STIs) chlamydia, gonorrhea and/or syphilis by taking the antibiotic doxycycline after condomless sex. A new public health campaign on Doxycycline post-exposure prophylaxis is now available on the New York State Department of Health website: https://www.health.ny.gov/diseases/communicable/std/doxy_pep/.

Congenital Syphilis

Social media messaging around congenital syphilis prevention have recently launched. Messaging was informed by community input, including focus groups. The Department of Health's social media posts on congenital syphilis prevention, which are being displayed in sites such as Instagram and Tik Tok, will run through March 31, 2025.

Congenital Syphilis Elimination Framework Updates

The AIDS Institute is excited to announce that the Congenital Syphilis Elimination Framework, developed by the Congenital Syphilis Elimination Strategic Planning Group, is [now posted](#). The Congenital Syphilis Elimination Framework outlines the vision of forty-three (43) New York State community members to eliminate congenital syphilis throughout NYS with immediate and long-term support for all impacted groups. It also highlights the persistent disparities in syphilis rates and congenital syphilis for Black females compared to White females. The Congenital Syphilis Elimination Framework, which is a summary of the Planning Group's work from its inception in 2023 through 2024, demonstrates the aligned efforts of New Yorkers working to address rising rates of congenital syphilis.

- The overarching goals from the recommendations include:
- Expanding access and testing opportunities in both traditional healthcare settings and non-traditional environments leveraging advances in testing technology,
- Educating and increasing awareness among patients, partners, and the public,
- Improving and ensuring provider education and accountability,
- Strengthening public health and partner collaboration,
- Increasing and supporting data sharing and surveillance, and
- Creating systems to support an immediate response.
- A series of discussion forums are being held throughout 2025 to hear from community collaborators about the feasibility of implementing recommendations.

MPOX

In February, New York State became the fourth State in the United States to report a travel-related case of mpox clade 1. In addition to urgent public health outreach, and assurance of care for the individual, the New York State Department of Health swiftly issued a [Health Advisory](#) to health care providers across the state. As of March 10, 2025, no forward transmissions have been documented.

Annual New York State Hepatitis C Elimination Progress Report

The AIDS Institute is pleased to announce registration is open for the Annual New York State Hepatitis C Elimination Progress Report Meeting to be held virtually 10 am – 2 pm on May 14, 2025.

The purpose of this meeting is to share New York's progress toward reaching its elimination goals and spotlight promising practices from across the State. The keynote address, Leveraging Syndemic Approaches to Eliminate Hepatitis C will be provided by Boatemaa Ntiri-Reed, Senior Director, Syndemic Approaches for the National Alliance of State and Territorial AIDS Directors. New York State and New York City will report on the elimination metrics as well as programmatic, policy and other significant accomplishments. Updates on the advances in hepatitis C testing and treatment, as well as a live demonstration on the NYS Hepatitis C Dashboard will also be provided during the meeting.

The registration flyer and full agenda can be found on the New York State Department of Health's Hepatitis C website: <https://www.health.ny.gov/diseases/communicable/hepatitis/>

Office of Diversity, Equity, and Inclusion

Updated Policy, Public Notice, and Complaint Form for Title VI Complaints

Under the leadership of the Center for Diversity, Equity and Inclusion, the New York State Department of Health has posted an updated policy, public notice, and complaint form for Title VI complaints.

Title VI Civil Rights Act of 1964 assures that no person in the United States shall be excluded from participation in, be denied the benefit of, or subjected to discrimination under any program or activity receiving federal assistance.

Any person who believes they have individually, or as a member of any specific class of persons, been excluded from participation in, been denied the benefits of or otherwise been subjected to discrimination under any New York State Department of Health service, program or activity and believes the discrimination is based on race, color, national origin, sex, age, disability or limited ability to speak English, has the right to file a written complaint.

Persons can submit a written complaint to the Title VI Coordinator via the Department of Health website, to the Division of Human Rights, or directly to a federal or state agency from which the New York State Department of Health receives federal funds. Complaints must:

- Be made within 180 days of the alleged discrimination
- Pertain to a federally funded program
- Have occurred in New York State

The New York State Department of Health's Title VI complaint procedure includes initial complaint processing, preliminary inquiry to determine the need for further investigation, and complaint investigation which determines the results of the investigation. As a result, it may be determined that the complaint does not meet Title VI requirements. If so, the complainant would be referred to the appropriate entity. Or corrective action may occur depending on federal program.

The New York State Department of Health's Title VI Public Notice, Policy and Complaint Form are posted publicly on the Department of Health's website:

https://www.health.ny.gov/about/title_vi/

Department of Health Recognition of Black History Month

February was Black History Month, and this year's theme for commemoration was African Americans and Labor. The New York State Department of Health held multiple events to recognize Black History Month with Department staff. The events ran throughout the month of February. The first three (3) weeks were dedicated to exploring key periods in time in the history and experiences of African Americans via a Discussion Series. Participants had the opportunity to view contents of documentaries, podcasts and videos, and to share in engaging and thought-provoking follow-up discussions based on the media screenings.

The last week of Black History Month culminated with an in-person event at the 90 Church St. Metropolitan Regional Office (with virtual connection to all the New York State Department of Health Office locations) featuring a panel discussion with experts in the field of STEM, a performance by a local musician, a presentation by a local artist and refreshments.

Office of Minority Health and Health Disparities Prevention

April is Minority Health Month

The New York State Department of Health Office of Minority Health and Health Disparities Prevention (OMH-HDP) will host four panel presentations via Zoom/WebEx during April's National Minority Health Month. This year's theme is ***Advancing Commitments to Eliminate Health Disparities***. The 1.5-hour long presentations will take place on Thursday on the following dates: April 3, April 10, April 17, and April 24, 2025, from 12:00 p.m. - 1:30 p.m. These workshops are intended to inform in the areas of racial and health equity, and the historical and current challenges creating health inequities in accessing quality health care, and efforts utilized to dismantle health disparities. Participants will have an opportunity to ask questions of the panel at the end of each panel presentation.

Ongoing Development of the Department of Health's Language Access Report

The Office of Language Access within the New York State Office of General Services requests the submission of the Annual Reporting which supports Executive Law Section 202-a to ensure the provision of language services to linguistically diverse New Yorkers when accessing government programs and services. As the Department's Language Access Coordinator, the Office of Minority Health and Health Disparities Prevention is working with staff across the Department to develop the required annual report. The annual report does this by showing OLA (Office of Language Access), the amount of language access services rendered for the year. According to the 2023-24 Annual reporting tool, total amount documents translated (217,912), and total number of Video Remote Interpretation and Over-the-phone Interpretation services rendered (2,469). The report is to be submitted at the end of April and an update will be provided at the next meeting on the Report findings.

Small-Scale Health and Wellness Initiative

The Office of Minority Health and Health Disparities Prevention is proud to shine a light on its Small-Scale Health and Wellness Initiatives funded in collaboration with our trusted community partners. Between February 14, 2025-March 14, 2025, the following entities (which are all located in ethnically diverse communities across NYS) pulled together staff and volunteers to serve its respective communities with robust health and wellness activities and events:

- ***Cancer Action, Inc.***: Cancer Action Inc. announced a transformative Women's Retreat scheduled for March 15, 2025, aimed at supporting sixty women navigating the challenges of a cancer diagnosis at various stages. In honor of Women's History Month, the retreat celebrated the legacy of influential Rochesterians Susan B. Anthony and Frederick Douglass, intertwining themes of empowerment, mindfulness, and wellness with the rich history of the women's suffrage movement. Participants engaged in a mix of breakout sessions, wellness activities, and educational presentations, featuring esteemed guest speakers from our community. The funds covered essentials such as venue rental, meals, program facilitator fees, and supplies, as well as partial salaries for our dedicated team working tirelessly to plan and implement this meaningful retreat.

- ***Capital District LATINOS:*** In the heart of Albany's Westhill neighborhood, the Capital District LATINOS food pantry serves as an essential resource for low-income residents, with 99.5% of participants experiencing economic difficulties. With a median household income of \$34,800, Westhill ranks among the city's most economically disadvantaged areas and is designated as a food desert, where 21% of adults face food insecurity. The pantry not only tackles immediate hunger but also offers culturally relevant food options that reflect the diverse backgrounds of our community. With the cost of these vital items increasing, the additional funding was crucial for maintaining inventory.
- ***United Way Dutchess Orange Region:*** The United Way of Dutchess Orange Region requested funds for a "Day of Sharing" event, which was held on March 7, 2025. Funding supported the distribution of essential hygiene items, hygiene kits, and feminine products to those in need, along with other vital resources. United Way Dutchess Orange Region collected surveys and demographic information to better understand and address community's needs.
- ***Mt. Vernon Neighborhood Health Center:*** Mount Vernon Neighborhood Health Center, dba Westchester Community Health Center, is on a mission to promote health and wellness within the community. Funding supports the purchase of 1,000 dental hygiene kits for children, teens, and adults, as well as 1,000 bags of nutritious food. These essential hygiene kits and food bags will be distributed during our Mobile Unit visits to local churches, shelters, and schools, ensuring that those in need have access to vital resources.
- ***United Way Rockland County:*** The United Way of Rockland County, Inc. received funding to support a crucial health initiative for Latinx residents in the Town of Haverstraw, in partnership with Montefiore Nyack Hospital (MNH). On March 1 and March 2, the United Way Rockland County hosted two days of comprehensive medical screenings at the Haverstraw Center, offering essential services such as cholesterol and glucose screenings, EKGs, BMI evaluations, blood pressure checks, and breast cancer risk assessments from 9:00 am to 2:30 pm, coinciding with food pantry hours to encourage participation. Transportation was provided by BRIDGES to ensure accessibility, and on March 4, 6, and 7, women identified as at risk for breast cancer received transportation for mammogram appointments at Montefiore Nyack Hospital.
- ***Chinese Community Center:*** The Chinese Community Center (CCC) conducted a Senior Mental and Physical Health Initiative from February 17 to March 12. This comprehensive program aims to enhance the well-being of our senior community through a series of enriching activities. Participants looked forward to 1-2 informative seminars featuring both Chinese and Western medicine, offering free consultations to address health concerns. Additionally, 3-4 engaging art and cultural workshops, hosted by Chinese Community Center, were designed to promote mental and physical wellness. Participants enjoyed activities such as Tai Chi, Chinese painting, folk instrument lessons, and more. Seniors were welcome, particularly those from low-income groups and those needing transportation assistance, with transportation being provided. To ensure everyone can participate, free meals were also available for all attendees.

Department of Health's Health Literacy Committee

The Office of Minority Health and Health Disparities Prevention is reconstituting the Department's Health Literacy Committee, which was put on pause during the COVID-19 pandemic to focus efforts on pandemic response. The committee's goal is to strengthen individual and organizational health literacy by promoting best practices, developing resources, and identifying strategies to make health communication more effective, within the Department and beyond. The Health Literacy Committee will play a vital role in advancing the Department of Health's commitment to health equity. Committee members are being identified, with the first meeting scheduled for April or May of 2025.

Pursuant to the authority vested in the Public Health and Health Planning Council and the Commissioner of Health by section 2803 of the Public Health Law, Section 405.45 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Clause (d) of subparagraph (ii) of paragraph (1) of subdivision (c) of section 405.45, is amended to read as follows:

(d) A hospital seeking Level I, Level II, or Level III trauma center designation shall require that [any] the verification review team for the first verification site visit, as provided by ACS-COT, or other entity determined by the Department, include a nurse reviewer. The hospital shall submit to the Department documentation confirming that a nurse reviewer was a member of the verification review team for the first site visit.

REGULATORY IMPACT STATEMENT

Statutory Authority:

The authority for this regulation is contained in Public Health Law (PHL) section 2803. Pursuant to PHL § 2803(2), the Public Health and Health Planning Council (PHHPC) is authorized to adopt and amend rules and regulations, subject to the approval of the Commissioner, to implement the purposes and provisions of PHL Article 28, and to establish minimum standards governing the operation of hospitals.

Legislative Objectives:

The legislative objectives of PHL Article 28 include the protection and promotion of the health of the residents of the State. The proposed rule will remove the requirement that a nurse reviewer be present at the re-verification process for a trauma center and only require one be present at the initial verification.

Needs and Benefits:

The State Trauma Advisory Committee (STAC) and the Bureau of Emergency Medical Services (BEMS) agree that facilities seeking new designation as a trauma center must have a nurse reviewer at the initial verification visit by the American College of Surgeons Committee on Trauma (ACS-COT) or other entity determined by the Department, but need not have a nurse reviewer at re-verification visits. This updated regulation will keep the process of trauma center verification safe and efficient, decreasing the burden on future trauma center site visits.

Costs:

Costs for the Implementation of, and Continuing Compliance with the Regulation to the Regulated Entity:

There are no additional costs associated with the proposed rule change.

Costs to State and Local Governments:

There are no costs that will be imposed on State or local governments.

Costs to the Department of Health:

There are no new costs imposed upon the Department of Health by the proposed regulation.

Local Government Mandates:

There are no local government mandates imposed by the proposed regulation.

Paperwork:

There is no paperwork that local governments will be required to complete.

Duplication:

There is no duplication of services resulting from this proposed change.

Alternatives:

The alternative to the proposed rule change was to leave the existing language in 10 NYCRR § 405.45(c)(1)(ii)(d) as it currently stands. However, the proposed change was

recommended by the STAC and is intended to streamline the re-verification process for trauma centers.

Federal Standards:

There is no conflict with federal standards.

Compliance Schedule:

The proposed regulation change will take effect upon publication of the Notice of Adoption in the State Register and will affect facilities applying for initial trauma center verifications and re-verifications thereafter.

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**STATEMENT IN LIEU OF
REGULATORY FLEXIBILITY ANALYSIS**

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

**STATEMENT IN LIEU OF
RURAL AREA FLEXIBILITY ANALYSIS**

A Rural Area Flexibility Analysis for these amendments is not being submitted because amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.

**STATEMENT IN LIEU OF
JOB IMPACT STATEMENT**

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have a substantial adverse impact on jobs and employment opportunities.

Pursuant to the authority vested in the Public Health and Health Planning Council and the Commissioner of Health by section 2803 of the Public Health Law, section 405.4 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) is hereby amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Subparagraph (ii) of paragraph (1) of subdivision (f) of section 405.4 is amended to read as follows:

(ii) [except for individuals eligible for licensure under section 6528 of the State Education Law,] a graduate of a foreign medical school who enrolled in such medical school after October 1, 1983 shall have completed the clinical component of a program of medical education which:

(a) included no more than 12 weeks of clinical clerkships in a country other than the country in which the medical school is located; or

(b) included clinical clerkships of greater than 12 weeks in a country other than the country in which the medical school is located [if], provided:

(1) the clinical clerkships were offered by a medical school approved by the State Education Department for the purposes of clinical clerkships; or

(2) the individual subsequently completed a post-graduate training program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and the individual is eligible to complete additional training in a postgraduate fellowship program.

Paragraph (2) of subdivision (g) of Section 405.4 is amended to read as follows:

(2) (i) physicians who possess limited permits to practice medicine issued by the New York State Education Department pursuant to section 6525 of the State Education Law if such physicians are under the supervision of a physician licensed and currently registered to practice medicine in the State of New York, and if the physicians possessing limited permits are:

[(i)] (a) graduates of a medical school [offering a medical program accredited by the Liaison Committee on Medical Education or the American Osteopathic Association, or] registered with the State Education Department or accredited by an accrediting organization acceptable to the State Education Department, and have satisfactorily completed one year of graduate medical education in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or their predecessors or successors [or an equivalent accrediting agency acceptable to the State Education Department];
or

[(ii)] (b) graduates of a foreign medical school, defined as those schools which are not accredited or registered by the State Education Department pursuant to clause (a) of this subparagraph, and have satisfactorily completed three years of graduate medical education in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education [or], the American Osteopathic Association, or the Committee on Accreditation of Canadian Medical Schools, or their predecessors or successors [or an equivalent accrediting agency acceptable to the State Education Department; or];

[(iii)] graduates of a foreign medical school who have satisfactorily completed three years in a postgraduate training program and who are receiving advanced training as part of an official

exchange visitor program approved by the United States Information Agency and the Educational Commission for Foreign Medical Graduates (ECFMG);]

(ii) if the physician possessing the limited permit has not completed a postgraduate training program of a satisfactory length or accreditation, as set forth in subparagraph (i) of this paragraph, but such physician will be directly employed by a public hospital licensed under article 28 of the Public Health Law, such physician shall be permitted to provide patient care services within such hospital. Provided, however, that such limited permit holder must be directly supervised by a physician licensed and currently registered to practice medicine in the State of New York, who is credentialed by the hospital in the field in which the limited permit holder is practicing, and who is responsible for monitoring and supervising the limited permit holder in the same manner as required for supervision and monitoring of postgraduate trainees pursuant to paragraph (3) of subdivision (f) of this section. For the purposes of this subdivision, a public hospital shall mean a general hospital operated by a county, municipality, or public benefit corporation;

REGULATORY IMPACT STATEMENT

Statutory Authority:

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

Legislative Objectives:

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

Needs and Benefits:

Needs and Benefits of Proposed Amendments to Section 405.4(f):

Under 10 NYCRR section 405.4(f), a post-graduate trainee (intern or resident) may practice medicine in a hospital under licensing exemptions set forth in Education Law section 6526. 10 NYCRR section 405.4(f)(1)(ii)(b) contains special requirements for graduates of foreign medical schools to engage in such a post-graduate training program, including setting forth the “12-week rule.” Specifically, under this provision, if the graduate of the foreign medical school had a clinical clerkship of greater than 12 weeks in a country other than the country where their medical school was located, then the clinical clerkship must have been in a “a medical school approved by the State Education Department for the purposes of clinical clerkships.”

There are currently only 17 international medical schools approved by the State Education Department (SED) “for the purposes of clinical clerkships.” If a medical school is not one of these 17 schools approved by SED for the purposes of clinical clerkships, and a graduate of that medical school received more than 12 weeks of clerkship education in another country to complete the requirements for the applicant’s medical education degree, that graduate is barred from enrolling in any post-graduate training program that includes providing patient care services in a New York teaching hospital.

The proposed amendment to section 405.4(f)(1)(ii)(b) would allow individuals who subsequently completed a post-graduate training program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and who is eligible to complete additional training in a postgraduate fellowship program, to meet the “12-week” exception to graduate medical education that occurs outside of the US. Considering severe physician staffing shortages throughout the State, this proposed revision is necessary to expand the number of sufficiently educated and trained physicians who can practice in post-graduate training programs in New York State hospitals.

Needs and Benefits of Proposed Amendments to Section 405.4(g):

10 NYCRR section 405.4(g)(2) allows an unlicensed physician to provide medical services in a general hospital under a limited permit to practice medicine, issued by SED pursuant to Education Law section 6525 if SED determines that the applicant meets criteria for issuance of a limited permit and appropriate levels of supervision and oversight are in place.

Section 405.4(g)(2) requires additional years of post-graduate training, beyond what is required for a limited permit under Education Law section 6525, in order for a holder of an SED-issued “limited permit” to provide care in a “general hospital,” with the number of years of post-

graduate training dependent on whether the limited permit holder graduated from a foreign or domestic medical school. Public Health Law section 2801(10) defines “general hospital” as a facility that provides medical and surgical services primarily to in-patients under 24-hour supervision of a physician. The term “general hospital” does not include a “residential health care facility, public health center, diagnostic center, treatment center, out-patient lodge, dispensary and laboratory or central service facility serving more than one institution.”

Currently, section 405.4(g)(2) imposes additional years of training for limited permit holders, specifically one year for domestic medical graduates and three years for international (foreign) medical graduates, as a condition of working in a New York State hospital. This requirement was originally intended to ensure that international students’ educations were equivalent to those of physicians educated in the United States. As a result, hospitals hiring doctors to meet patient needs often must turn away otherwise qualified applicants to maintain compliance with the regulation. These candidates, if unable to work in New York State hospitals, may seek employment in other states or in other types of health care settings where the extra years of experience are not required.

SED already considers training and experience before approving and issuing limited permits; however, SED does not screen candidates for their eligibility to work in hospitals. In addition, limited permit holders working in other settings in New York State, such as nursing homes and psychiatric hospitals, are not required to have these additional years of training. As such, there is inconsistency in the standards required of limited permit holders with equivalent background and training, making limited permit holders less likely to be utilized in hospitals.

The proposed regulation, through the addition of new subparagraph (ii), would eliminate the additional years of post-graduate training required for limited permittees if the limited permit holder would be directly employed by a public hospital—defined in the regulation as a general hospital operated by a county, municipality, or public benefit corporation—and provided that the limited permit holder would be subject to the same supervision required of a medical resident. Given the shortage of licensed physicians to cover vital hospital services, this proposed amendment will eliminate a barrier to limited permit holders practicing in public hospitals, which serve a critical portion of New York’s patient population.

Overall, the Department of Health believes that amending both of these regulations is the most effective means to ease physician staffing shortages in hospitals, with guardrails to ensure that physicians educated outside of the US still meet an appropriate education and oversight bar. SED has reviewed and approved the proposed amendment, and they have support from key industry stakeholders. Finally, since all limited permit holders are subject to supervision and oversight by a licensed physician, their practice within the hospital will be monitored to help ensure the highest standards of patient care are met.

COSTS:

Costs to Private Regulated Parties:

This proposal will not result in increased costs to regulated parties.

Costs to Local Government:

This regulation amendment will not impact local governments unless they operate a general hospital. In any event, this proposal will not increase costs for local governments. They

are expected to help hospitals, including those operated by a local government, by alleviating physician staffing shortages.

Costs to the Department of Health:

The proposed regulatory changes will not result in any additional operational costs to the Department of Health.

Costs to Other State Agencies:

The proposed regulatory changes will not result in any additional costs to other State agencies.

Local Government Mandate:

The proposed regulatory changes will not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

The proposed regulatory changes will not create any additional paperwork.

Duplication:

There are no relevant State regulations which duplicate, overlap or conflict with the proposed regulatory changes.

Alternatives:

The alternative would be to take no action and have hospitals continue to screen limited permit holders for additional years of training as a condition of employment. This is not a viable option, however, as taking no action would only exacerbate the current physician staffing shortage.

Federal Standards:

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

Compliance Schedule:

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

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**STATEMENT IN LIEU OF
REGULATORY FLEXIBILITY ANALYSIS**

No Regulatory Flexibility Analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

**STATEMENT IN LIEU OF
RURAL AREA FLEXIBILITY ANALYSIS**

A Rural Area Flexibility Analysis for these amendments is not being submitted because amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.

STATEMENT IN LIEU OF JOB IMPACT STATEMENT

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



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.



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 Sariago (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 # 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 visits 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

Health Equity Impact Assessment

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

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

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 source 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 Discharges			Outpatient Visits		
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	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>
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



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%
Charity Care	.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>Year One</u>		<u>Year Three</u>	
	<u>Enterprise (2023)</u>		<u>Enterprise</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 # 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)	
Members:	
Michael Farbenblum*	50%
Stephen Mercurio	50%
Total	100%

Proposed Operator	
VS Servicer at Beacon 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 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

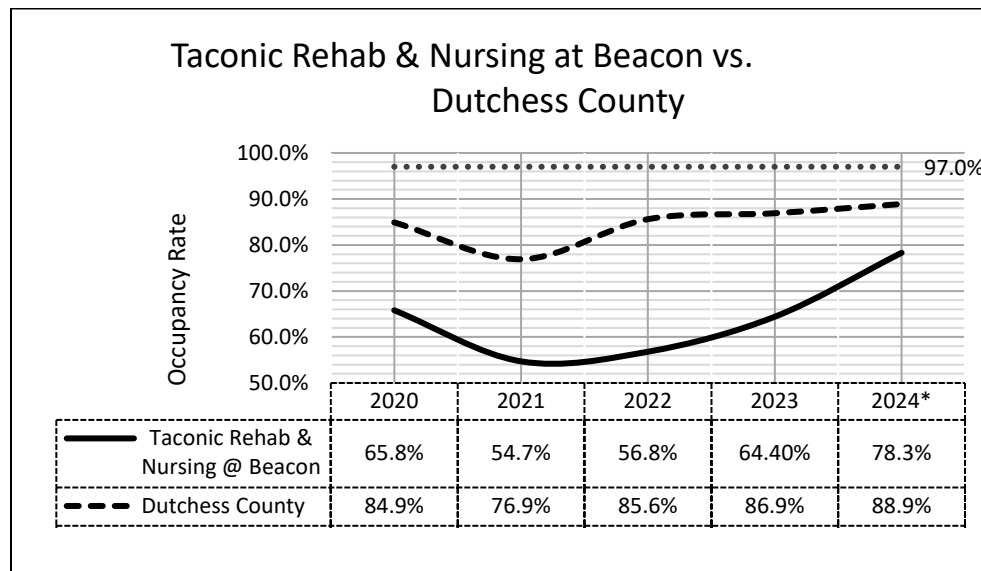
Need Analysis

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>	19.1%	18.5%	14.6%
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>
<u>Revenues</u>	<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) Year Two: \$636,300 (\$53,025² per month) Year Three: \$1,090,800 (\$90,900² per month) 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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish VS Servicer at Beacon LLC as the new operator of Taconic Rehabilitation and Nursing at Beacon (formerly known as Wingate at Beacon), a 160-bed residential health care facility at 10 Hastings Drive, Beacon, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

222053 E

FACILITY/APPLICANT:

VS Servicer at Beacon LLC d/b/a Taconic
Rehabilitation and Nursing at Beacon

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]

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



Project # 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

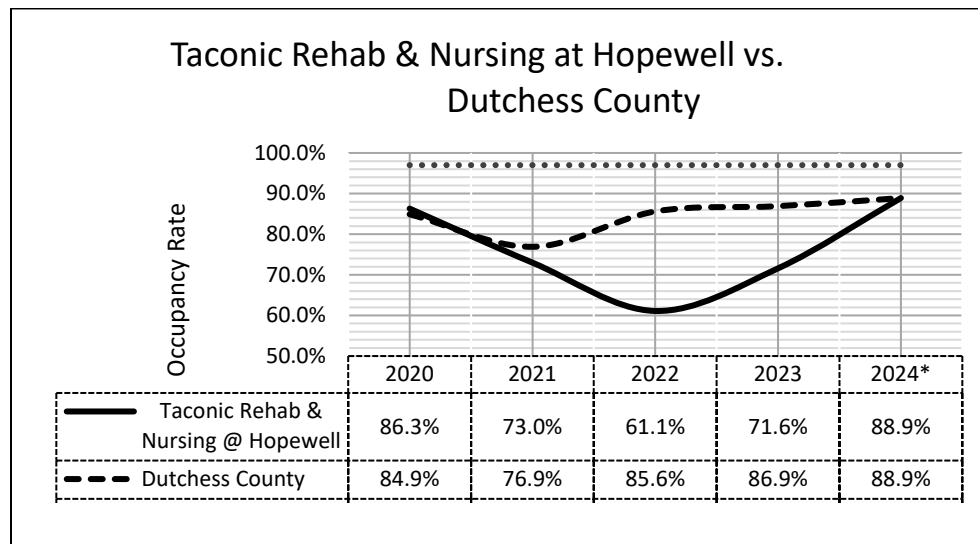
Need Analysis

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		Miles/Time	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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish VS Servicer at Fishkill LLC as the new operator of Taconic Rehabilitation and Nursing at Hopewell (formerly known as Wingate of Dutchess), a 160-bed residential health care facility at 3 Summit Court, Fishkill, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

222054 E

FACILITY/APPLICANT:

VS Servicer at Fishkill LLC d/b/a Taconic
Rehabilitation and Nursing at Hopewell

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]

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



Project # 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

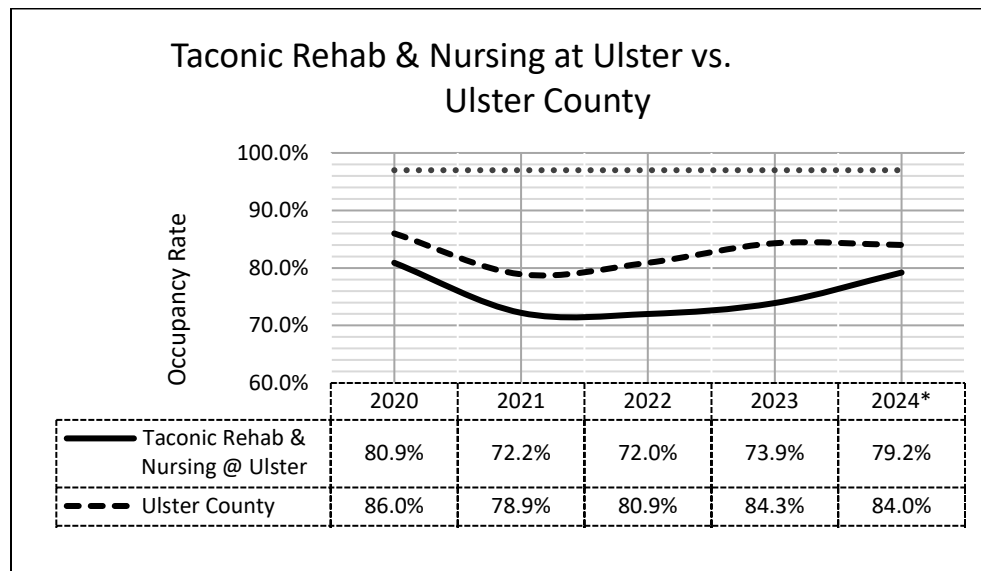
Need Analysis

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
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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					
		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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish VS Servicer at Ulster LLC as the new operator of Taconic Rehabilitation and Nursing at Ulster (formerly known as Wingate of Ulster), at One Wingate Way, Highland, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

222055 E

FACILITY/APPLICANT:

VS Servicer at Ulster LLC d/b/a Taconic
Rehabilitation and Nursing at Ulster

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]

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



Department of Health

Public Health and Health Planning Council

Project # 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).

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.

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

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

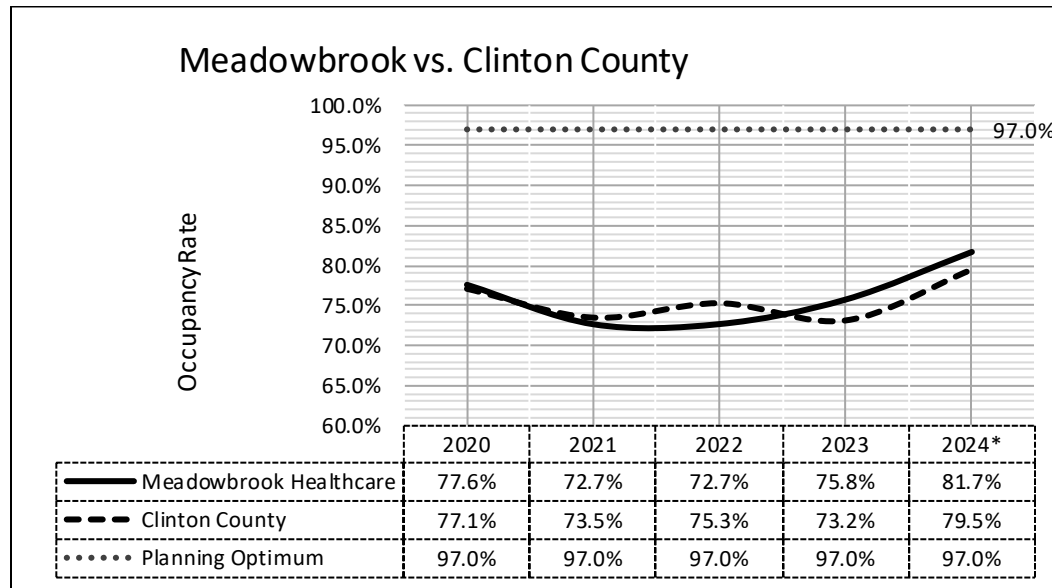
Need Analysis

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 RHCFs to Meadowbrook Healthcare. The next three closest RHCFs 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.

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish Meadowbrook Operating LLC as the new operator of Meadowbrook Healthcare, a 287-bed Residential Health Care Facility currently operated by CGSR, Inc at 54 Prospect Avenue, Plattsburgh, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

231043 E

FACILITY/APPLICANT:

Meadowbrook Operating LLC d/b/a
Meadowbrook Healthcare

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]

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



Project # 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.

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to transfer 10% ownership interest from one existing shareholder to one new shareholder, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

241267 E

FACILITY/APPLICANT:

Morningstar Residential Care Center

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]

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



**Department
of Health**

MEMORANDUM

To: Kathy Marks
General Counsel
Division of Legal Affairs

From: Jason Riegert, Deputy Director
Bureau of Program Counsel
Division of Legal Affairs

Date: March 20, 2025

Subject: The Bethel Springvale Nursing Home, Inc. – Corporate Purpose Change

The attached package was prepared by Alexa Nagy, Esq. for the Division of Legal Affairs. Relevant background material has been included.

I have reviewed the package and find it acceptable.

If you approve, please sign the memo and kindly return the package to me for further processing.

Thank you.



MEMORANDUM

To: Colleen Leonard, Executive Secretary
Public Health and Health Planning Council

From: Alexa Nagy, Senior Attorney
Bureau of Program Counsel
Division of Legal Affairs

Date: March 20, 2025

Subject: The Bethel Springvale Nursing Home, Inc. – Corporate Purpose Change

This is to request that the above matter be included on the agendas for the next Establishment and Project Review Committee and Public Health and Health Planning Council (PHHPC) meetings.

The attachments relating to this matter include the following:

- 1) Memorandum to the Public Health and Health Planning Council from Kathy Marks, General Counsel;
- 2) A photocopy of an email letter from Legal Counsel for The Bethel Springvale Nursing Home, Inc., Kristina M. Wesch, dated August 22, 2023;
- 3) A copy of the meeting minutes of the Board of Directors of The Bethel Springvale Nursing Home, Inc., dated March 2, 2023, authorizing the change of corporate purpose and amendment of the Certificate of Incorporation, with a proposed Restated Certificate of Incorporation;
- 4) A copy of the Corporate Bylaws of The Bethel Springvale Nursing Home, Inc.;
- 5) An executed photocopy of the proposed Restated Certificate of Incorporation of The Bethel Springvale Nursing Home, Inc., signed by Meg McGarrity, as Authorized Person, dated May 30, 2023;
- 6) A photocopy of the original Certificate of Incorporation for The Bethel Springvale Nursing Home, Inc., dated February 15, 1995, and filed on June 23, 1995, and Consent to File Letter of the Public Health Council for The Bethel Springvale Nursing Home, Inc., dated June 5, 1995;
- 7) A photocopy of the Certificate of Amendment of Certificate of Incorporation for The Bethel Springvale Nursing Home, Inc., dated November 13, 1995, and filed on November 15, 1995, and associated corporate documents and consents;
- 8) A photocopy of the Certificate of Amendment of Certificate of Incorporation for The Bethel Springvale Nursing Home, Inc., dated March 7, 1995, and filed on March 22, 2023, and associated corporate documents and consents; and
- 9) A proposed verified petition seeking the Attorney General's approval of the filing of the Certificate of Amendment of The Bethel Springvale Nursing Home, Inc.

Attachments

MEMORANDUM

To: Public Health and Health Planning Council (PHHPC)

From: Kathy Marks *KSM*
General Counsel

Date: March 20, 2025

Subject: The Bethel Springvale Nursing Home, Inc. – Corporate Purpose Change

The Bethel Springvale Nursing Home, Inc. ("BSNH") requests Public Health and Health Planning Council ("PHHPC") approval to change its corporate purpose and amend outdated information currently in the Certificate of Incorporation. The Bethel Springvale Nursing Home, Inc. was approved by PHHPC and consented to the filing of its Certificate of Incorporation on June 5, 1995, which was filed with the NYS Department of State on June 23, 1995. On November 13, 1995, the Public Health Council ("PHC") approved an amendment to the Certificate of Incorporation of BSNH, which was filed with the NYS Department of State on November 15, 1995.

BSNH needs to and requests to amend its Certificate of Incorporation to change its corporate purpose and amend outdated information throughout. Because the PHC previously approved BSNH's Certificate of Incorporation and amendments thereto, and the corporate purpose and the Certificate of Incorporation are now being amended, PHHPC approval of the Restated Certificate of Incorporation is now requested and required.

BSNH requests approval of the following amendments in its Restated Certificate of Incorporation:

1. To amend Paragraph 3, which sets forth the purposes for which the Corporation was formed, to remove subsection (a) in its entirety and to remove regulatory language related to the Corporation's prior mortgage with the U.S. Department of Housing and Urban Development ("HUD") in subsection (i), and to renumber existing subsections (b) through (i) accordingly.
2. To amend Paragraph 9, which sets forth the distribution of property or assets of the Corporation in the event of the Corporation's dissolution, to remove the last sentence.
3. To remove Paragraph 13, which sets forth restrictions on the amendment of the Certificate of Incorporation for so long as the HUD mortgage is outstanding, and mark it as "Reserved".

Pursuant to NY N-PCL § 804(a)(i) and 10 NYCRR § 600.11, PHHPC must consent to the requested changes prior to the filing of any amended certificate.

There is no legal objection to the change in corporate purpose and the amendments to outdated information, and the Restated Certificate of Incorporation of The Bethel Springvale Nursing Home, Inc. is in legally acceptable form.

Attachments

From: doh.sm.PHHPC
To: [Leonard, Colleen M \(HEALTH\)](#)
Subject: FW: The Bethel Springvale Nursing Home - Certificate of Incorporation Amendment
Date: Thursday, August 24, 2023 3:22:48 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[Certificate of Amendment to Certificate of Incorporation \(Third\).pdf](#)
[THE BETHEL SPRINGVALE NURSING HOME INC-NYS Certified Certificate of Incorporation.pdf](#)

From: Wesch, Kristina M. <KWesch@wiggin.com>
Sent: Tuesday, August 22, 2023 12:28 PM
To: doh.sm.PHHPC <phhpc@health.ny.gov>
Subject: The Bethel Springvale Nursing Home - Certificate of Incorporation Amendment

You don't often get email from kwesch@wiggin.com. [Learn why this is important](#)

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

I am reaching out because The Bethel Springvale Nursing Home (d/b/a Bethel Nursing and Rehabilitation Center) sold its SNF on May 5, 2023. We are amending the certificate of incorporation to, among other things, remove the purpose below. In my experience, in other deals, removing the Article 28 language once you no longer held the operating certificate was a post-closing requirement. Here, no such requirement was imposed. Nonetheless, we would like to remove the language and as a not-for-profit we need attorney general approval. The AG is ready to approve but has asked if we need authority from PHHPC/DOH to remove the purpose. Please advise on whether consent is required and what the next steps would be. For your reference I am also attaching the amendment and the current Certificate of Incorporation.

(a) To provide, on a nonprofit basis, a nursing home facility and services pursuant to Article 28 of the Public Health Law of the State of New York for the accommodation of convalescents or other persons who are not acutely ill and not

1

in need of hospital care, where no adequate housing exists for such groups, pursuant to Section 232 of the National Housing Act, as amended.

Kristina M. Wesch
Partner
Wiggin and Dana LLP

437 Madison Avenue, 35th Floor
New York, New York 10022
Direct: 212.551.2613 | kwesch@wiggins.com
www.wiggins.com



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Bethel Communities Management I, LLC

Bethel Nursing Home Company, Inc.
(Bethel Nursing Home and Bethel CHHA)

The Bethel Springvale Nursing Home Inc.
(Bethel Nursing and Rehabilitation Center)

The Bethel Methodist Home
(The Knolls IL, AL, SNF & ADC)

Living Independently for the Elderly Inc.
(The Springvale Inn and Bethel LHCSA)

**The Pines at Narragansett – a Housing
Development Fund**

MEETING OF EXEC & FINANCE COMMITTEE

Thursday, March 2, 2023
Via ZOOM Video Conferencing

Board Members

Robert Elliott
John Carrington
Richard Merbaum

Bethel Staff Members

Beth Goldstein
Anastasios Markopoulos

Mr. Elliott opened the meeting at 5:00 p.m.

EXECUTIVE COMMITTEE

BNRC Update

Mrs. Goldstein reported that we now expect the closing to take place on May 1st. It was delayed because of Passover and Attorney General approval.

A draft Certificate of Amendment for BNRC was reviewed (see attached), which will be emailed to all of the board members not present at tonight's meeting asking for approval to amend the Certificate of Incorporation and submit it to the Attorney General. This needs to be done so we can keep the 501(c)(3) corporation after the sale. As there was not a quorum of the board present approval of this Resolution will be obtained through absentee voting.

The Resolution was approved by absentee voting as follows:

Margaret McGarrity: via email on Friday 3/3/23, 2:13 pm

Robert Elliott: via email on Friday 3/3/23, 2:53 pm

John Carrington: via email on Friday 3/3/23, 4:00 pm

Andrew Samalin: via email on Sunday 3/5/23, 8:20 am

Richard Merbaum: via email on Sun 3/5/23, 5:49 pm

GLEN ARDEN

Mrs. Goldstein reported that the CON for the SNF was approved and the EHU should get approved any day. The Article 46 application is the final piece and is being reviewed. We hope to have all of it complete and closing can be set for June.

FINANCE COMMITTEE

Mr. Samalin asked Mr. Markopoulos to present the December 2022 financials. Mr. Markopoulos reported:

BNRC operated at a loss of \$491,429 compared to a budgeted loss of \$112,947;
BNH operated a gain of \$803,769 compared to a budgeted gain of \$3,324;
CHHA operated at a loss of \$48,277 compared to a budget of \$0;
ADC operated at a loss of \$19,189 compared to a budget of \$0;
BCM operated at a gain on \$24,115 compared to a budgeted gain of \$3,193;
LIFE operated at a loss of \$126,643 compared to a budgeted gain of \$49,340;
LHCSA operated at a loss of \$24,973 compared to a budgeted loss of \$6,457;
Angel Care operated at a loss of \$56,218 compared to a budget of \$0;
The Pines operated at a loss of \$37,999 compared to a budgeted loss of \$18,142;
The Knolls IH operated at a loss of \$76,498 compared to a budgeted gain of \$50,211;
The Knolls AL operated at a loss of \$22,851 compared to a budgeted loss of \$22,615;
The Knolls SNF operated at a loss of \$157,566 compared to a budgeted loss of \$8,271;
The Knolls ADC operated at a gain of \$19,143 compared to a budgeted gain of \$9,674.

Mr. Elliott adjourned the meeting at 5:45pm.

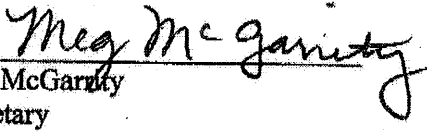
Approved by:


Beth Goldstein, CEO

ATTESTATION STATEMENT

The UNDERSIGNED Secretary of the Board of Directors of The Bethel Springvale Nursing Home, Inc. hereby attests that the annexed Resolutions were passed by a majority of the Board of Directors of The Knolls at Goshen, Inc. at a meeting held on March 2, 2023, at which a quorum of the Board of Directors was present at all times.

IN WITNESS WHEREOF, I have hereunto set my hand as Secretary and affixed the seal of said Corporation this 7th day of March 2023.


Meg McGarity
Secretary

**RESOLUTIONS OF
THE BOARD OF DIRECTORS OF
THE BETHEL SPRINGVALE NURSING HOME, INC.**

THE BETHEL SPRINGVALE NURSING HOME, INC. (the "Corporation"), a New York not-for-profit corporation, by and through its Board of Directors (the "Board"), at a meeting duly held pursuant to Section 711 of the New York State Not-for-Profit Corporation Law on March 2, 2023, resolves as follows:

WHEREAS, the Certificate of Incorporation of the Corporation was filed by the Department of State on June 23, 1995, and a Certificate of Amendment to the Certificate of Incorporation was filed by the Department of State on November 15, 1995; and

WHEREAS, the Board has determined that, it is advisable and in the best interests of the Corporation to amend the Certificate of Incorporation, as set forth in the Second Certificate of Amendment to the Certificate of Incorporation, in the form substantially attached as Exhibit A hereto (the "Certificate of Amendment").

NOW, THEREFORE, IT IS

RESOLVED, that it is advisable and in the best interests of the Corporation to amend the Certificate of Incorporation as set forth in the Certificate of Amendment; and be it further

RESOLVED, that the Certificate of Amendment be, and it hereby is, approved and adopted in all respects; and be it further

RESOLVED, that the officers of the Corporation (the "Authorized Officers") be, and each of them acting singly hereby is, authorized and empowered, in the name and on behalf of the Corporation, to execute, deliver and file the Certificate of Amendment with the New York Department of State and to pay any requisite fees in connection therewith; and be it further

RESOLVED, that the Authorized Officers be, and each hereby is, authorized, directed and empowered to take all such further action and to execute and deliver all such other instruments and documents in the name and on behalf of the Corporation and under its corporate seal or otherwise, and to perform any and all other acts, as in their judgment shall be necessary, proper or advisable in order to fully carry out the intent and to accomplish the purpose of the foregoing resolutions; and it is further

RESOLVED, that any and all acts, instruments and other writings heretofore or hereafter performed and/or executed and delivered pursuant to the foregoing resolutions, for and on behalf of and in the name of the Corporation in connection with the transactions contemplated hereby, be and the same hereby are, in all respects ratified, affirmed and approved; and be it further

RESOLVED, that these resolutions be effective immediately.

Exhibit A

Certificate of Amendment

See attached.

30827\1\4885-1784-6609.v1

**SECOND CERTIFICATE OF AMENDMENT
OF
THE CERTIFICATE OF INCORPORATION
OF
THE BETHEL SPRINGVALE NURSING HOME, INC.**
Pursuant to Section 803 of the Not-for-Profit Corporation Law

The undersigned, being the Secretary of the board of directors (the "Board of Directors") of The Bethel Springvale Nursing Home, Inc. (the "Corporation"), for the purpose of this Second Amendment to the Corporation's Certificate of Incorporation pursuant to Section 803 of the Not-for-Profit Corporation Law (this "Second Amendment"), hereby certifies:

1. The name of the Corporation is The Bethel Springvale Nursing Home, Inc.
2. A Certificate of Incorporation was filed by the Department of State on June 23, 1995 and a Certificate of Amendment to the Certificate of Incorporation was filed by the Department of State on November 15, 1995.
3. The Corporation was formed under the Not-for-Profit Corporation Law.
4. The Corporation is a corporation as defined in subparagraph (5) of paragraph (a) of Section 102 of the Not-for-Profit Corporation Law.
5. Paragraph THIRD of the Corporation's Certificate of Incorporation, which sets for the purposes for which the Corporation was formed, shall be amended to add a new subsection (b), and the existing subsections (b) through (i) shall be renumbered accordingly such that Article THIRD shall now read in its entirety as follows:

“(a) To provide, on a nonprofit basis, a nursing home facility and services pursuant to Article 28 of the Public Health Law of the State of New York for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, where no adequate housing exists for such groups, pursuant to Section 232 of the National Housing Act, as amended.

“(b) To provide, on a nonprofit basis, senior residential services through the establishment, operation and maintenance of an assisted living facility, a continuing care retirement community, an independent living community, or such other senior residential services as the Board of Directors may determine; provided, however, that the Corporation shall not establish or operate any such services without the prior written approval of the New York State Department of Health, the Continuing Care Retirement Community Council, or such other regulatory agency the approval

of which is required for the establishment, operation and maintenance of such services.

(c) The Corporation is irrevocably dedicated to and operated exclusively for, nonprofit purposes; and no part of the income or assets of the corporation shall be distributed to, nor inure to the benefit of, any individual.

(d) To receive, accept, hold, invest, reinvest and administer any funds, gifts, bequests, devises, contributions and property of any sort, whether real, personal, tangible or intangible, without limitation as to amount or value, and to use, disburse or donate the income or principal thereof for exclusively charitable, educational and scientific purposes, in such manner as, in the judgment of the Board of Directors, shall best promote the purposes of the Corporation, without limitation, except such limitations as may be contained in the instrument under which such property is received, this Certificate of Incorporation or any laws applicable thereto.

(e) To give, convey or assign any of its property outright, or upon lawful terms regarding the use thereof, to other organizations in the judgment of the Board of Directors, are engaged in the promotion of the health and the delivery of health care.

(f) To publicly solicit funds in furtherance of the foregoing purposes.

(g) To buy, own, sell, convey, assign, mortgage or lease any interest in real estate and personal property and to construct, maintain and operate improvements thereon necessary or incident to the accomplishment of the purposes set forth in Article THIRD (a) hereof.

(h) To borrow money and issue evidence of indebtedness in furtherance of any or all of the objects of its business, and to secure the same by mortgage, pledge or other lien on the Corporation's property.

(i) To do and perform all acts reasonably necessary to accomplish the purposes of the Corporation, including the execution of a Regulatory Agreement with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, and of such other instruments and undertakings as may be necessary to enable the Corporation to secure the benefits of financing with the assistance of mortgage insurance under the provisions of the National Housing Act. Such

Regulatory Agreement and other instruments and undertakings shall remain binding upon the Corporation, its successors and assigns, so long as a mortgage on the Corporation's property is insured or held by the Secretary of Housing and Urban Development.

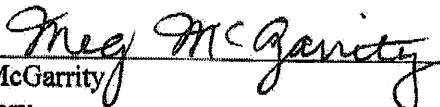
(j) To do any other lawful thing incidental to, connected with or useful, suitable or proper for the furtherance or accomplishment of the foregoing purposes."

6. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the Corporation is:

The Bethel Springvale Nursing Home, Inc.
2042 Albany Post Road, Suite 8
Croton-on-Hudson, New York 10520
Attention: Beth Goldstein, CEO

7. This Second Amendment was authorized by a vote of a majority of the entire Board of Directors of the Corporation at a meeting duly called for that purpose held on March __, 2023.

IN WITNESS WHEREOF, the undersigned have executed and signed this Certificate of Amendment this 7th day of March, 2023.


Meg McGarrity
Secretary

**CERTIFICATE OF AMENDMENT
OF
THE CERTIFICATE OF INCORPORATION
OF
THE BETHEL SPRINGVALE NURSING HOME, INC.**
Pursuant to Section 803 of the Not-for-Profit Corporation Law

The undersigned, being the Secretary of the board of directors (the "Board of Directors") of The Bethel Springvale Nursing Home, Inc. (the "Corporation"), for the purpose of this Second Amendment to the Corporation's Certificate of Incorporation pursuant to Section 803 of the Not-for-Profit Corporation Law (this "Second Amendment"), hereby certifies:

1. The name of the Corporation is The Bethel Springvale Nursing Home, Inc.
2. A Certificate of Incorporation was filed by the Department of State on June 23, 1995. A Certificate of Amendment to the Certificate of Incorporation was filed by the Department of State on November 15, 1995. A second Certificate of Amendment to the Certificate of Incorporation was filed by the Department of State on March 22, 2023.
3. The Corporation was formed under the Not-for-Profit Corporation Law.
4. The Corporation is a corporation as defined in subparagraph (5) of paragraph (a) of Section 102 of the Not-for-Profit Corporation Law.
5. Paragraph THIRD of the Corporation's Certificate of Incorporation, which sets forth the purposes for which the Corporation was formed, shall be amended to remove subsection (a) in its entirety and to remove regulatory language related to the Corporation's prior mortgage with the U.S. Department of Housing and Urban Development ("HUD") in subsection (i), and the existing subsections (b) through (i) shall be renumbered accordingly such that Article THIRD shall now read in its entirety as follows:

“(a) To provide, on a nonprofit basis, senior residential services through the establishment, operation and maintenance of an assisted living facility, a continuing care retirement community, an independent living community, or such other senior residential services as the Board of Directors may determine; provided, however, that the Corporation shall not establish or operate any such services without the prior written approval of the New York State Department of Health, the Continuing Care Retirement Community Council, or such other regulatory agency the approval of which is required for the establishment, operation and maintenance of such services.

(b) The Corporation is irrevocably dedicated to and operated exclusively for, nonprofit purposes; and no part of the income or assets of the corporation shall be distributed to, nor inure to the benefit of, any individual.

(c) To receive, accept, hold, invest, reinvest and administer any funds, gifts, bequests, devises, contributions and property of any sort, whether real, personal, tangible or intangible, without limitation as to amount or value, and to use, disburse or donate the income or principal thereof for exclusively charitable, educational and scientific purposes, in such manner as, in the judgment of the Board of Directors, shall best promote the purposes of the Corporation, without limitation, except such limitations as may be contained in the instrument under which such property is received, this Certificate of Incorporation or any laws applicable thereto.

(d) To give, convey or assign any of its property outright, or upon lawful terms regarding the use thereof, to other organizations in the judgment of the Board of Directors, are engaged in the promotion of the health and the delivery of health care.

(e) To publicly solicit funds in furtherance of the foregoing purposes.

(f) To buy, own, sell, convey, assign, mortgage or lease any interest in real estate and personal property and to construct, maintain and operate improvements thereon necessary or incident to the accomplishment of the purposes set forth in Article THIRD (a) hereof.

(g) To borrow money and issue evidence of indebtedness in furtherance of any or all of the objects of its business, and to secure the same by mortgage, pledge or other lien on the Corporation's property.

(h) To do and perform all acts reasonably necessary to accomplish the purposes of the Corporation.

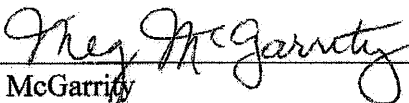
(i) To do any other lawful thing incidental to, connected with or useful, suitable or proper for the furtherance or accomplishment of the foregoing purposes."

6. Paragraph NINTH of the Corporation's Certificate of Incorporation, which sets forth the distribution of property or assets of the Corporation in the event of the Corporation's dissolution, shall be amended to remove the last sentence of such paragraph.
7. Paragraph THIRTEENTH of the Corporation's Certificate of Incorporation, which sets forth restrictions on the amendment of the Certificate of Incorporation for so long as the HUD mortgage is outstanding, is removed in the entirety and paragraph THIRTEENTH is marked as "Reserved."
8. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the Corporation is:

The Bethel Springvale Nursing Home, Inc.
2042 Albany Post Road, Suite 8
Croton-on-Hudson, New York 10520
Attention: Beth Goldstein, CEO

9. This Second Amendment was authorized by a vote of a majority of the entire Board of Directors of the Corporation at a meeting duly called for that purpose held on May
30, 2023.

IN WITNESS WHEREOF, the undersigned have executed and signed this Certificate of Amendment this 30th day of May, 2023.



Meg McGarrity
Secretary

**RESOLUTIONS OF
THE BOARD OF DIRECTORS OF
THE BETHEL SPRINGVALE NURSING HOME, INC.**

THE BETHEL SPRINGVALE NURSING HOME, INC. (the "Corporation"), a New York not-for-profit corporation, by and through its Board of Directors (the "Board"), at a meeting duly held pursuant to Section 711 of the New York State Not-for-Profit Corporation Law on May 30, 2023, resolves as follows:

WHEREAS, the Certificate of Incorporation of the Corporation was filed by the Department of State on June 23, 1995; a Certificate of Amendment to the Certificate of Incorporation was filed by the Department of State on November 15, 1995; and a second Certificate of Amendment to the Certificate of Incorporation was filed by the Department of State on March 22, 2023; and

WHEREAS, the Board has determined that, it is advisable and in the best interests of the Corporation to amend the Certificate of Incorporation, as set forth in the Certificate of Amendment to the Certificate of Incorporation, in the form substantially attached as Exhibit A hereto (the "Certificate of Amendment").

NOW, THEREFORE, IT IS

RESOLVED, that it is advisable and in the best interests of the Corporation to amend the Certificate of Incorporation as set forth in the Certificate of Amendment; and be it further

RESOLVED, that the Certificate of Amendment be, and it hereby is, approved and adopted in all respects; and be it further

RESOLVED, that the officers of the Corporation (the "Authorized Officers") be, and each of them acting singly hereby is, authorized and empowered, in the name and on behalf of the Corporation, to execute, deliver and file the Certificate of Amendment with the New York Department of State and to pay any requisite fees in connection therewith; and be it further

RESOLVED, that the Authorized Officers be, and each hereby is, authorized, directed and empowered to take all such further action and to execute and deliver all such other instruments and documents in the name and on behalf of the Corporation and under its corporate seal or otherwise, and to perform any and all other acts, as in their judgment shall be necessary, proper or advisable in order to fully carry out the intent and to accomplish the purpose of the foregoing resolutions; and it is further

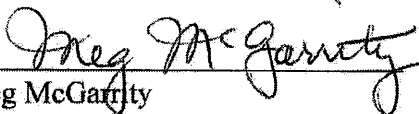
RESOLVED, that any and all acts, instruments and other writings heretofore or hereafter performed and/or executed and delivered pursuant to the foregoing resolutions, for and on behalf of and in the name of the Corporation in connection with the transactions contemplated hereby, be and the same hereby are, in all respects ratified, affirmed and approved; and be it further

RESOLVED, that these resolutions be effective immediately.

ATTESTATION STATEMENT

The UNDERSIGNED Secretary of the Board of Directors of The Bethel Springvale Nursing Home, Inc. hereby attests that the annexed Resolutions were passed by a majority of the Board of Directors of The Bethel Springvale Nursing Home, Inc. at a meeting held on _____, 2023, at which a quorum of the Board of Directors was present at all times.

IN WITNESS WHEREOF, I have hereunto set my hand as Secretary and affixed the seal of said Corporation this 30th day of May 2023.



Meg McGarity
Secretary

Exhibit A

Certificate of Amendment

See attached.

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**BY-LAWS
OF
THE BETHEL SPRINGVALE NURSING HOME, INC**

ARTICLE I

NAME AND PRINCIPAL OFFICE

Section 1 **Name.**

The name of this Corporation (which is referred to herein as the "Corporation") is **THE BETHEL SPRINGVALE NURSING HOME, INC.**

Section 2. **Principal Office**

The location of the principal office of the Corporation is Ossining, New York.

ARTICLE II

COMPOSITION OF THE CORPORATION

The Corporation, as a Type B Not-for-Profit Corporation elects, pursuant to Section 601(A) of the Not-for-Profit Corporation Law of the State of New York, shall have as follows:

MEMBERS

Section 1. **Member.**

- (a) The members of the Corporation shall be the members of the Board of Directors.
- (b) Membership shall be terminated only by the resignation or removal of a Director from the Board of Directors.

ARTICLE III

BOARD OF DIRECTORS

Section 1 **Management of the Corporation**

- (a) The property, business and affairs of the Corporation shall be managed by the Board of Directors of the Corporation. The Board of Directors shall have and execute all powers and perform all of the duties relating to the management of the Corporation, its property and the

conduct of its affairs not otherwise specifically provided for in these By-Laws. The Board of Directors shall authorize expenditures to carry out the purposes of the Corporation and to promote its best interests.

(b) Directors shall discharge their duties in good faith and with that degree of diligence, care and skill which ordinarily prudent persons would exercise under similar circumstances. A Director shall not receive compensation for services performed in his capacity as a Director, but shall be entitled to reimbursement for expenses incurred in the performance of his duties as a Director.

Section 2 Composition Board of Directors

(a) The Board of Directors of the Corporation shall consist of not less than five (5) and not more than fifteen (15) persons who shall be elected by the Board of Directors of the Corporation at the Annual Meeting of the Board of Directors of the Corporation.

(b) Each member of the Board of Directors shall be at least eighteen (18) years of age, or the minimum prescribed by the Not-for-Profit Corporation Law of the State of New York. Each member of the Board of Directors of the Corporation shall be a resident of the United State of America. In selecting the members of the Board of Directors of the Corporation, the Board of Directors shall consider factors which include, but which shall not necessarily be limited to, the candidate's demonstrated interest in the purposes and objectives of the Corporation and willingness to accept governance, the candidate's availability to actively participate in the activities of the Board of Directors of the Corporation, and the candidate's areas of interest and expertise.

Section 3 Term of Office

(a) The term of office of the Directors shall be as follows: Class 1, consisting of five (5) Directors, shall hold office for three (3) years; Class 2, consisting of five (5) Directors, shall hold office for three (3) years; and Class 3, consisting of five (5) Directors shall hold office for three (3) years.

(b) Each Director shall hold office until the expiration of the term for which he was elected, and until his successor has been elected and qualified.

(c) At each Annual Meeting of the Corporation, the Board of Directors of the Corporation shall elect, by a majority of votes cast, such number of Directors whose term of office expires in that year, provided that the total number of Directors shall not exceed the maximum number provided in Section 2(a) hereof.

Section 4 Vacancies

Vacancies occurring on the Board of Directors of the Corporation, for any reason, shall be filled by the Board of Directors of the Corporation. Such Directors elected to fill vacancies shall

only hold office until the next Annual Meeting of the Corporation , or until the successors of such Directors are elected, qualified and assume office, or until death, resignation or removal

Section 5. Resignation or Removal

(a) Any Director of the Corporation may resign at any time by delivering written notice of such resignation to the Secretary of the Board of Directors of the Corporation not less than fifteen (15) days prior to the effective date of the resignation. Unless otherwise specified, such resignation shall be effective as of the date set forth therein, or if no date is stated, upon its delivery to the Secretary

(b) Any Director of the Corporation may be removed at any time, with or without cause, at any Regular Meeting or Special Meeting of the Corporation, by a vote of a majority of the entire Board of Directors of the Corporation. Absence from attendance at three (3) consecutive meetings of the Board of Directors or Committees of the Board of Directors may be determined cause for removal.

Section 6. Meetings of the Board of Directors

(a) Annual Meetings of the Directors shall be held on such dates and at such times and places as shall be determined by the Board of Directors of the Corporation.

(b) Special Meetings of the Directors shall be called by the Secretary upon the request of the Chairman

(c) Written notice stating the time and place of any meeting of the Directors and unless it is an Annual Meeting, stating the purpose for which the meeting is called and indicating that such notice is being issued by or under the direction of the person calling the meeting, shall be sent to the Directors who have the right to vote at such meeting. Notice shall be given personally or by first class mail and shall be deemed to be given when delivered personally or deposited in the United States mail, postage prepaid not less than ten (10) days nor more than fifty (50) days before the date of the meeting. Notwithstanding the foregoing, notice need not be given by any Director who submits a signed waiver of notice in person or by proxy, whether before or after the meeting. The attendance of any such Director at a meeting in person or by proxy, without protesting prior to or at the commencement of the meeting, the lack of notice of such meeting shall constitute a waiver of notice by such Director

No business other than that specified in the Notice of Special Meeting shall be transacted at such meeting. If an emergency situation arises, the President may waive the requirement for Ten (10) days' written notice, however reasonable efforts shall be made to notify all Directors.

(d) Waiver of Notice

Notice of any meeting of the Corporation may be waived by any Director by written waiver or by personal attendance at such meeting.

(e) Minutes of Meetings

Minutes shall be maintained of all meetings of the Corporation, and shall reflect pertinent business conducted. Such minutes shall be regularly distributed to the Directors

(f) Quorum and Voting Requirements

(1) Quorum. Presence of a majority of the entire Board of Directors of the Corporation shall constitute a quorum for the transaction of any business at any meeting, except as otherwise required by law.

(2) Majority Vote. Except as otherwise provided by law or in these By-Laws, all matters shall be decided by vote of a majority of the Directors present at the time of the vote, if a quorum is present at such time. Each Director shall be entitled to one (1) vote. There shall be no voting by proxy.

(3) Vote of Two-Thirds of Entire Board of Corporation. Except as otherwise provided by law or in these By-Laws, action by the vote of at least two-thirds (2/3) of the entire Board of Directors of the Corporation at their Annual Meeting, Regular Meeting or Special Meeting held upon notice of the proposed action shall be required for:

(i) amendment of the Certificate of Incorporation;

(ii) amendment of the By-Laws of the Corporation;

(iii) the sale, lease or exchange or other disposition of all or substantially all of the assets of the Corporation;

(iv) merger or consolidation of the Corporation in accordance with Article IX of the Not-for-Profit Corporation Law;

(v) non-judicial dissolution of the Corporation in accordance with Article X of the Not-for-Profit Corporation Law

(vi) authorization for amendment of these By-laws to provide that the quorum or voting requirement for the transaction of any item of business be greater than that which is required by the Not for Profit Corporation Law; and

(vii) Repeal of this Section 6(f)(3).

(g) Action Without a Meeting

(1) Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all of the Directors consent in writing to the adoption of a resolution

authorizing the action. Such resolution and written consent thereto shall be filed with the minutes of the proceedings of the Corporation.

(2) The members of the Board of Directors may participate in a meeting of the Board of Directors by means of conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such meeting.

Section 7 Contracts or Transactions by the Corporation with
 Interested Directors, Officers and Other
 Individuals.

(a) Any contract or other transaction between the Corporation and one or more of its Directors or Officers, or between the Corporation and any other corporation, firm, association or other entity in which one or more of its directors or officers are Directors, Trustees, or Officers, or have a substantial financial interest therein, as determined by the Board of Directors, shall be void unless each of the following conditions are satisfied;

(1) the material facts of such director's or Officer's interest in such contract or transaction are fully disclosed in good faith to the Board of Directors by the interested Director or Officer and the Board of Directors of the Corporation authorize such contract or transaction in accordance with Section 6(f)(3), without the vote of any interested Director or Officer being counted for purposes of establishing a quorum or voting; and

(2) the interested Director or Officer establishes affirmatively that the contract or transaction is fair and reasonable to the Corporation and such determination is indicated in the minutes of the Board of Directors.

(b) For the purposes of Section 7(a) hereof, a Director or Officer shall be deemed to have a substantial financial interest in any corporation, firm, association or entity in which such person together with such person's parents and spouse, and all descendants of either or such person's parents or such person's spouse have an aggregate beneficial equity interest of ten percent (10%) or more.

(c) The interested Director or Officer shall not be present during that portion of the meeting of the Board of Directors at which his contract is discussed or approved, except to the extent that his presence is necessary in order to respond to questions of the Board of Directors.

ARTICLE IV

OFFICERS

Section 1. Officers.

(a) The Officers of the Corporation shall be:

President
Vice President(s)
Secretary; and
Treasurer

(b) Any two (2) of the foregoing Offices may be held by the same person, except for the Offices of President and Secretary.

Section 2. Election and Term of Office for Officers

(a) The Directors elected at the Annual Meeting of the Corporation shall elect from among the Directors so elected, at the first meeting of the Board of Directors after the Annual Meeting, the Officers of the Corporation. In the event of any failure to elect such Officers, any Officers then holding the office shall hold over and continue as such until their successors are elected and qualified.

(b) Each Officer shall hold Office for one (1) year, or until a successor has been elected and qualified, or until his death, or until he shall resign or shall have been removed in the manner hereafter provided.

(d) The foregoing Officers may be re-elected without restriction as to prior length of tenure in such office.

Section 3 Additional Officers, Appointees, Agents
and Employees

(a) The Board of Directors, at any meeting thereof, may appoint additional Officers including one (1) or more Assistant Secretaries and Assistant Treasurers and such appointees, agents and employees with such titles, authority and duties as it may deem advisable. All additional Officers must be members of the Board of Directors and all appointees, agents and employees shall serve at the pleasure of the Board of Directors.

(b) The Board of Directors may also employ or contract with such financial and investment advisors, counselors and custodians, brokers, attorneys or other individuals as it may deem necessary or advisable.

Section 4 Duties Applicable to All Officers

(a) All Officers shall discharge the duties of their office in good faith and with that degree of diligence, care and skill which ordinarily prudent persons would exercise under similar circumstances.

(b) In discharging their duties, Officers, when acting in good faith, may rely upon financial statements of the Corporation represented to them to be correct by the President or the Treasurer of the Corporation, or as stated in a written report prepared by an independent public or certified public accountant or firm of such accountants to fairly reflect the financial condition of the Corporation.

Section 5. Resignation, Removal and Vacancies of Officers

(a) Any Officer may resign at any time by giving written notice of such resignation to the Secretary of the Corporation. Unless otherwise specified in the notice, such resignation shall take effect upon receipt thereof by the Secretary.

(b) Any officer may be removed with or without cause at any time by a majority of the entire Board of Directors, at any duly constituted meeting thereof.

(c) Any vacancy in any Office occurring as a result of death, resignation or removal, or due to any other cause, shall be filled by the Board of Directors for the unexpired portion of the term at any Regular or Special Meeting of the Directors.

Section 6. President

The President shall preside at meetings of the Board of Directors. The President shall be a member ex-officio of all committees. The President shall have power to exercise all such acts as may be incident to his Office or as provided by law. The President and the Treasurer shall present at the Annual Meeting of the Corporation a report in accordance with Section 519 of the Not-for-Profit Corporation Law of the State of New York. The President, in addition, shall perform such other duties as the Board of Directors may from time to time prescribe.

Section 7. Vice President(s)

In the absence of the President, the Vice President(s), in order, shall perform the duties of the President. The Vice President(s), in addition, shall perform such other duties as the Board of Directors may from time to time prescribe.

Section 8. Secretary

The Secretary shall keep minutes of all meetings of the Corporation and shall preserve the minutes of said meetings in a formal minute record book to be supplied by the Board of Directors and to be kept as a permanent record in the Office of the Corporation. The Secretary shall give proper notice of the meetings, and shall perform like duties for committees when required. The Secretary, in addition, shall perform such other duties as the Board of Directors may from time to time prescribe.

Section 9 Treasurer

The Treasurer shall have responsibility for the custody of the funds and securities of the Corporation, keep full and accurate accounts of receipts and disbursements in the books of the Corporation, and deposit all money and other valuable effects in the name of and to the credit of the Corporation in such depository or depositories as may from time to time be designated by the Board of Directors. The Treasurer and the President shall present at the Annual Meeting of the Board of Directors a report in accordance with Section 519 of the Not-for-Profit Corporation Law of the State of New York. The Treasurer, in addition, shall perform such other duties as the Board of Directors may from time to time prescribe

ARTICLE V

CHIEF EXECUTIVE OFFICER

The Board of Directors of the Corporation shall select and appoint a qualified person, licensed as a Nursing Home Administrator in the State of New York, to serve as Chief Executive Officer of the Corporation, who shall bear the title of "Executive Director." The Executive Director shall take responsibility for the administration of the Corporation with such powers and responsibilities as the Board of Directors may determine. The Executive Director shall be responsible to the Board of Directors but shall report to and cooperate with the various Committees of the Board of Directors insofar as his or her activities may fall within the respective jurisdiction of such Committees

ARTICLE VI

COMMITTEES OF THE CORPORATION

Section 1 Appointment of Committees

(a) The Board of Directors shall have the power to appoint such Standing and Special Committees as it may, from time to time, deem to be appropriate, which Committees shall be chosen and governed by such rules as the Board of Directors may at that time adopt

(b) The Standing Committees set forth in this Article shall each consist of three (3) or more Directors, elected by the vote of a majority of the entire Board immediately after the Annual Meeting of the Corporation each year. The Committees shall perform the duties hereinafter described and such other duties as the Board may from time to time delegate to such Committees. The activities of each Committee shall be subject to the direction and control of the Board of Directors; however, the Committees shall have the power to take such action as they deem necessary in relation to their respective areas of responsibility and within the policies established by the Board of Directors, and to adopt their own rules of procedure. The membership of

Committees may be changed from time to time by the Board, which shall designate the Chairman of each Committee.

Section 2 The Executive Committee

The Executive Committee shall consist of the Officers of the Corporation who are Directors and such other Directors as may be chosen by the Board. The Executive Committee shall have the power to act for the Corporation in place of the Board of Directors and to perform all of the functions of the Board when the Board is not in session, excepting powers from which it is excluded by Section 712(a) of the Not-for-Profit Corporation Law of the State of New York. The Executive Committee shall report to the Board of Directors at each meeting of the Board, all actions taken by the Executive Committee since the Executive Committee's last report to the Board.

Section 3 The Committee on Finance

The Committee on Finance shall have supervision of all of the fiscal affairs of the Corporation. The Committee on Finance shall annually prepare a budget for approval by the Board of Directors and recommend such action to the Board of Directors as it may deem appropriate. The Committee on Finance shall be responsible for the investment of the surplus funds of the Corporation. The Committee on Finance shall have the power to take any action with respect to investments, except as such power may be limited by the Board of Directors and provided that the Committee on Finance shall have the duty of implementing any investment policies which may be fixed by the Board of Directors. The Committee on Finance shall recommend to the Board such action as it may deem advisable with respect to investment.

Section 4 The Committee on Administrative Services

The Committee on Administrative Services shall have supervision of all physical properties of the Corporation and shall be responsible for the maintenance and care of the properties, housekeeping and food services. The Committee on Administrative Services may incur reasonable expense in connection with the care of the properties and shall have the power to take such action as the Board may authorize and shall take any action it may deem necessary in case of any emergency involving the properties of the Corporation. The Committee on Administrative Services shall report to the Board and recommend such action as the Committee on Administrative Services may deem appropriate. In the absence of an emergency, the Committee on Administrative Services shall make no major repairs and incur no major expense without authority from the Board of Directors.

Section 5 The Committee on Patient Care Services

The Committee on Patient Care Services shall be responsible for the formulation of policies as they relate to the care of patients, including but not limited to admissions, medical, nursing, social activity, volunteer services, rehabilitative services and spiritual concerns.

Section 6. The Committee on Personnel

The Committee on Personnel shall be responsible for the formulation of employment and personnel policies and shall participate in the selection of the executive staff as directed by the Board of Directors or as requested by the Executive Director.

Section 7. The Committee on Promotion

The Committee on Promotion shall be responsible for publicizing the activities of the Corporation and generally promotion relations with the public. The Committee on Promotion shall do whatever in its judgment is necessary to interest people in the services offered by the Corporation.

Section 8. The Committee on Audit

The Committee on Audit shall be responsible for the audit of the books of the Corporation, annually, or at such other times as the Committee on Audit or the Board of Directors may deem appropriate. A financial statement certified by an independent certified public accountant shall be rendered to the Corporation annually at such time or times as the Board of Directors may determine.

Section 9. The Nominating Committee

The Nominating Committee shall be responsible for nominating to the Board of Directors of the Corporation candidates for election to the Board of Directors of the Corporation and to the Board of Directors of the Corporation, candidates for Officers of the Corporation.

ARTICLE VII

EXECUTION OF INSTRUMENTS AND SURETY BONDS

Section 1. Execution of Instruments

All documents, contracts or other instruments of any nature shall be executed and delivered in the name of and on behalf of the Corporation, by such Directors, Officers, appointees, agents or employees, or any one of them, and in such manner as from time to time may be determined by the Board of Directors. Unless the Board shall have specifically designated another Officer, the Executive Director, the President of the Board, the Treasurer or the Secretary shall have the power in the name and on behalf of the Corporation to execute and deliver any and all of said instruments, except to the extent otherwise required by law in the case of the purchase, sale, mortgage or lease of real property.

Section 2. Surety Bonds

The Board of Directors may require any Director, Officer, agent, appointee or employee who has or who may have possession, custody or control of monies, securities or other properties of the Corporation to give security for the faithful performance of his duties, in such sums and with such surety or sureties, and on such conditions as the Board of Directors from time to time shall determine. The expenses of such bond shall be borne by the Corporation.

Section 3. Loans to Directors or Officers

As a Type B Corporation under the Not-for-Profit Corporation Law of the State of New York, no loans other than through the purchase of bonds, debentures or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, shall be made by the Corporation to its Directors or Officers, or to any other corporation, firm, association or other entity in which one or more of its Directors or Officers are trustees, directors or officers, or hold a substantial financial interest, except a loan to another Type B corporation. A loan made in violation of this Section shall be a violation of the duty to the Corporation or the Director of Office authorizing it or participating in it, but the obligation of the borrower with respect to the loan shall not be affected thereby

ARTICLE VIII

Not Utilized

ARTICLE IX

FISCAL YEAR

The fiscal year of the Corporation shall be from the first day of January to the thirty-first day of December, inclusive, each year, or from such other twelve (12) consecutive months as the Board of Directors may from time to time designate.

ARTICLE X

LIQUIDATION OR DISSOLUTION OF THE CORPORATION

The Corporation may be liquidated or dissolved only in accordance with the terms of the provisions of the Certificate of Incorporation.

ARTICLE XI

SEAL

The seal of the Corporation shall be circular in form and shall bear the name of the Corporation, the year and State of its incorporation, and such other insignia or matter as may be deemed appropriate by the Board of Directors and not contrary to law.

ARTICLE XII

WRITTEN NOTICE

Whenever written notice is required to be given to any person under these By-Laws, it may be given to such person either personally or by sending a copy thereof through the mail or by telegram, charged prepaid, to his address appearing on the books of the Corporation or supplied by him to the Corporation for the purpose of notice. If the notice is sent by mail or telegram, it shall be deemed to have been given to the person entitled thereto when deposited in the United States Mail or with a telegraph office from transmission to such person. Whenever any written notice is required to be given to any person, a waiver thereof, in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIII

WAIVER OF NOTICE

The giving of any notice required to be given under these By-Laws may be waived in writing by any person or persons entitled to said notice, whether before or after the time or event referred to in such notice, which waiver shall be equivalent to such notice. Attendance of a person at any meeting shall constitute a waiver of notice of such meeting, except when such person attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

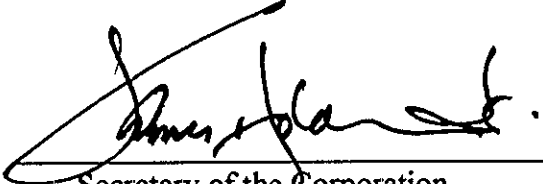
ARTICLE XIV

USE OF PRONOUNS "HE" AND "HIS" THROUGHOUT THESE BY-LAWS

The pronouns "he" and "his" are used exclusively throughout these By-Laws for the sake of convenience only, and shall be deemed, when the facts so require, to mean "she" and "her" respectively.

ADOPTED BY THE BOARD OF DIRECTORS
OF THE CORPORATION

Effective Date: 10-25-95


Secretary of the Corporation

**CERTIFICATE OF AMENDMENT
OF
THE CERTIFICATE OF INCORPORATION
OF
THE BETHEL SPRINGVALE NURSING HOME, INC.**
Pursuant to Section 803 of the Not-for-Profit Corporation Law

The undersigned, being the Secretary of the board of directors (the "Board of Directors") of The Bethel Springvale Nursing Home, Inc. (the "Corporation"), for the purpose of this Second Amendment to the Corporation's Certificate of Incorporation pursuant to Section 803 of the Not-for-Profit Corporation Law (this "Second Amendment"), hereby certifies:

1. The name of the Corporation is The Bethel Springvale Nursing Home, Inc.
2. A Certificate of Incorporation was filed by the Department of State on June 23, 1995. A Certificate of Amendment to the Certificate of Incorporation was filed by the Department of State on November 15, 1995. A second Certificate of Amendment to the Certificate of Incorporation was filed by the Department of State on March 22, 2023.
3. The Corporation was formed under the Not-for-Profit Corporation Law.
4. The Corporation is a corporation as defined in subparagraph (5) of paragraph (a) of Section 102 of the Not-for-Profit Corporation Law.
5. Paragraph THIRD of the Corporation's Certificate of Incorporation, which sets forth the purposes for which the Corporation was formed, shall be amended to remove subsection (a) in its entirety and to remove regulatory language related to the Corporation's prior mortgage with the U.S. Department of Housing and Urban Development ("HUD") in subsection (i), and the existing subsections (b) through (i) shall be renumbered accordingly such that Article THIRD shall now read in its entirety as follows:

“(a) To provide, on a nonprofit basis, senior residential services through the establishment, operation and maintenance of an assisted living facility, a continuing care retirement community, an independent living community, or such other senior residential services as the Board of Directors may determine; provided, however, that the Corporation shall not establish or operate any such services without the prior written approval of the New York State Department of Health, the Continuing Care Retirement Community Council, or such other regulatory agency the approval of which is required for the establishment, operation and maintenance of such services.

(b) The Corporation is irrevocably dedicated to and operated exclusively for, nonprofit purposes; and no part of the income or assets of the corporation shall be distributed to, nor inure to the benefit of, any individual.

(c) To receive, accept, hold, invest, reinvest and administer any funds, gifts, bequests, devises, contributions and property of any sort, whether real, personal, tangible or intangible, without limitation as to amount or value, and to use, disburse or donate the income or principal thereof for exclusively charitable, educational and scientific purposes, in such manner as, in the judgment of the Board of Directors, shall best promote the purposes of the Corporation, without limitation, except such limitations as may be contained in the instrument under which such property is received, this Certificate of Incorporation or any laws applicable thereto.

(d) To give, convey or assign any of its property outright, or upon lawful terms regarding the use thereof, to other organizations in the judgment of the Board of Directors, are engaged in the promotion of the health and the delivery of health care.

(e) To publicly solicit funds in furtherance of the foregoing purposes.

(f) To buy, own, sell, convey, assign, mortgage or lease any interest in real estate and personal property and to construct, maintain and operate improvements thereon necessary or incident to the accomplishment of the purposes set forth in Article THIRD (a) hereof.

(g) To borrow money and issue evidence of indebtedness in furtherance of any or all of the objects of its business, and to secure the same by mortgage, pledge or other lien on the Corporation's property.

(h) To do and perform all acts reasonably necessary to accomplish the purposes of the Corporation.

(i) To do any other lawful thing incidental to, connected with or useful, suitable or proper for the furtherance or accomplishment of the foregoing purposes."

6. Paragraph NINTH of the Corporation's Certificate of Incorporation, which sets forth the distribution of property or assets of the Corporation in the event of the Corporation's dissolution, shall be amended to remove the last sentence of such paragraph.
7. Paragraph THIRTEENTH of the Corporation's Certificate of Incorporation, which sets forth restrictions on the amendment of the Certificate of Incorporation for so long as the HUD mortgage is outstanding, is removed in the entirety and paragraph THIRTEENTH is marked as "Reserved."
8. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the Corporation is:

The Bethel Springvale Nursing Home, Inc.
2042 Albany Post Road, Suite 8
Croton-on-Hudson, New York 10520
Attention: Beth Goldstein, CEO

9. This Second Amendment was authorized by a vote of a majority of the entire Board of Directors of the Corporation at a meeting duly called for that purpose held on May
30, 2023.

IN WITNESS WHEREOF, the undersigned have executed and signed this Certificate of Amendment this 30th day of May, 2023.



Meg McGarrity
Secretary

**CERTIFICATE OF AMENDMENT TO
CERTIFICATE OF INCORPORATION
OF
THE BETHEL SPRINGVALE NURSING HOME, INC.**

Under Section 803 of the Not-for-Profit Corporation Law

Filed by: Wiggin and Dana LLP
437 Madison Avenue, 35th Floor
New York, New York 10022
Attn: Kristina M Wesch, Esq.

23913\2\4891-7503-6751.v6

**STATE OF NEW YORK
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for THE BETHEL SPRINGVALE NURSING HOME, INC., File Number 950623000243 has been compared with the original document in the custody of the Acting Secretary of State and that the same is true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on February 18, 2022.



Brendan C. Hughes

Brendan C. Hughes
Executive Deputy Secretary of State

F 950 623 000 243

CERTIFICATE OF INCORPORATION

OF

THE BETHEL SPRINGVALE NURSING HOME, INC.

**Under Section 402 of the Not-for-Profit
Corporation Law**

The undersigned incorporator, for the purpose of forming a Not-for-Profit Corporation under the laws of the State of New York and the requirements of Article 28 of the Public Health Law of the State of New York, hereby certifies:

FIRST: The name of the Corporation is **THE BETHEL SPRINGVALE NURSING HOME, INC.** (hereinafter referred to sometimes as the "Corporation").

SECOND: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B Corporation as defined in Section 201 of the Not-for-Profit Corporation Law.

THIRD: The Corporation is organized exclusively for charitable, educational and scientific purposes and the Corporation shall not carry on any activities not permitted to be carried on by a corporation exempt from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended.

The purposes for which the Corporation is formed are:

(a) To provide, on a nonprofit basis, a nursing home facility and services pursuant to Article 28 of the Public Health Law of the State of New York for the accommodation of convalescents or other persons who are not acutely ill and not

in need of hospital care, where no adequate housing exists for such groups, pursuant to Section 232 of the National Housing Act, as amended.

(b) The Corporation is irrevocably dedicated to and operated exclusively for, nonprofit purposes; and no part of the income or assets of the corporation shall be distributed to, nor inure to the benefit of, any individual.

(c) To receive, accept, hold, invest, reinvest and administer any funds, gifts, bequests, devises, contributions and property of any sort, whether real, personal, tangible or intangible, without limitation as to amount or value, and to use, disburse or donate the income or principal thereof for exclusively charitable, educational and scientific purposes, in such manner as, in the judgment of the Board of Directors, shall best promote the purposes of the Corporation without limitation, except such limitations as may be contained in the instrument under which such property is received, this Certificate of Incorporation or any laws applicable thereto;

(d) To give, convey or assign any of its property outright, or upon lawful terms regarding the use thereof, to other organizations, in the judgment of the Board of Directors, are engaged in the promotion of the health and the delivery of health care;

(e) To publicly solicit funds in furtherance of the foregoing purposes;

(f) To buy, own, sell, convey, assign, mortgage or lease any interest in real estate and personal property and to construct, maintain and operate improvements thereon necessary or incident to the accomplishment of the purposes set forth in Article THIRD (a) hereof;

(g) To borrow money and issue evidence of indebtedness in furtherance of any or all of the objects of its business, and to secure the same by mortgage, pledge or other lien on the Corporation's property.

(h) To do any perform all acts reasonably necessary to accomplish the purposes of the Corporation, including the execution of a Regulatory Agreement with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, and of such other instruments and undertakings as may be necessary to enable the Corporation to secure the benefits of financing with the assistance of mortgage insurance under the provisions of the National Housing Act. Such Regulatory Agreement and other instruments and undertakings shall remain binding upon the Corporation, its successors and assigns, so long as a mortgage on the Corporation's property is insured or held by the Secretary of Housing and Urban Development; and

(i) To do any other lawful thing incidental to, connected with or useful, suitable or proper for the furtherance or accomplishment of the foregoing purposes.

Notwithstanding anything to the contrary contained herein, the Corporation shall have the power to engage in public solicitation of funds, and to enter into contracts and employ personnel in connection with its above mentioned purposes.

FOURTH: Nothing herein shall authorize or be construed as authorizing the Corporation to practice medicine as defined in Article 131 of the Education Law of the State of New York. Nothing herein shall authorize the Corporation, directly or indirectly, to engage in or include among its purposes any of the activities mentioned in Not-for-Profit Corporation Law, Section 404 (b)-(u) or Social Services Law, Section 460-a, although the Corporation is hereby authorized to become a member or stockholder of corporations which do engage in or include among their purposes, such activities.

FIFTH: No substantial part of the activities of the Corporation shall consist in carrying on propaganda or otherwise attempting to influence legislation (except to the extent authorized by Section 501(h) of the Internal Revenue Code of 1954, as amended) during any fiscal year or years in which the Corporation has chosen to utilize the benefits authorized by statutory provision. The Corporation shall not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

SIXTH: The office of the Corporation within the State of New York is to be located in the County of Westchester. The Corporation's activities will be conducted principally within the County of Westchester and State of New York, but the activities of the Corporation

shall not be limited to such territory and may be conducted throughout the United States, its territories and possessions and the rest of the world.

SEVENTH: The persons who shall serve as the initial directors are:

<u>NAMES</u>	<u>ADDRESSES</u>
Stephen T. Fawcett	12 Orchard Drive Ossining, New York 10562
John A. Guion	321 Bedford Road Pleasantville, New York 10570
James Holden, Jr.	107 Ralph Avenue White Plains, New York 10606
William T. Staubach, Jr.	120 Ancon Avenue Pelham, New York 10803
R. Barry Thomas	23 Orchard Drive West Redding, CT 06896

EIGHTH: No part of the assets, income or net earnings of the Corporation shall inure to the benefit of any director, trustee, officer or employee of the Corporation, or to any private individual, except that reasonable compensation may be paid for services in effecting one or more purposes of the Corporation.

NINTH: In the event of the dissolution of the Corporation, no distribution of any of the property or assets of the Corporation shall be made to any director, trustee, officer or employee of the Corporation, or to any private individual, but all of such property and assets shall be distributed to accomplish the charitable, educational and scientific purposes for which this Corporation is organized or distributed to such organizations as shall qualify under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended, subject to an order of a Justice of

the Supreme Court of the State of New York. PROVIDED, however, that the Corporation shall at all times have the power to convey any or all of its property to the Secretary of Housing and Urban Development or his nominee.

TENTH: In the event that the Corporation shall at any time be a private foundation within the meaning of Section 509 of the Internal Revenue Code of 1954, as amended [or the corresponding provisions of any subsequent law], the Corporation, so long as it shall be such a private foundation, shall distribute such income as may be necessary in each taxable year at such time and in such manner as not to subject the Corporation to tax under Section 4942 of said Code, and shall be absolutely prohibited from and shall refrain from engaging in the following acts:

- (a) any act of self-dealing as defined in Section 4941(d) of said Code;
- (b) retaining any excess business holdings as defined in Section 4943(c) of said Code;
- (c) making any investment in such manner as to subject the Corporation to tax under Section 4944 of said Code; and
- (d) making any taxable expenditures, as defined in Section 4945(d) of said Code of 1954.

ELEVENTH: The Secretary of State of the State of New York is hereby designated agent of the Corporation upon whom process against the Corporation may be served. The post office address within the State of New York to which the Secretary of State shall mail a copy of any process against the Corporation served upon the Secretary of State is:

THE BETHEL SPRINGVALE NURSING HOME, INC.
502B Albany Post Road
Croton-on-Hudson, New York 10520

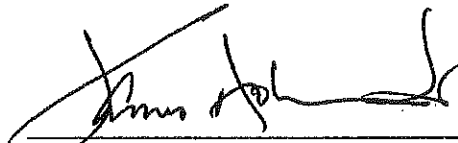
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TWELFTH: All references herein to provisions of the Internal Revenue Code of 1954 shall be deemed to include both amendments thereto and statutes which succeed such provisions.

THIRTEENTH: So long as a mortgage on the Corporation's property is insured or held by the Secretary of Housing and Urban Development, these Articles may not be amended without the prior written approval of the said Secretary.

FOURTEENTH: The duration of the Corporation shall be *for A* one year period which shall expire on January 23, 1996. *conformance with Section*

IN WITNESS WHEREOF, the undersigned incorporator, being at least nineteen years of age, has signed and affirmed this Certificate of Incorporation as true under the penalties of perjury this *15th* day of February, 1995.


James Holden, Jr., Incorporator
107 Ralph Avenue
White Plains, New York 10606



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

June 5, 1995

Ms. Janet M. Beard
Executive Director
Bethel Methodist Home
19 Narragansett Avenue
Ossining, New York 10562

Re: Certificate of Incorporation of The Bethel Springvale
Nursing Home, Inc.

Dear Ms. Beard:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 29th day of January, 1993, I hereby certify that the Public Health Council consents to the filing of the Certificate of Incorporation of The Bethel Springvale Nursing Home, Inc., dated February 15, 1995 for a limited life duration expiring on January 23, 1996.

Sincerely,

Karen S. Westervelt
Executive Secretary

F 950 623000 243

CERTIFICATE

OF

INCORPORATION

THE BETHEL SPRINGVALE NURSING HOME, INC.

Under Section 402 of the Not-for-Profit
Corporation Law

JUN 20 9 01 AM '95

RECEIVED

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JUN 23 1995

TAX \$

BY:

SAC
Westchester

SAC
Grady

DATA

55, 11/10/14 12:27 PM

LAW OFFICES OF
HOLDEN BROTHERS, P.C.

124 COURT STREET

WHITE PLAINS, N. Y. 10601

950 6230 00274

(8)

**STATE OF NEW YORK
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for THE BETHEL SPRINGVALE NURSING HOME, INC., File Number 951115000095 has been compared with the original document in the custody of the Acting Secretary of State and that the same is true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on February 18, 2022.



Brendan C. Hughes

Brendan C. Hughes
Executive Deputy Secretary of State

951115000095

CERTIFICATE OF AMENDMENT
of the
CERTIFICATE OF INCORPORATION
OF
THE BETHEL SPRINGVALE NURSING HOME, INC.

Under Section 803 of the Not-for-Profit
Corporation Law

The undersigned, as President and Secretary of THE
BETHEL SPRINGVALE NURSING HOME, INC., for the purpose of amending the Certificate
of Incorporation of **THE BETHEL SPRINGVALE NURSING HOME, INC.**, a Not-for-Profit
Corporation formed under the laws of the State of New York and the requirements of Article 28
of the Public Health Law of the State of New York, hereby certifies:

1. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of
the Not-for-Profit Corporation Law and is a Type B Corporation as defined in Section 201 of the
Not-for-Profit Corporation Law.

2. The Certificate of Incorporation of The Bethel Springvale Nursing Home, Inc. dated
February 15, 1995 was duly filed with the State of New York, Department of State on June 23,
1995.

3. Paragraph "FOURTEENTH" of the said Certificate of Incorporation as filed presently
reads as follows:

"FOURTEENTH: The duration of the Corporation shall be for a
one year period ending on January 23, 1996."

4. Paragraph "FOURTEENTH" is hereby amended to read in its entirety as follows:

"FOURTEENTH: The duration of the Corporation shall be
perpetual."

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5. This Amendment of the Certificate of Incorporation was consented to by the State of New York Department of Health Public Health Council which consent is annexed hereto.

6. This Amendment of the Certificate of Incorporation was authorized by the affirmative vote of the majority of the Board of Directors of the Corporation at a meeting duly called for that purpose held on October 25, 1995, there being no members entitled to vote thereon other than the members of the Board of Directors of the Corporation.

7. The Secretary of State of the State of New York is hereby designated the agent of the corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him as agent is:

THE BETHEL SPRINGVALE NURSING HOME, INC.
502 Albany Post Road
Croton-on-Hudson, NY. 10520

IN WITNESS WHEREOF, the undersigned as, respectively the President and Secretary of the Corporation, being at least nineteen years of age, have signed this Certificate of Amendment of the Certificate of Incorporation and caused it to be verified this ^{13th} day of November, 1995.

William T. Staubach, Jr.

William T. Staubach, Jr., President
120 Ancon Avenue
Pelham, NY. 10803

James Holden, Jr.
James Holden, Jr., Secretary
52 Hoanjovo Lane
Pleasantville, NY. 10570

STATE OF NEW YORK)
) ss
COUNTY OF WESTCHESTER)

William T. Staubach, Jr. being duly sworn; depose and say: I am President of The Bethel Springvale Nursing Home, Inc. a domestic Not-for-Profit Corporation; I have read the forgoing Certificate of Amendment of the Certificate of Incorporation and know the contents thereof; and the same is true to my own knowledge. This verification is made by by me because the above party is a corporation and I am an officer thereof.

William T. Staubach Jr.

Sworn to before me this
13th day of November, 1995.

Stephen Holden

STEPHEN HOLDEN III
Notary Public, State of New York
No. 4871209
Qualified in Westchester County
Commission Expires August 26, 1996

STATE OF NEW YORK)
) ss
COUNTY OF WESTCHESTER)

James Holden, Jr., being duly sworn; depose and say: I am Secretary of The Bethel Springvale Nursing Home, Inc. a domestic Not-for-Profit Corporation; I have read the forgoing Certificate of Amendment of the Certificate of Incorporation and know the contents thereof; and the same is true to my own knowledge. This verification is made by by me because the above party is a corporation and I am an officer thereof.

James Holden Jr.

Sworn to before me this
13th day of November, 1995.

Stephen Holden

STEPHEN HOLDEN III
Notary Public, State of New York
No. 4871209
Qualified in Westchester County
Commission Expires August 26, 1996

3



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

November 13, 1995

Ms. Janet M. Beard
Executive Director
Bethel Methodist Home
19 Narragansett Avenue
Ossining, New York 10562

Re: Certificate of Amendment of the Certificate of Incorporation of The Bethel Springvale Nursing Home, Inc.

Dear Ms. Beard:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 29th day of January, 1993, I hereby certify that the Public Health Council consents to the filing of the Certificate of Amendment to the Certificate of Incorporation of The Bethel Springvale Nursing Home, Inc., dated November 6, 1995.

Sincerely,

Karen S. Westervelt
Executive Secretary

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FILED

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Certificate of Amendment
of the
CERTIFICATE OF INCORPORATION
of
THE BETHEL SPRINGVALE NURSING HOME, INC.

6-cc

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED NOV 15 1995

TAX \$ 0

BY: JW

WESTCHESTER

LAW OFFICES OF
HOLDEN BROTHERS
124 COURT STREET
WHITE PLAINS, N. Y. 10601
(914) 948-7940

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951115000100

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code

Please print this email for your records.

Thank you for submitting your CERTIFICATE OF AMENDMENT through the Department of State's Online Filing System. The CERTIFICATE OF AMENDMENT has been filed by the Department of State.

We have attached the official filing receipt and any related document(s) for the following entity:

DOS ID: 1933676
Entity Name: THE BETHEL SPRINGVALE NURSING HOME, INC.
County: WESTCHESTER
Filing Date: 03/20/2023

- Retain this letter and attachment(s) for your records. The Department of State does not mail additional copies of the filing receipt or related attachment(s).

Resources

- [Instructions for filing Certificates of Correction, Certificates of Amendment](#) and other documents with the Department of State
- [Corporation tax information](#)

Contact Information

- Department of State: Email the Division of Corporations at corporations@dos.ny.gov.
- Department of Taxation and Finance: Visit [Contact us](#) for self-help options and telephone numbers.

NEW YORK STATE DEPARTMENT OF STATE
DIVISION OF CORPORATIONS, STATE RECORDS AND UNIFORM COMMERCIAL CODE
FILING RECEIPT

ENTITY NAME : THE BETHEL SPRINGVALE NURSING HOME, INC.
DOCUMENT TYPE : CERTIFICATE OF AMENDMENT
ENTITY TYPE : DOMESTIC NOT-FOR-PROFIT CORPORATION

DOS ID : 1933676
FILE DATE : 03/20/2023
FILE NUMBER : 230322000985
TRANSACTION NUMBER : 202303200001606-1805878
EXISTENCE DATE :
DURATION/DISSOLUTION : PERPETUAL
COUNTY : WESTCHESTER



SERVICE OF PROCESS ADDRESS : THE CORPORATION
ATTENTION: BETH GOLDSTEIN, CEO, 2042 ALBANY POST
ROAD, SUITE 8
CROTON ON HUDSON, NY, 10520, USA

ELECTRONIC SERVICE OF PROCESS
EMAIL ADDRESS : N/A

FILER : CASSANDRA A. KRIKELIS, PARALEGAL
WIGGIN AND DANA LLP, 437 MADISON AVENUE, 35TH FLOOR
NEW YORK, NY, 10022, USA

SERVICE COMPANY : CORPORATION SERVICE COMPANY
SERVICE COMPANY ACCOUNT : 45
CUSTOMER REFERENCE : 5933199AM

You may verify this document online at : <http://ecorp.dos.ny.gov>
AUTHENTICATION NUMBER : 100003178138

TOTAL FEES:	\$115.00	TOTAL PAYMENTS RECEIVED:	\$115.00
FILING FEE:	\$30.00	CASH:	\$0.00
CERTIFICATE OF STATUS:	\$0.00	CHECK/MONEY ORDER:	\$0.00
CERTIFIED COPY:	\$10.00	CREDIT CARD:	\$0.00
COPY REQUEST:	\$0.00	DRAWDOWN ACCOUNT:	\$115.00
EXPEDITED HANDLING:	\$75.00	REFUND DUE:	\$0.00

STATE OF NEW YORK DEPARTMENT OF STATE

I hereby certify that the annexed copy for THE BETHEL SPRINGVALE NURSING HOME, INC., File Number 220218001683 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on March 22, 2023.

A handwritten signature in black ink that reads 'Brendan C. Hughes'.

Brendan C. Hughes
Executive Deputy Secretary of State

**CERTIFICATE OF AMENDMENT
OF
THE CERTIFICATE OF INCORPORATION
OF
THE BETHEL SPRINGVALE NURSING HOME, INC.**
Pursuant to Section 803 of the Not-for-Profit Corporation Law

The undersigned, being the Secretary of the board of directors (the "Board of Directors") of The Bethel Springvale Nursing Home, Inc. (the "Corporation"), for the purpose of this Second Amendment to the Corporation's Certificate of Incorporation pursuant to Section 803 of the Not-for-Profit Corporation Law (this "Second Amendment"), hereby certifies:

1. The name of the Corporation is The Bethel Springvale Nursing Home, Inc.
2. A Certificate of Incorporation was filed by the Department of State on June 23, 1995 and a Certificate of Amendment to the Certificate of Incorporation was filed by the Department of State on November 15, 1995.
3. The Corporation was formed under the Not-for-Profit Corporation Law.
4. The Corporation is a corporation as defined in subparagraph (5) of paragraph (a) of Section 102 of the Not-for-Profit Corporation Law.
5. Paragraph THIRD of the Corporation's Certificate of Incorporation, which sets for the purposes for which the Corporation was formed, shall be amended to add a new subsection (b), and the existing subsections (b) through (i) shall be renumbered accordingly such that Article THIRD shall now read in its entirety as follows:

“(a) To provide, on a nonprofit basis, a nursing home facility and services pursuant to Article 28 of the Public Health Law of the State of New York for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, where no adequate housing exists for such groups, pursuant to Section 232 of the National Housing Act, as amended.

(b) To provide, on a nonprofit basis, senior residential services through the establishment, operation and maintenance of an assisted living facility, a continuing care retirement community, an independent living community, or such other senior residential services as the Board of Directors may determine; provided, however, that the Corporation shall not establish or operate any such services without the prior written approval of the New York State Department of Health, the Continuing Care Retirement Community Council, or such other regulatory agency the approval

of which is required for the establishment, operation and maintenance of such services.

(c) The Corporation is irrevocably dedicated to and operated exclusively for, nonprofit purposes; and no part of the income or assets of the corporation shall be distributed to, nor inure to the benefit of, any individual.

(d) To receive, accept, hold, invest, reinvest and administer any funds, gifts, bequests, devises, contributions and property of any sort, whether real, personal, tangible or intangible, without limitation as to amount or value, and to use, disburse or donate the income or principal thereof for exclusively charitable, educational and scientific purposes, in such manner as, in the judgment of the Board of Directors, shall best promote the purposes of the Corporation, without limitation, except such limitations as may be contained in the instrument under which such property is received, this Certificate of Incorporation or any laws applicable thereto.

(e) To give, convey or assign any of its property outright, or upon lawful terms regarding the use thereof, to other organizations in the judgment of the Board of Directors, are engaged in the promotion of the health and the delivery of health care.

(f) To publicly solicit funds in furtherance of the foregoing purposes.

(g) To buy, own, sell, convey, assign, mortgage or lease any interest in real estate and personal property and to construct, maintain and operate improvements thereon necessary or incident to the accomplishment of the purposes set forth in Article THIRD (a) hereof.

(h) To borrow money and issue evidence of indebtedness in furtherance of any or all of the objects of its business, and to secure the same by mortgage, pledge or other lien on the Corporation's property.

(i) To do and perform all acts reasonably necessary to accomplish the purposes of the Corporation, including the execution of a Regulatory Agreement with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, and of such other instruments and undertakings as may be necessary to enable the Corporation to secure the benefits of financing with the assistance of mortgage insurance under the provisions of the National Housing Act. Such

Regulatory Agreement and other instruments and undertakings shall remain binding upon the Corporation, its successors and assigns, so long as a mortgage on the Corporation's property is insured or held by the Secretary of Housing and Urban Development.

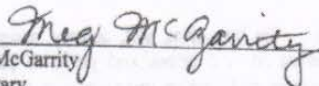
(j) To do any other lawful thing incidental to, connected with or useful, suitable or proper for the furtherance or accomplishment of the foregoing purposes."

6. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the Corporation is:

The Bethel Springvale Nursing Home, Inc.
2042 Albany Post Road, Suite 8
Croton-on-Hudson, New York 10520
Attention: Beth Goldstein, CEO

7. This Second Amendment was authorized by a vote of a majority of the entire Board of Directors of the Corporation at a meeting duly called for that purpose held on March 2, 2023.

IN WITNESS WHEREOF, the undersigned have executed and signed this Certificate of Amendment this 7th day of March, 2023.


Meg McGarrity
Secretary

STATE OF NEW YORK
Attorney General Office
Westchester County, New York

CONSENT TO FILING WITH THE NEW YORK DEPARTMENT OF STATE
(General Use)

Consent is hereby given to filing of the annexed Second Certificate of Amendment of the Certificate of Incorporation, which hereby amends the purposes of *The Bethel Springvale Nursing Home, Inc.*, pursuant to the applicable provisions of the New York Not-For-Profit Corporation Law Section 804.

This consent is issued solely for purposes of filing the annexed documents by the Department of State and shall not be construed as approval by the Attorney General Office of the purposes or objects of such entity, nor shall it be construed as giving the officers or agents of such entity the right to use the name if the Attorney General Office in its publications or advertising matter.

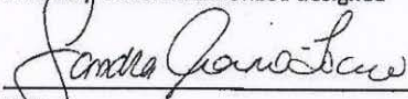
IN WITNESS WHEREOF this instrument is executed, and
the seal of the State Attorney General is affixed.



LETITIA JAMES
Attorney General

By: SANDRA GIORNO-TOCCO

Attorney General authorized designee


Date

**THIS DOCUMENT IS NOT VALID WITHOUT THE SIGNATURE OF THE ATTORNEY GENERAL AUTHORIZED
DESIGNEE AND OFFICIAL SEAL OF THE STATE**

CSC-45

CERTIFICATE OF AMENDMENT OF
THE CERTIFICATE OF INCORPORATION OF
THE BETHEL SPRINGVALE NURSING HOME, INC.

Pursuant to Section 803 of the Not-for-Profit Corporation Law

Filer's Name and Mailing Address:

Filer's Name:

Cassandra A. Krikelis, Paralegal

Company:

Wiggin and Dana LLP

Mailing Address:

437 Madison Avenue, 35th Floor

City, State and Zip Code:

New York, New York 10022

REF# 593319 9AM

RECEIVED

2023 MAR 20 PM 12:01

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 10th day of April 2025, approves the filing of the Certificate of Amendment of the Certificate of Incorporation of The Bethel Springvale Nursing Home, Inc., dated May 30, 2023.

CERTIFICATE OF DISSOLUTION

OF

**INTERNATIONAL CENTER FOR THE DISABLED,
D/B/A INSTITUTE FOR CAREER DEVELOPMENT**

PURSUANT TO SECTION 1003 OF THE NOT-FOR-PROFIT CORPORATION LAW

I, Joseph T. McDonald, III, Co-President of International Center for the Disabled, d/b/a Institute for Career Development, hereby certify:

1. The name of this corporation is International Center for the Disabled, d/b/a Institute for Career Development (the “Corporation”). The Corporation was formed with the corporate name, “The Institute for Crippled and Disabled Men,” and the Corporation subsequently amended its corporate name three times to: (1) “Institute for the Crippled and Disabled” (on February 9, 1928); (2) “ICD Rehabilitation and Research Center” (on February 8, 1972); and “ICD International Center for the Disabled” (on June 1, 1981).

2. The Certificate of Incorporation of the Corporation was filed by the New York State Department of State on January 13, 1920.

3. The names and addresses of each of the trustees and officers of the Corporation are as follows:

NAME	TITLE	ADDRESS
Richard C. Weber	Trustee; Chair	142 West 57 th Street, Floor 11 New York, NY 10019
Christoper K. Wu	Trustee; Vice Chair; Treasurer	142 West 57 th Street, Floor 11 New York, NY 10019
Robert Z. Bliss	Trustee	142 West 57 th Street, Floor 11 New York, NY 10019
Jason Jobe	Trustee	142 West 57 th Street, Floor 11 New York, NY 10019
Jeffrey W. Lamb	Trustee	142 West 57 th Street, Floor 11 New York, NY 10019
Beatrice H. Mitchell	Trustee	142 West 57 th Street, Floor 11 New York, NY 10019

Paxton Quigley	Trustee	142 West 57 th Street, Floor 11 New York, NY 10019
Justin B. Wender	Trustee	142 West 57 th Street, Floor 11 New York, NY 10019
Joseph T. McDonald, III	Co-President	142 West 57 th Street, Floor 11 New York, NY 10019
Diosdado Gica	Co-President	142 West 57 th Street, Floor 11 New York, NY 10019

4. The Corporation is a charitable corporation.

5. At the time of authorization of the Corporation's Plan of Dissolution and Distribution of Assets, the Corporation held assets, which are legally required to be used for a particular purpose.

6. The Corporation elects to dissolve.

7. Dissolution of the Corporation was authorized by the vote of a majority of the Board of Trustees of the Corporation (the "Board"). The Corporation has no members.

8. Prior to the delivery of the Certificate of Dissolution to the Department of State for filing, the Plan of Dissolution and Distribution of Assets was approved by the New York State Department of Health, the New York State Public Health and Health Planning Commission, and the Attorney General. Copies of these approvals are attached hereto.

9. The Corporation has carried out the Plan of Dissolution and Distribution of Assets.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of
Dissolution of International Center for the Disabled, d/b/a Institute for Career Development this
_____ day of _____, 2025.

International Center for the Disabled, d/b/a
Institute for Career Development

By: _____
Joseph T. McDonald, III
Co-President

CERTIFICATE OF DISSOLUTION

OF

International Center for the Disabled, d/b/a Institute for Career Development

Under Section 1003 of the Not-for-Profit Corporation Law

Filer's Name: Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 10th day of April 2025, approves the filing of the Certificate Dissolution of International Center for the Disabled, D/B/A Institute for Career Development, as attached.

MEMORANDUM

To: Michael Stelluti
Division of Health Facility Planning and Development

Colleen Leonard, Executive Secretary
Public Health and Health Planning Council

From: Vincent DiCocco, Senior Attorney
Bureau of Program Counsel
Division of Legal Affairs

Date: March 20, 2025

Subject: Proposed Dissolution of VNS CHOICE Community Care

Please include this matter on the next Establishment and Project Review Public Health and Health Planning Council agenda.

The attachments relating to the matter include the following:

- 1) A Memorandum to the Public Health and Health Planning Council (PHHPC) from Kathy Marks, Department of Health General Counsel;
- 2) A November 26, 2024, electronic letter to the PHHPC requesting dissolution from Tamar R. Rosenberg, representing VNS CHOICE Community Care;
- 3) A draft Verified Petition, signed by Keith Patterson, Treasurer, Administrator and Director of VNS CHOICE Community Care after the Department of Health and PHHPC approval seeking the State Attorney General's approval for the filing of the Applicant's Certificate of Dissolution;
- 4) The Certificate of Incorporation of VNS CHOICE Community Care;
- 5) The Amended and Restated Bylaws of VNS CHOICE Community Care;
- 6) The October 28, 2024, Unanimous Written Consent of the Board of Directors VNS CHOICE Community Care, to approve the dissolution;
- 7) Resolutions of VNS Choice as the sole member to approve the dissolution; and
- 8) A Plan of Dissolution of VNS CHOICE Community Care;

Attachments.

cc: J. Corvino

MEMORANDUM

To: Public Health and Health Planning Council

From: Kathy Marks, General Counsel

Date: March 20, 2025 *KSM*

Subject: Proposed Dissolution of VNS CHOICE Community Care

VNS CHOICE Community Care ('The Corporation') requests Public Health and Health Planning Council ('PHHPC') approval of its proposed dissolution in accordance with the requirements of Not-For-Profit Corporation Law ('NPCL') § 1002(c) and § 1003, as well as 10 NYCRR Part 650.

The Corporation is a New York not-for-profit corporation incorporated on January 8, 2003, with the stated purpose to operate a licensed home care services agency ("LHCSA") pursuant to Article 36 of the New York State Public Health Law. The Corporation's LHCSA operations and licenses were terminated on January 9, 2015, and its adult day care center operations terminated thereafter. Because the Corporation has concluded operations and gone dormant, the Board of Directors believe it is in the best interests of the Corporation to dissolve.

On October 28, 2024, the board of directors of VNS CHOICE Community Care approved the plan of dissolution and authorized the filing of the Certificate of Dissolution.

The Corporation has no assets or liabilities.

Attached is a request dated November 26, 2024, from Tamar R. Rosenberg on behalf of the Corporation, a proposed Verified Petition to the Attorney General, the Corporation's Certificate of Incorporation, Bylaws, a proposed Certificate of Dissolution and Unanimous Written Consent of the Board of Directors and the Resolution of the Member authorizing the dissolution.

There is no legal objection to the proposed Verified Petition, Plan of Dissolution, and the Certificate of Dissolution, and it is in legally acceptable form.

Attachments

November 26, 2024

VIA EMAIL

Bureau of Program Counsel
NYS Department of Health
Corning Tower, Rm 2484
Empire State Plaza
Albany, New York 12237-0026
(518) 473-3303
DLAHouse@health.ny.gov

Re: VNS CHOICE Community Care – Dissolution

Dear Sir or Madam:

I am writing to respectfully request the New York State Department of Health (the “DOH”) provide a letter stating that the consent of DOH and the Public Health and Health Planning Council (the “PHHPC”) is not required to the filing of the enclosed proposed Certificate of Dissolution (the “Certificate of Dissolution”) of VNS CHOICE Community Care, a New York not-for-profit corporation (the “Corporation”) attached as *Exhibit A*.

The Corporation’s Board of Directors and sole member have approved its dissolution. A copy of its Certificate of Incorporation (which has not been amended) is attached as *Exhibit B*.

The Corporation was incorporated in 2003 to operate a licensed home care services agency (“LHCSA”) pursuant to Article 36 of the New York State Public Health Law. The Corporation’s LHCSA operations and licenses were terminated on January 9, 2015 and its adult day care center operations terminated thereafter. The Corporation has since been inactive and has no remaining assets. At the time of its dissolution, the Corporation will have no activities and no assets or liabilities. The approval of the New York State Attorney General’s Office is also being obtained for the filing of the Certificate of Dissolution.

Please contact me with any questions or concerns. Thank you for your assistance.

Very truly yours,



Tamar R. Rosenberg

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

-----X

In the Matter of the Application
of
VNS CHOICE Community Care

VERIFIED PETITION

:

For Approval of Certificate of Dissolution :
pursuant to Section 1002 of the New York
Not-for-Profit Corporation Law.

-----X

TO: THE ATTORNEY GENERAL OF THE STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
28 Liberty Street
New York, NY 10005

Petitioner, VNS CHOICE Community Care, (the “**Petitioner**”), by its attorney,
Tamar Rosenberg Esq., for its Verified Petition herein respectfully alleges:

1. The Petitioner, whose principal address is located in the County of New York, was incorporated pursuant to the New York Not-for-Profit Corporation Law (the “**NPCL**”) on January 8, 2003. A copy of the Certificate of Incorporation of the Petitioner, which has not been amended, is attached as ***Exhibit 1***, and a copy of Petitioner’s complete and current Bylaws is attached as ***Exhibit 2***.

2. The names, addresses and titles of the Petitioner’s Directors and officers are:

<u>Name</u>	<u>Title</u>	<u>Address</u>
Daniel Savitt	Chair, President and Director	220 East 42 nd Street, New York, NY 10017
Keith Patterson	Treasurer, Administrator and Director	220 East 42 nd Street, New York, NY 10017
Joy Matias	Secretary and Director	220 East 42 nd Street, New York, NY 10017

3. The purposes for which the Petitioner was organized are set forth in paragraph 3 of the Petitioner’s Certificate of Incorporation and are as follows:

“The Corporation is to be formed for the following purposes, which are exclusively charitable, scientific and educational within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States internal revenue law) (the “Code”):

(a) To maintain and operate a licensed home care services agency pursuant to Article 36 of the New York State Public Health Law and regulations thereunder.

(b) To engage in any other activity that is incidental to, connected with, or in advancement of the foregoing purposes, that is within the definition of “charitable, scientific and educational” for purposes of Section 501(c)(3) of the Code, and that is consistent with the purposes of Visiting Nurse Service of New York and its affiliated entities.”

4. The Petitioner is a charitable corporation.

5. The Corporation plans to dissolve in accordance with the Plan of Dissolution included within ***Exhibit 3*** hereto.

6. The Petitioner is dissolving because it is inactive. The Petitioner is not aware of any ongoing or completed audits or inquiry by the Internal Revenue Service in the past three years, and has not paid any excise taxes or disclosed an excess benefit transaction or diversion of assets on its information returns filed with the Internal Revenue Service.

7. The Petitioner’s Board of Directors, by unanimous written consent dated October 28, 2024, attached hereto as ***Exhibit 3***, approved resolutions adopting the Plan of Dissolution and authorizing the filing of a Certificate of Dissolution.

8. After the Petitioner’s Board of Directors approved the Plan of Dissolution, the sole member of the Petitioner, VNS CHOICE, a New York not-for-profit corporation, received and reviewed it and adopted resolutions approving the Plan of Dissolution by unanimous vote at a duly convened meeting of its Board of Directors held on November 5, 2024, on proper notice, at which a quorum was present throughout. Such resolutions, certified by a duly authorized officer, are attached hereto as ***Exhibit 4***.

9. The Petitioner has no assets or liabilities as of the date hereof.


10. The Corporation acknowledges its obligation to file a final financial report on Form CHAR500, with all required attachments, with the Charities Bureau showing no assets or liabilities and is submitting herewith as ***Exhibit 5*** such draft. The Corporation gives its assurance that (i) the final financial report shall be the same in all material respects to that which is attached hereto and (ii) the Corporation shall duly file its final Form CHAR500 report with all required attachments with the Charities Bureau.

11. Other than the approval of the Attorney General, no approval of the dissolution of the Petitioner is required by any governmental body or officer.

12. With this Petition, the original executed Certificate of Dissolution is being submitted to the Attorney General for approval pursuant to NPCL Section 1003.

WHEREFORE, Petitioner requests that the Attorney General approve the Certificate of Dissolution of VNS CHOICE Community Care, a not-for-profit corporation, pursuant to Not-for-Profit Corporation Law Section 1003.

IN WITNESS WHEREFORE, the Petitioner has caused this Petition to be executed as of the 14th day of November, 2024.

By: 

Tamar Rosenberg, Esq.
Attorney for Petitioner
Sheppard, Mullin, Richter & Hampton LLP
30 Rockefeller Plaza, 39th Floor
New York, NY 10112-0015
(212) 634-3084

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CERTIFICATE OF INCORPORATION OF
VNS CHOICE COMMUNITY CARE(Under Section 402 of the
Not-For-Profit Corporation Law)

The undersigned, a natural person eighteen years of age or over, for the purpose of forming a corporation under Section 402 of the Not-For-Profit Corporation Law, hereby certifies:

1. The name of the corporation is VNS CHOICE COMMUNITY CARE (the "Corporation").
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-For-Profit Corporation Law, and shall be a Type B corporation under Section 201 of the Not-For-Profit Corporation Law.
3. The Corporation is to be formed for the following purposes, which are exclusively charitable, scientific and educational within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States internal revenue law) (the "Code"):
 - (a) To maintain and operate a licensed home care services agency pursuant to Article 36 of the Public Health Law and regulations thereunder.
 - (b) To engage in any other activity that is incidental to, connected with, or in advancement of the foregoing purposes, that is within the definition of "charitable, scientific and educational" for purposes of Section 501(c)(3) of the Code, and that is consistent with the purposes of Visiting Nurse Service of New York and its affiliated entities.
4. In furtherance of the foregoing corporate purposes, the Corporation shall have all of the general powers set forth in Section 202 of the Not-For-Profit Corporation Law, including, but without limitation thereon, the power to solicit and receive

gifts, grants, devises, bequests, donations, contributions in any form, and to use, apply, invest, and reinvest the principal therefrom or distribute the same for the above purposes. Nothing herein contained shall be construed as authorizing the Corporation to operate a nursery school, an elementary school, a secondary school, an institution of higher learning, a library, a museum, an historical society, a cable television facility, or educational television station; nor shall the Corporation engage in the practice of law or any of the professions designated in Title VIII of the Education Law.

5. It is intended that the Corporation shall have the status of a corporation which is exempt from federal income taxation under Section 501 (a) of the Code as an organization described in Section 501(c)(3) of the Code and which is other than a private foundation by reason of being described in Section 509(a) of the Code. Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for one or more of the purposes specified in Section 501(c)(3) of the Code, and shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Code.
6. The Corporation is not formed for pecuniary profit or for financial gain and no part of the assets, income or profit of the Corporation shall be distributed or inure to the benefit of any member, trustee, director, officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation) and no member, trustee, director, or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the Corporation's assets on dissolution of the Corporation.

7. Nothing herein shall authorize the Corporation, directly or indirectly, to engage in or include among its purposes any of the activities listed in Section 404(b) through 404(s) or Section 404(u) through 404(v) of the New York Not-For-Profit Corporation Law.
8. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Section 501(c)(3) of the Code), and the Corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.
9. In any year in which the Corporation is a private foundation as described in Section 509(a) of the Code, the corporation shall distribute its income for said period in such time and manner as not to subject it to tax under Section 4942 of the Code, and the Corporation shall not (a) engage in any act of self-dealing as defined in Section 4941(d) of the Code; (b) retain any excess business holdings as defined in Section 4943(c) of the Code, (c) make any investments in such a manner as to subject the organization to tax under Section 4944 of the Code; or (d) make any taxable expenditures as defined in Section 4945(d) of the Code or corresponding provisions of any subsequent Federal tax laws.
10. The office of the Corporation shall be located in the County of New York, State of New York.
11. The names and residences of the initial directors until the first annual meeting are:

Phyllis Mills
1192 Park Avenue, #15E
New York, New York 10128

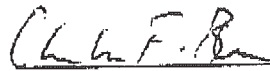
David Wicks
139 East 94th Street
New York, New York 10128

Kuan-Lan Mao
37 Holly Lane
Darien, Connecticut 06820

12. The Corporation hereby designates the Secretary of State of the State of New York as its agent upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail copy of any process against the Corporation served upon him or her is c/o the Corporation, 107 East 70th Street, New York, New York 10021.
13. Upon the dissolution of the Corporation, the Board of Directors, after paying or making provisions for the payment of all of the liabilities of the Corporation, shall distribute all of the assets of the Corporation exclusively for charitable, educational or scientific purposes to Visiting Nurse Service of New York. Any of such assets not so distributed shall be distributed by a court of competent jurisdiction, exclusively for the aforesaid purposes of the Corporation to a corporation that is described in Section 501(c)(3) of the Code and that is other than a private foundation as said court shall determine.

IN WITNESS WHEREOF, I hereby affirm, under the penalties of perjury, that the statements made in the foregoing Certificate of Incorporation of VNS CHOICE Community Care are true.

Dated this 1st day
of May, 2002


Charles Blum, Esq., Incorporator
107 East 70th Street
New York, New York 10021

**BY-LAWS OF
VNS CHOICE COMMUNITY CARE**

ARTICLE I

MEMBER

Section 1.01 Member. VNS CHOICE Community Care (the "Corporation") shall have a sole corporate Member, which shall be VNS CHOICE, a New York, not-for-profit corporation (the "Member").

ARTICLE II

MEETING OF THE MEMBER

Section 2.01 Annual Meeting. The annual meeting of the Member of the Corporation for the election of Directors of the Corporation, and for the transaction of such other business as may properly come before the meeting, shall be held on such dates and at such times as may be determined by the Board of Directors of the Member. If not otherwise designated, the Annual Meeting shall be held at 4:00 P.M. on the third Wednesday in June each at the offices of the Visiting Nurse Service of New York at 107 East 70th Street, New York, New York.

Section 2.02 Special Meetings. Special meetings of the Member may be held upon call of the Board of the Corporation, the Chair of the Board of the Corporation, the President of the Corporation, if any, or the Member, at any time upon written notice. Notice of any meeting need not be given if the Member submits a signed waiver of notice, in person or by proxy before or at the meeting.

Section 2.03 Place and Time of Meetings. Regular and Special meetings shall be held at such place, within or without the State of New York, and at such hour as may be fixed by the Board of the Member, or, if not so fixed, at 4:00 P.M. at the office of the Visiting Nurse Service of New York at 107 East 70th Street, New York, New York.

Section 2.04 Quorum, Proxy. The Member's presence in person or by proxy shall constitute a quorum for the transaction of business at any annual or special meeting. The vote of the Member present in person or by proxy shall be the act of the Member.

Section 2.05. Action by Member Without Meeting. Whenever under any provision of law or these By-Laws the Member is required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken by a duly authorized officer of the Member and signed by a duly authorized officer of the Member. Such written consent and a description of the action taken shall be filed with the minutes of the next meeting of the Member.

ARTICLE III

DIRECTORS

Section 3.01 Management. The affairs of the Corporation shall be managed by the Board of Directors (the "Board").

Section 3.02 Number of Directors. The Board shall consist of not less than three (3) Directors, with the exact number to be fixed at any time and from time to time by the vote of a majority of the Board, except that no decrease shall shorten the term of any incumbent Director. Newly created directorships resulting from an increase in the number of Directors and vacancies occurring in the Board for any reason may be filled by vote of the majority of Directors then in office or by vote of the Member, although less than a quorum exists. Directors shall hold office until the next succeeding annual meeting of the Member subsequent to their election and until their successors are elected and qualified.

Section 3.03 Resignation, Removal and Vacancies.

(a) Any Director may resign at any time by delivering written notice of such resignation to the Chair of the Board or Secretary. Such resignation shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by such officer. The acceptance of a resignation shall not be necessary to make it effective.

(b) Any one or more of all the Directors may be removed with or without cause at any time by action of the Member, provided that written notice of such removal is given to any Director so removed and the Director was offered an opportunity to appear and be heard before the Board of the Member takes final action on any removal with cause.

(c) Five consecutive unexcused absences from meetings of the Board may be considered a resignation by the Chair of the Board.

Section 3.04 Annual Meeting. The annual meeting of the Board for the election of Officers and the transaction of such other business as may properly come before the meeting shall be held each year at such hour, on such day and at such place, within or without the State of New York, as may be fixed by the Board, or, if not so fixed, at 4:00 P.M. on the third Wednesday in June each year at the office of the Visiting Nurse Service of New York at 107 East 70th Street, New York, New York.

Section 3.05 Regular and Special Meetings; Notice. Regular and special meetings of the Board shall be held at such times and places, within or without the State of New York, as shall be determined by the Board and specified in the notice of meetings. Regular meeting shall be held at least four (4) times a year. Special meetings of the Board shall be held at the call of the Chair of the Board, or any three (3) Directors at such times and places as may be designated in the notice of the meeting. At least three (3) days' written notice of a meeting shall be given to each Director, but a Director may

Adopted: December 13, 2011

in writing either before or after the meeting, or by attendance at such meeting, waive such notice. A notice of waiver of notice need not specify the purpose of any meeting of the Board.

Section 3.06 Annual Report of Directors. The Board shall present at the annual meeting of the Member a report, verified by the Administrator and Treasurer or by a majority of Directors of the Corporation, or certified by an independent public or certified accountant or a firm of such accountants selected by the Board, showing in appropriate detail the following: (1) the assets and liabilities, including the trust funds, of the Corporation as of the end of a twelve month fiscal period terminating not more than six months prior to said meeting; (2) the principal changes in assets and liabilities including trust funds, during said fiscal year; (3) the revenue or receipts of the Corporation both unrestricted and restricted to particular purposes, during said fiscal period; and (4) the expenses and disbursements of the Corporation for both general and restricted purposes, during the fiscal year and (5) the number of members of the Corporation as of the date of the report, together with a statement of increase or decrease in such number during said fiscal period, and a statement of the place where the names and places of residence of the current members may be found. The annual report of the Board shall be filed with the records of the Corporation and either a copy or an abstract thereof entered in the minutes of the proceedings of the annual meeting of the Member.

Section 3.07 Meetings by Conference Telephone. Any one or more Directors may participate in a meeting of the Board or any committee thereof by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

Section 3.08 Quorum, Action of the Board. One-third of those serving as Directors shall constitute a quorum for the transaction of business. Except as otherwise provided by law, or by these By-Laws, the vote of the majority of the Directors present at a meeting at the time of the vote, if a quorum is present at such time, shall be the act of the Board. A majority of the Directors present whether or not a quorum is present, may adjourn any meeting to another time and place. No notice of any such adjournment need be given.

Section 3.09 Action Without a Meeting. Any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all members of the Board or such committee consent in writing to the adoption of a resolution authorizing such action. Each resolution so adopted and the written consents thereto by members of the Board or such committee shall be affixed to the minutes of the proceedings of the Board or such committee.

Section 3.10 Official Communications: Recognition of Electronic Communications, Records, and Signatures. Unless otherwise required by applicable law, if any provision of these By-Laws requires a notice or communication to any member, Director, or committee member, or any record, to be in writing, an electronic

Adopted: December 13, 2011

record or an electronic communication shall satisfy such requirement. Similarly, unless otherwise required by applicable law, if any provision of these requires the signature of the Member, Director, or committee member, an electronic signature shall satisfy such requirement.

Section 3.11 Compensation of Directors. The Corporation shall not pay compensation to Directors for services rendered in their capacity as Directors, except that Directors may be paid their actual reasonable expenses incurred in attending meetings or otherwise in the execution of their duties as Directors or Officers.

Section 3.12 Purchase, Sale, Mortgage or Lease of Real Property. No purchase of real property shall be made by the Corporation and the Corporation shall not sell, mortgage or lease its real property unless authorized by the vote of a majority of the entire Board.

ARTICLE IV

OFFICERS OF THE BOARD OF DIRECTORS

Section 4.01 Positions; Election; Term of Office. The officers of the Board, who shall be elected from among the Directors of the Corporation at the Annual Meeting, shall be: a Chair, a Secretary and a Treasurer. The Board may elect additional officers as may be deemed desirable, including one or more Vice-Chairs. Such officers shall serve for until the next annual meeting of the Board following their election and until their successors are elected and qualified or until their earlier death, resignation or removal.

Section 4.02 Resignation, Removal and Vacancies.

(a) Any officer may resign at any time by delivering written notice of such resignation to the Chair of the Board, Treasurer, or Secretary. Such resignation shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by such officer. The acceptance of a resignation shall not be necessary to make it effective.

(b) Any officer may be removed from office with or without cause at any time by the Board.

(c) A vacancy in any office may be filled by the Board for the unexpired portion of the term of office at any meeting of the Board.

Section 4.03 Chair of the Board. The Chair of the Board shall preside at all of the Board meetings at which he or she may be present. The Chair shall have the power to sign contracts, agreements and instruments on behalf of the Corporation, may consult with the officers of the Corporation in all matters relating to the business of the Corporation, and shall perform such other duties as may be assigned from time to time by the Board. The Chair shall be a member *ex-officio* of each committee of the Corporation.

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Section 4.04 Vice-Chair. The Vice-Chair(s), if any, shall have such other powers and perform such duties as the Board or the Chair of the Board may prescribe from time to time. In the absence of the Chair of the Board or in the event of the Chair's inability or refusal to act, the most senior Vice-Chair, if any, shall perform the powers of the Chair of the Board.

Section 4.05 Secretary. The Secretary shall keep the minutes of the meetings of the Board and its committees, if any; shall give notice of all meetings of the Board required by law and by these By-Laws; shall be the custodian of the minute books of the Board and its committees, if any; and shall perform such duties as are ordinarily within the scope of the office of the Secretary of the Board or such other duties as the Board or the Chair of the Board from time to time may prescribe.

Section 4.06 Treasurer. The Treasurer shall have the care and custody and be responsible for all funds and securities of the Corporation, except as the same may be subject to other custody by action of the Board; shall deposit the same in the name of the Corporation in such banks, trust companies, or safe deposit vaults as the Board may designate; and shall have such other powers and duties as may be delegated from time to time by the Board or by the Chair of the Board.

ARTICLE V

OFFICERS OF THE CORPORATION

Section 5.01 Positions; Election; Term of Office. The officers of the Corporation shall be elected to office by the Board and shall consist of a President, an Administrator and such other officers as the Board and the President may deem appropriate. The Board may elect additional officers as may be deemed desirable, including one or more Vice-Presidents. Such officers shall serve terms as determined by the Board or until their earlier death, retirement, resignation or removal.

Section 5.02 Resignation, Removal and Vacancies.

(a) Any officer may resign at any time by delivering written notice of such resignation to the Chair of the Board or Secretary. Such resignation shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by such officer. The acceptance of a resignation shall not be necessary to make it effective.

(b) Any officer of the Corporation may be removed from office with or without cause at any time by the Board or the President, and in each case, without prejudice to such officer's contractual rights, if any.

(c) A vacancy in any office may be filled by the Board or the President, as applicable, for the unexpired portion of the term of office at any meeting of the Board.

Section 5.03 President. The President, if any, shall have general authority to oversee the direction and management of the affairs of the Corporation. He or she shall

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have the power to sign contracts, agreements, and instruments on behalf of the Corporation, the power to appoint assistant officers of the Corporation, and shall have such other powers and perform such other duties as set forth in these By-Laws or as may be delegated or assigned from time to time by the Board.

Section 5.04 Administrator. The Administrator shall be responsible for the day to day management of the corporation, and for the organization and direction of the corporation's ongoing functions including: determination of the number and types of personnel needed; ensuring orientation of new personnel and provision for in-service education; ensuring annual evaluation of personnel performance; maintenance of ongoing liaison among the Board, the Quality Improvement Committee and personnel; and ensuring availability of public information concerning the services which the corporation provides. The Administrator shall assure that the agency is in conformance with all applicable Federal, State and local statutes and regulations; ensure the implementation of policies and procedures regarding all activities and patient care services; develop and propose the annual budget for adoption by the board and manage the financial aspects of the agency; ensure that action is taken to correct problems identified by record reviews, fiscal audits, or patient recommendations. The Administrator shall have such other powers and perform as may be delegated or assigned from time by the Board.

Section 5.05 Signing of Checks. The Board may by resolution authorize the Treasurer or other designated officers and members of the staff to sign checks drawn on any account maintained by the Corporation and to deposit all moneys and other valuable effects in the name of, or to the credit of, the Corporation in depositories designated by the Board.

ARTICLE VI

COMMITTEES

Section 6.01 Committees. The Board may establish such committees of the Board and of the Corporation as it may determine to be advisable, such as an Executive Committee and/or a Finance Committee. The members of each such committee and its Chairs may be appointed by the Chair of the Board. The duties of the various committees shall be such as the Board may prescribe unless otherwise specifically set forth in these By-Laws or as provided for under the law. The Chair of each such committee shall be a Director of the Corporation. Except for the Executive and Finance Committees, or unless otherwise provided in these By-Laws or by resolution of the Board, other members of committees need not be Directors of the Corporation. To the extent that the Board does not establish an Audit Committee, Finance Committee, Quality Committee, Governance Committee, and/or Investment Subcommittee, such Committees of the Visiting Nurse Service of New York shall act on behalf of the Corporation.

Section 6.02. Executive Committee and other Standing Committees. The Board may appoint, by resolution adopted by a majority of the entire Board, from among the Directors an Executive Committee and other standing committees, each consisting of

Adopted: December 13, 2011

three (3) or more Directors. All members of Executive Committee shall be Directors of the Corporation. The Executive Committee shall have all the authority of the Board, and other standing committees shall have such authority as designated by the resolution of the Board which establishes the committee, except that no committee shall have authority as to the following matters:

- (a) Amending or repealing the Certificate of Incorporation;
- (b) filling of vacancies in the Board or in any committee;
- (c) fixing compensation of the Directors for serving on the Board or on any committee;
- (d) amending or repealing the By-Laws or the adoption of new By-Laws;
- (e) amending or repealing any resolution of the Board which by its terms cannot be amended or repealed; and
- (f) removing Directors.

If appointed, an Executive Committee shall be composed of the Chair of the Board, the Treasurer, the Secretary and such other Directors as the Board may appoint. A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business. Meetings of the Executive Committee shall be held at the call of any member of the Committee. The Chair of the Board and the Chair of the Executive Committee, if any, shall be a members *ex-officio* of each committee.

Section 6.03 Quality Improvement Committee. The Corporation shall establish a Quality Improvement Committee, which shall establish and oversee standards of care as required by law or regulation. The membership of the Committee shall include a consumer and appropriate health professional persons including a physician. The committee shall meet at least four times each year to review policies and recommend changes to such policies to the Board for adoption; conduct clinical record reviews of the safety, adequacy, type and quality of services provided; prepare and submit a written summary of review finding to the Board for necessary action; and assist the agency in maintaining liaison with other health care providers in the community.

Section 6.05 Special Committees. The Board may create such additional special committees as it deems desirable, the members thereof to be appointed by the Chair of the Board. Such special committees shall have only the powers specifically delegated to them by the Board.

Section 6.06 Committees Other Than Standing or Special. Committees other than standing or special committees of the Board shall be committees of the Corporation. Members may be elected in the same manner as officers of the Corporation, or the Board may, by resolution, authorize officers of the Corporation or members of the staff to

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appoint members of such Committees. Provisions of these By-Laws and the Not-for-Profit Corporation Law applicable to officers generally shall apply to members of such committees.

Section 6.06 Committee Rules. Unless the Board otherwise provides, each committee designated by the Board may make, alter and repeal rules for the conduct of its own business. In the absence of a contrary provision by the Board or in the rules adopted by such committee, one-third of the number of members of each committee, but no fewer than three (3) Directors, shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at the time of such vote if a quorum is then present shall be the act of such committee, and each committee shall otherwise conduct its business in the same manner as the Board conducts its business under Article III of these By-Laws. Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken by such committee may be taken without a meeting if all members of such committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the committee shall be filed with the minutes of proceedings of such committee.

ARTICLE VII

INDEMNIFICATION AND INSURANCE

Section 7.01 Indemnification. Unless clearly prohibited by law or Section 7.03 of these By-Laws, the Corporation shall indemnify any person (each an "Indemnified Person") made, or threatened to be made, a party to any action or proceeding, whether civil, criminal, administrative, investigative, or otherwise, including any action by or in the right of the Corporation, by reason of the fact that he or she (or his or her testator or intestate), whether before or after the adoption of this Section, (a) is or was a Director of the Board, officer of the Board, officer of the Corporation, and/or a Committee member, (b) was employed by the Corporation or who is or was a volunteer of the Corporation, or (c) in addition is serving or served, in any capacity at the request of the Corporation, as a trustee, Director, or officer of any other corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided the Corporation shall have consented to such settlement) and reasonable expenses, including attorneys' fees and costs of investigation, incurred by an Indemnified Person with respect to any such threatened or actual action or proceeding, and any appeal thereof.

Section 7.02 Determination of Indemnification. Indemnification mandated by a final order of a court of competent jurisdiction shall be paid. If indemnification has not been ordered by a court, the Board, acting by a quorum consisting of Directors who have no personal interest in the outcome and who are not parties to the action or proceeding concerning which indemnification is sought shall, upon written request by the

Adopted: December 13, 2011

Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these By-Laws and the applicable law. If a quorum of disinterested Directors is not obtainable, the Board shall make its determination only after receiving the opinion of independent legal counsel that indemnification is proper in the circumstances under applicable law and these By-Laws.

Section 7.03 Prohibited Indemnification. The Corporation shall not indemnify any person under these By-Laws if either the Board in good faith or a judgment or other final adjudication adverse to the Indemnified Person (or to the person whose actions are the basis for the action or proceeding) establishes that such person's acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he or she personally gained in fact a financial profit or other advantage to which such person was not legally entitled.

Section 7.04 Advancement of Expenses. The Corporation shall, on request of an Indemnified Person who is or may be entitled to be indemnified by the Corporation, pay or promptly reimburse the Indemnified Person's reasonably incurred expenses in connection with a threatened or actual action or proceeding prior to its final disposition. However, no such advancement of expenses shall be made unless the Indemnified Person makes a binding, written commitment to repay the Corporation, for any amount advanced for which it is ultimately determined that he or she is not entitled to be indemnified under the law or Section 7.03 of these By-Laws. An Indemnified Person shall cooperate in good faith with any request by the Corporation that common legal counsel be used by the parties to such action or proceeding unless it would be inappropriate to do so because of actual or potential conflicts between the interests of the parties.

Section 7.05 Binding Effect. Any person entitled to indemnification under these By-Laws has a legally enforceable right to indemnification which cannot be abridged by amendment of these By-Laws with respect to any event, action or omission occurring prior to the date of such amendment.

Section 7.06 Insurance. The Corporation may purchase and maintain insurance to indemnify the Corporation or any person described in this section against any liability asserted against him or her to the full extent such indemnification is permitted by law.

Adopted: December 13, 2011

ARTICLE VIII

AMENDMENTS

Section 8.01 Amendments. These By-Laws may be amended or repealed, and new By-Laws may be adopted, (1) by the vote of the Member, at any annual meeting of the Member or at any special meeting of the Member called for that purpose, or (2) by the Board at any meeting of the Board of which at least three days' notice of the proposed amendment has been given in writing to the Directors. Amendments shall become effective upon approval by a vote of the Member or of a majority of those Directors of the Corporation who are present at such a meeting. Any By-Law adopted by the Board may be amended or repealed by the Member entitled to vote thereon as herein provided, and any By-Law adopted by the Member may be amended or repealed by the Board. Notwithstanding the previous sentence, any By-Law adopted by the Member may provide that such By-Law shall not be subject to amendment or repeal by the Board.

CERTIFICATE OF DISSOLUTION
OF
VNS CHOICE COMMUNITY CARE

Under Section 1003 of the Not-For-Profit Corporation Law

I, Keith Patterson, being the Treasurer and Administrator of VNS CHOICE Community Care, a New York not-for-profit corporation (the “Corporation”), hereby certify:

1. The name of the Corporation is VNS CHOICE Community Care.

2. The Certificate of Incorporation of the Corporation was filed by the Department of State of the State of New York on January 8, 2003 under the New York Not-for-Profit Corporation Law (“NPCL”).

3. The names and addresses of the Corporation’s officers and directors are:

<u>Name</u>	<u>Title</u>	<u>Address</u>
Daniel Savitt	Chair, President and Director	220 East 42 nd Street, New York, NY 10017
Keith Patterson	Treasurer, Administrator and Director	220 East 42 nd Street, New York, NY 10017
Joy Matias	Secretary and Director	220 East 42 nd Street, New York, NY 10017

4. The Corporation is a charitable corporation under Section 102(a)(3-a) and Section 201(c) of the NPCL.

5. At the time of authorization of the Corporation’s Plan of Dissolution pursuant to Section 1002 of the NPCL, the Corporation did not hold any assets legally required to be used for a particular purpose.

6. The Corporation elects to dissolve.

7. The dissolution of the Corporation was authorized by: (a) the unanimous written consent of the Board of Directors of the Corporation, and (b) the adoption of resolutions by unanimous vote at a duly convened meeting of the Board of Directors of the Corporation’s sole member.

8. The Corporation is a charitable corporation with no assets. Prior to the delivery of this Certificate of Dissolution to the Department of State for filing, a copy of the Corporation's Plan of Dissolution which contains the statement prescribed by paragraph (b) of Section 1001 of the Not-for-Profit Corporation Law has been duly filed with the Attorney General.

[Remainder of page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Dissolution of VNS CHOICE Community Care on this 14th day of November, 2024.

A handwritten signature in black ink, appearing to read 'Keith Patterson', is written over a horizontal line.

By: Keith Patterson
Title: Treasurer and Administrator

**UNANIMOUS WRITTEN CONSENT
OF THE
BOARD OF DIRECTORS
OF
VNS CHOICE COMMUNITY CARE**

THE UNDERSIGNED, constituting all of the members of the Board of Directors (the “Board”) of VNS CHOICE Community Care, a New York not-for-profit corporation (the “Corporation”), do hereby adopt and approve the following resolutions by unanimous written consent in lieu of a meeting of the Board pursuant to Section 708(b) of the New York Not-for-Profit Corporation Law (“NPCL”), effective as provided below in the WITNESS clause hereof:

WHEREAS, the Corporation was incorporated on January 8, 2003 for the purpose of maintaining and operating a licensed home care services agency (“LHCSA”) pursuant to Article 36 of the Public Health Law;

WHEREAS, the Corporation’s LHCSA operations and licenses were terminated on January 9, 2015 and its adult day care center operations terminated thereafter, and the Corporation has since been inactive, has no remaining assets and is no longer likely to be subject to a post-closure audit;

WHEREAS, the Board believes that it is in the best interests of the Corporation for the Corporation to wind down its affairs and dissolve in accordance with the Plan of Dissolution in the form attached hereto as *Exhibit A* (the “Plan”), which requires the Board’s approval pursuant to Section 1001(a) of the NPCL;

WHEREAS, after the Plan is approved by the Board, it is required to be approved by the sole member of the Corporation, VNS CHOICE, a New York not-for-profit corporation (the “Sole Member”), in accordance with Section 1002(a) of the NPCL; and

WHEREAS, the terms of office of the Corporation’s Officers have expired, and the Board desires to elect Officers in connection with effecting the Corporation’s dissolution.

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that the Board hereby authorizes and approves the dissolution of the Corporation and directs that the Corporation be dissolved in accordance with the Plan in the form attached hereto as *Exhibit A*, which Plan is hereby adopted by the Board as the plan of dissolution of the Corporation required pursuant to Section 1001(a) of the NPCL;

RESOLVED, that the Board hereby recommends to the Sole Member that it approve the dissolution of the Corporation and the Plan; and be it further

RESOLVED, that the Certificate of Dissolution of the Corporation is hereby approved substantially in the form attached hereto as *Exhibit B* (the “Certificate of Dissolution”); and be it further

RESOLVED, that the Petition to the New York State Attorney General for approval of the Corporation's Certificate of Dissolution is hereby approved substantially in the form attached hereto as *Exhibit C* (the "Petition"); and be it further

RESOLVED, that the following individuals are hereby elected as Officers of the Corporation, to the positions set forth below, to serve in accordance with the Corporation's Bylaws:

<u>Name</u>	<u>Title</u>
Daniel Savitt	Chair and President
Keith Patterson	Treasurer and Administrator
Joy Matias	Secretary

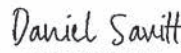
; and be it further

RESOLVED, that the Officers of the Corporation shall be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation, to take all such actions as they reasonably deem necessary or advisable to carry out the intent of the foregoing resolutions and in furtherance of effecting the dissolution of the Corporation in accordance with the Plan, including, but not limited to: (i) making such changes to the Plan, the Certificate of Dissolution and/or the Petition as may be required by any governmental, regulatory or judicial authority or as advised by legal counsel; (ii) obtaining any required governmental, regulatory or judicial approvals, including, but not limited to, the approval of the Attorney General of the State of New York and the New York State Department of Taxation and Finance; (iii) following receipt of all required governmental, regulatory or other others approvals and consents, filing the Certificate of Dissolution with the New York Secretary of State substantially in the form attached hereto as *Exhibit B*; and (vi) executing and delivering all such agreements, documents, certificates and instruments necessary to carry out the Plan and consummate the dissolution of the Corporation, including closing any bank or other financial accounts and making all such tax and other filings as may be required by any governmental or regulatory agency or court, including but not limited to the filing of a final Form CHAR500 with the New York State Charities Bureau and final Form 990 with the Internal Revenue Service, the authority and necessity for the taking of such actions and the execution and delivery of such agreements, documents, certificates, and instruments to be conclusively evidenced thereby; and be it further

RESOLVED, that (a) this Unanimous Written Consent may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, (b) this Unanimous Written Consent may be executed and delivered by exchange of facsimile or PDF copies showing the signatures of each of the members of the Board, and those signatures need not be affixed to the same copy, and (c) the facsimile or PDF copies showing the signatures shall constitute originally signed copies of the same Unanimous Written Consent requiring no further execution.

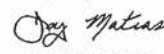
[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the undersigned, constituting all of the members of the Board of Directors of VNS CHOICE Community Care, have executed this Unanimous Written Consent on the date set forth beneath their respective signatures below, to take effect as of the date on which the last Director has executed this Unanimous Written Consent below.

Signed by:

64047443E4684B2...
By: Daniel Savitt
Date: 10/28/2024

Signed by:

95179E4FA52C48D...
By: Keith Patterson
Date: 10/28/2024

Signed by:

9B2AB90864774E2...
By: Joy Matias
Date: 10/28/2024

**RESOLUTIONS
OF
VNS CHOICE
IN ITS CAPACITY AS
THE SOLE MEMBER
OF
VNS CHOICE COMMUNITY CARE**

WHEREAS, VNS CHOICE, a New York not-for-profit corporation ("CHOICE"), is the sole member of VNS CHOICE Community Care, a New York not-for-profit corporation ("CCC"),

WHEREAS, CCC was incorporated on January 8, 2003 for the purpose of maintaining and operating a licensed home care services agency ("LHCSA") pursuant to Article 36 of the Public Health Law, and has become inactive and has no assets;

WHEREAS, CCC's LHCSA operations and licenses were terminated on January 9, 2015 and its adult day care center operations terminated thereafter, and CCC has since been inactive, has no remaining assets and is no longer likely to be subject to a post-closure audit;

WHEREAS, the Board of Directors of CCC believes that it is in the best interests of CCC to wind down its affairs and dissolve, and has approved the dissolution of CCC in accordance with the Plan of Dissolution for CCC attached hereto as *Exhibit A* (the "Plan");

WHEREAS, CCC's Plan is required to be approved by its sole member, in accordance with Section 1002(a) of the New York Not-for-Profit Corporation Law, and the Board of Directors of CCC has recommended that CHOICE approve the dissolution of CCC and CCC's Plan, in CHOICE's capacity as CCC's sole member; and

WHEREAS, the Board of Directors of CHOICE believes that it is in the best interests of the Corporation and CCC for CCC to wind down its affairs and dissolve in accordance with the Plan.

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that the Board hereby authorizes and approves the dissolution of CCC in accordance with the Plan in the form attached hereto as *Exhibit A*; and be it further

RESOLVED, that the Officers of the Corporation are hereby authorized and directed, in the name and on behalf of the Corporation, to take all such actions as they reasonably deem necessary or advisable to carry out the intent of the foregoing resolution and in furtherance of effecting the dissolution of CCC in accordance with the Plan, including, without limitation, to execute and deliver an Officer's Certificate certifying to the due adoption of these resolutions to the New York State Attorney General's Charities Bureau, and the authority and necessity for the taking of any and all such actions shall be conclusively evidenced thereby.

Exhibit A

**PLAN OF DISSOLUTION
OF
VNS CHOICE COMMUNITY CARE**

The Board of Directors of the VNS CHOICE Community Care, a New York not-for-profit corporation (the “Corporation”), has considered the advisability of voluntarily dissolving the Corporation and has determined that dissolution is in the best interest of the Corporation, and does hereby adopt the following Plan of Dissolution for the Corporation, and recommends it to the sole member of the Corporation for approval:

1. The Corporation has no assets or liabilities.
2. Other than the approval of the Attorney General, no approval of the dissolution of the Corporation by any governmental body or officer is required.
3. A Certificate of Dissolution of the Corporation shall be signed by an authorized Director or Officer and all required approvals shall be attached thereto.

Officer's Certification

I, Keith Patterson, Chief Financial Officer of VNS CHOICE, a New York not-for-profit corporation (the "Corporation"), hereby certify that the foregoing resolutions were duly adopted by a majority of the Directors of the Corporation's Board of Directors at a duly convened meeting held on the 5th day of November, 2024, at which a quorum was present throughout.



By: Keith Patterson

Officer Title: Chief Financial Officer

Date: November 6, 2024

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 10th day of April 2025, approves the filing of the Certificate Dissolution VNS CHOICE Community Care, dated November 14, 2024.

MEMORANDUM

To: Colleen Leonard, Executive Secretary
Public Health and Health Planning Council

From: Sarah Gold, Senior Attorney
Bureau of Program Counsel

Date: March 20, 2025

Subject: Proposed Dissolution of Presbyterian Senior Care of Western New York, Inc.

This is to request that the above matter be included on the agendas for the next Establishment and Project Review Committee and Public Health and Health Planning Council (PHHPC) meetings.

The attachments relating to this matter include the following:

- 1) Memorandum to the Public Health and Health Planning Council from Kathy Marks, General Counsel;
- 2) A photocopy of a letter from Legal Counsel requesting approval of the proposed Certificate of Dissolution of Presbyterian Senior Care of Western New York, Inc. dated January 31, 2021;
- 3) A photocopy of a letter from legal counsel seeking status of same July 8, 2022.
- 4) A photocopy of the Certificate of Incorporation of Presbyterian Homes of Western New York, Inc., dated September 20, 1957 establishing it as a membership corporation;
- 5) A photocopy of the Certificate of Amendment of Presbyterian Homes of Western New York, Inc. dated January 26, 1979 bringing it into compliance with the change in the non-profit corporation laws;
- 6) A photocopy of a Certificate of Amendment changing the name to Presbyterian Senior Care of Western New York, Inc., dated June 21, 2005 and a letter from Public Health Counsel consenting to the same; and
- 7) A Certificate of Dissolution for Presbyterian Senior Care of Western New York, Inc. dated April 10, 2010.

MEMORANDUM

To: Public Health and Health Planning Council

From: Kathy Marks, General Counsel *KSM*

Date: March 20, 2025

Subject: Proposed Dissolution of Presbyterian Senior Care of Western New York, Inc.

Presbyterian Senior Care of Western New York, Inc. requests Public Health and Health Planning Council ("PHHPC") approval of its proposed dissolution in accordance with the requirements of Not-For-Profit Corporation Law §§ 1002(c) and 1003, as well as 10 NYCRR Part 650.

Presbyterian Senior Care of Western New York, Inc. ("PSC") is a New York not-for-profit corporation formed on September 25, 1957. PSC currently has seventeen board members.

The Plan and Certificate of Dissolution were authorized by vote of the Directors followed by two-thirds vote of the Corporation's members. A copy of such authorizing resolutions is attached.

Pursuant to its Plan of Dissolution, the corporation has no assets to distribute other than a reserve not exceeding \$25,000 for the purpose of paying ordinary and necessary expenses of winding up its affairs including attorney and accountant fees.

Because the Public Health Council previously approved the filing of the Certificate of Incorporation of PSC, PHHPC must approve of this dissolution. If approved by PHHPC, the submitted Petition and Certificate of Dissolution will then be executed/verified and addressed with the Attorney General's Office Charities Bureau.

There is no legal objection to the proposed Certificate of Dissolution. The required documents are attached.

Attachments.

Paul J. Bartlett
Associate

January 31, 2021

VIA ELECTRONIC MAIL

New York State Department of Health
Public Health and Health Planning Council
Attn: Colleen Leonard

Re: Dissolution of Presbyterian Senior Care of Western New York, Inc.

Dear Colleen:

Enclosed please find copies of the certificate of incorporation, plan of dissolution, and proposed certificate of dissolution for Presbyterian Senior Care of Western New York, Inc. ("PSC"). PSC is applying for Department of Health ("DOH") and PHHPC approval of its certificate of dissolution for filing with the Department of State.

In February 2021, PSC will be completing a transfer of all of its assets to newly-formed affiliates of Beechwood Health Care Center, Inc. ("Beechwood"). DOH previously approved this transaction, and copies of such approvals are enclosed. PSC has obtained all other regulatory approvals, and this transaction is anticipated to close on February 12, 2021.

Following the closing of the transaction with Beechwood, PSC will have no assets other than a small cash reserve to pay its expenses associated with dissolution. PSC is hereby requesting DOH and PHHPC approval (as needed) of its proposed certificate of dissolution.

PSC has applied for consent to dissolve from the New York State Department of Taxation and Finance and the New York State Attorney General simultaneously with this application.

Very truly yours,

Paul Bartlett

Paul J. Bartlett

PJB:

Enclosures

cc: Richard J. Day
Mary Beth Karr
Thomas Grogan

BARCLAY DAMON ^{LLP}

Raymond N. McCabe
Partner

July 8, 2022

Public Health and Health Planning Council
Empire State Plaza
Corning Tower, Room 1805
Albany, NY 12237

Re: Certificate of Dissolution of
Presbyterian Senior Care of Western New York
Our Matter No. 3097614

Dear Sir or Madam:

We enclose a copy of your letter dated February 1, 2021 acknowledging receipt of our request for approval of the Certificate of Dissolution of Presbyterian Senior Care of Western New York, Inc. We have received no further correspondence from your office or the Division of Legal Affairs, Bureau of Health Facility Planning and Development.

At your earliest convenience please advise of the status of our request and advise what additional information, if any, is needed by the Division of Legal Affairs to complete its review.

Please note that Paul Bartlett is no longer with this firm. Please direct all future correspondence to the undersigned.

Very truly yours,



Raymond N. McCabe

RNM:vh
Enclosure

PHHPC

PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

Empire State Plaza, Corning Tower, Room 1805
Albany, New York 12237

(518) 402-0964
PHHPC@health.state.ny.us

February 1, 2021

Paul J. Bartlett
Barclay Damon
The Avant Building
200 Delaware Avenue, Suite 1200
Buffalo, New York 14202

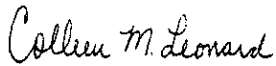
Re: Certificate of Dissolution of Presbyterian Senior Care of Western New York, Inc.

Dear Mr. Bartlett:

I have received your letter January 31, 2021, requesting approval of the Certificate of Dissolution of Presbyterian Senior Care of Western New York, Inc. under Section 1003 of the Not-For-Profit Corporation Law of the State of New York. Your letter has been forwarded to the Division of Legal Affairs, Bureau of Health Facility Planning and Development for review and approval.

You will be notified when this request has been approved, or if additional information is required. Division of Legal Affairs staff may be reached at (518) 473-3303 if you have any questions.

Sincerely,


Colleen M. Leonard
Executive Secretary

cc: DLA

/cl

CERTIFICATE OF INCORPORATION

Of

PRESBYTERIAN HOMES OF WESTERN NEW YORK, INC.,

Pursuant to the Membership
Corporation Laws

- - - - -

WE, the undersigned, for the purpose of forming a corporation pursuant to the Membership Corporations Law of the State of New York do make, subscribe and acknowledge this certificate as follows:

FIRST: The name of the proposed corporation shall be PRESBYTERIAN HOMES OF WESTERN NEW YORK, INC.

SECOND: The purposes for which it is to be formed are as follows:

- (a) To establish and maintain homes for aged men and women, provided, however, that each such home shall not be established without the prior written approval of the State Board of Social Welfare therefor;
- (b) To purchase, lease, and otherwise acquire real or personal property necessary or useful in carrying out the foregoing purpose;
- (c) To accept and receive bequests, gifts and other transfers of money or property including the right to accept and receive by devise, gift or otherwise, real property or any interest therein;

and to do any and all things herein mentioned as fully and to the same extent as natural persons might or could do, either as principal or agent, either alone or associated with other corporations or organizations, and to do everything necessary, suitable or proper for the accomplishment of any of its purposes of pertaining to or growing out of or connected with its business and powers, or any parts thereof, provided the same be not prohibited by the law under which the corporation is organized.

THIRD: The territory in which its operations are principally to be conducted in the Counties of Erie, Niagara, Chautauqua, Cattaraugus and Allegany, State of New York.

FOURTH: The city and county in which its office is to be located are the City of Buffalo and County of Erie, State of New York.

FIFTH: The number of its directors shall be not less than three (3) nor more than twenty-four (24).

SIXTH: The names and residences of the directors until the first annual meeting are:

<u>NAME</u>	<u>RESIDENCE</u>
Marjorie L. Abbey	39 Parkwood Avenue Kenmore, New York
Albert G. Butzer	724 Delaware Avenue Buffalo, New York
William Cease	104 Central Avenue Dunkirk, New York
Paul Denise	Box 416 Lewiston, New York
David Donald	775 Main Street Buffalo, New York
Frank A. Elliott	218 Olean Street East Aurora, New York
John A. C. Halbin	800 M & T Building Buffalo, New York
Cathryn G. Hoeldtke	188 Smallwood Drive Snyder, New York
John F. Hughes	4305 Union Road Cheektowaga, New York
J. Ernest Jolly	37 South Street Cuba, New York
Frederick T. Keller	943 Rankine Road Niagara Falls, New York

<u>NAME</u>	(continued)	<u>RESIDENCE</u>
Charles R. Loomis		1820 Seneca Street Buffalo, New York
Ralph C. Matter		6 Baxter Avenue Alden, New York
Elizabeth F. McLean		338 Goundry Street North Tonawanda, New York
Andrew Pinkerton Jr.		150 Central Avenue Fredonia, New York
Harold P. Rich		19 South Division Street Buffalo, New York
Charles F. Schultz		19 Eiseman Avenue Kenmore, New York
Harry A. Smith		Gowanda, New York
Ronald R. Smith		Springville, New York
Weldon D. Smith		265 Middlesex Road Buffalo, New York
Marjorie M. Upson		473 Washburn Street Lockport, New York
W. Howard Vanderhoef,		187 Main Street Hamburg, New York
Ruth Wiant Wheeler		175 North Street Buffalo, New York
Martha R. Wood,		134 Ruskin Road Egbertsville, New York

SEVENTH: All of the subscribers to this Certificate are of full age; at least two-thirds of them are citizens of the United States; at least one of them is a resident of the State of New York; and of the persons named as directors, at least one is a citizen of the United States and a resident of the State of New York.

EIGHTH: The Corporation is organized and shall be operated exclusively for charitable purposes, and no part of the net earnings of the corporation shall inure to the benefit of any private individual and no substantial part

of the activities of the corporation shall be carrying on propaganda or otherwise attempting to influence legislation,

NINTH: None of the directors, officers, members or employees of the corporation shall receive or be lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of its corporate objects.

TENTH: Any person made a party to any action, suit or proceeding by reason of the fact that he, his testator or intestate, is or was a director, officer or employee of this corporation or of any corporation which he served as such at the request of this corporation, shall be indemnified by this corporation against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such officer, director or employee is liable for negligence or misconduct in the performance of his duties. Such right of indemnification shall not be deemed exclusive or any other rights to which such director, officer or employee may be entitled apart from the provisions of Section 63 of the General Corporation Law, as amended.

IN WITNESS WHEREOF, we have made subscribed and acknowledged this Certificate in duplicate this 29th day of August, 1957.

JOHN E. DICKINSON,

JOHN A. C. HALBIN,

CATHRYN G. HOELDTKE,

ALLAIRE U. KARZON,

HAROLD P. REID,

STATE OF NEW YORK)
 : S S:
COUNTY OF ERIE)

On this 29th day of August, 1957, before me personally came JOHN E. DICKINSON, JOHN A. C. HALBIN, CATHRYN G. HOELDTKE, ALLAIRE U. KARZON AND HAROLD P. RICH, to me personally known to be the same persons described in and who executed the foregoing certificate, and they severally duly acknowledged to me that they executed the same.

JOHN L. TRUSCOTT
John L. Truscott
Notary Public State of New York
Qualified in Erie County
My Commission expires Mar. 30, 1958.

STATE OF NEW YORK)
 : SS:
COUNTY OF ERIE)

JOHN E. DICKINSON, JOHN A. C. HALBIN, CATHRYN G. HOELDTKE, ALLAIRE U. KARZON, AND HAROLD P. RICH, each being severally duly sworn, depose and say, and each for himself or herself deposes and says, that he or she is one of the persons described in and who executed the annexed Certificate of Incorporation, and that he or she is of full age, a citizen of the United States and a resident of the State of New York.

JOHN E. DICKINSON

JOHN A. C. HALBIN

CATHRYN G. HOELDTKE

ALLAIRE U. KARZON

HAROLD P. RICH

Subscribed and sworn to before me
this 29th day of August, 1957.

JOHN L. TRUSCOTT
John L. Truscott
Notary Public State of New York,
Qualified in Erie County
My Commission expires May 30, 1958.

STATE OF NEW YORK-DEPARTMENT OF SOCIAL WELFARE

STATE BOARD OF SOCIAL WELFARE

ALBANY

Know all Men by These Presents:

At a meeting of the State Board of Social Welfare, held on the seventeenth day of September, 1957, due inquiry and investigation having been made, the Board approved the certificate of incorporation of PRESBYTERIAN HOMES OF WESTERN NEW YORK, INC., pursuant to the Membership Corporations Law of the State of New York.

In Witness Whereof, the State Board of Social Welfare has caused these presents to be signed in accordance with the Provisions of the statutes and its by-laws, and the official seal of the Board and of the Department to be here-unto affixed, this twentieth day of September, in the year one thousand nine hundred and fifty-seven.

SEAL

Secretary.

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
PRESBYTERIAN HOMES OF WESTERN NEW YORK, INC.

Pursuant to Section 801 of the
Not-for-Profit Corporation Law

We, the undersigned, the President and Secretary respectively of Presbyterian Homes of Western New York, Inc., hereby certify:

1. The name of the corporation is PRESBYTERIAN HOMES OF WESTERN NEW YORK, INC., which is the name under which the corporation was originally incorporated.

2. The Certificate of Incorporation was filed in the Office of the Secretary of State on September 25, 1957 and the corporation was formed under Section 10 of the former membership corporation law.

3. The corporation is a corporation as defined in sub-paragraph (A)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation within the meaning of Section 201 of the Not-for-Profit Corporation Law. The corporation will remain a Type B corporation after this Certificate of Amendment is filed.

4. Service of any notice as required by law, shall be made by the Secretary of State upon the corporation at 1601 Liberty Bank Building, Buffalo, New York 14202.

5. Paragraph SECOND of the Certificate of Incorporation, as previously amended, states as follows:

"The purpose for which it is to be formed are as follows:

- (a) To establish and maintain homes for aged men and women, provided, however, that each such home shall not be established without the prior written approval of the State Board of Social Welfare therefore;
- (b) To purchase, lease and otherwise acquire real or personal property necessary or useful in carrying out the foregoing purposes;
- (c) To accept and receive bequests, gifts and other transfers of money or property including the right to accept and receive by devise, gift or otherwise, real property or any interest therein;
- (d) To establish, operate and maintain a nursing home.

and to do any and all things herein mentioned as fully and to the same extent as natural persons might or could do, either as principal or agent, either alone or associated with other corporations or organizations, and to do everything necessary, suitable or proper for the accomplishment of any of its purposes of pertaining to or growing out of or connected with its business and powers, or any parts thereof, provided the same be not prohibited by the law under which the corporation is organized."

6. Paragraph SECOND of the Certificate of Incorporation is hereby amended to read as follows:

"(a) To establish and operate nursing homes, residential health care facilities, homes for the aging and disabled, housing for the aging and disabled, and other services to the aging and disabled, provided, however, that each such facilities shall not be established without the prior written approval of the appropriate local, state or federal agency, if required;

(b) To purchase, lease and otherwise acquire real or personal property necessary or useful in carrying out the foregoing purposes;

(c) To accept and receive bequests, gifts and other transfers of money or property including the right to accept and receive by devise, gift or otherwise, real property or interest therein;

(d) To operate as a voluntary receiver of a residential health care facility pursuant to Section 2810 of the Public Health Law of the State of New York.

and to do any and all things herein mentioned as fully and to the same extent as natural persons might or could do, either as principal or agent, either alone or associated with other corporations or organizations, and to do everything necessary, suitable or proper for the accomplishment of any of its purposes pertaining to or growing out of or connected with his business and powers, or any parts thereof, provided the same be not prohibited by the law under which the corporation is organized."

7. This Amendment to the Certificate of Incorporation was authorized and approved by the Board of Directors. There are no members of this corporation entitled to vote at a meeting as provided in Paragraph (c) of Section 613 of a Not-for-Profit Corporation Law.

8. The approval of the Honorable Carlton A. Fisher, Justice of the Supreme Court, dated August 30, 1957 and the approval of the Secretary of the State Board of Social Welfare, dated September 17, 1957 were annexed to the original Certificate of Incorporation. Prior to delivery of this Certificate of Amendment to the Department of State, the approval of the Public Health Council of the State of New York, a Justice

of the Supreme Court and the Commissioner of Social Services shall be endorsed on or annexed hereto, as required by law.

IN WITNESS WHEREOF, we have signed this Certificate
this 26th day of January, 1979.

John L. Schmidt
President
Presbyterian Homes of Western
New York, Inc.

Mary F. Venneman
Secretary
Presbyterian Homes of Western
New York, Inc.

STATE OF NEW YORK) ss.:
COUNTY OF ERIE)

John L. Schmidt and Mary F. Venneman,
being duly sworn, depose and say:

That John L. Schmidt is the President of the Board of Trustees of Presbyterian Homes of Western New York, Inc. and Mary F. Venneman is Secretary; that they have each executed and acknowledged the foregoing Certificate of Amendment of the Certificate of Incorporation of Presbyterian Homes of Western New York, Inc.; that they have been authorized to execute and file the Certificate by the concurring vote of the members of the Board of Trustees; that the statements made in said Certificate are true to deponents' own knowledge.

John L. Schmidt
Mary F. Venneman

Subscribed and sworn to before me
this 26th day of January, 1979.

Neil R. Farnelo
Notary Public

NEIL R. FARNELO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1980

JOSEPH D. MINTZ, J.S.C.

The undersigned, a Justice of the Supreme Court of the judicial district in which the office of Presbyterian Homes of Western New York, Inc., is located, does hereby approve the foregoing Certificate of Amendment of the Certificate of Incorporation of Presbyterian Homes of Western New York, Inc. and does hereby endorse his approval upon such Certificate pursuant to Section 804 of the Not-for-Profit Corporation Law of the State of New York.

S/ JOSEPH D. MINTZ
Justice of the Supreme Court
of the Eighth Judicial District
of the State of New York

Dated: APRIL 18, 1980

CSC 45

F060214000 203

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
of
PRESBYTERIAN HOMES OF WESTERN NEW YORK, INC.

Under Section 803 of the Not-for-Profit Corporation Law

It is hereby certified that:

FIRST: The name of the corporation is Presbyterian Homes of Western New York, Inc.

SECOND: The Certificate of Incorporation of the corporation was filed with the Department of State on September 25, 1957.

THIRD: The corporation was formed under the Not-for-Profit Corporation Law.

FOURTH: The corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law.

FIFTH: The corporation is a Type B corporation under Section 201 of the Not-for-Profit Corporation Law.

SIXTH: The Certificate of Incorporation of the corporation is hereby amended to: (i) change name of the corporation in Article First, and (ii) amend the address to which the Secretary of State shall mail a copy of process.

SEVENTH: To accomplish the former foregoing amendment, Article First of the Certificate of Incorporation shall be amended to read:

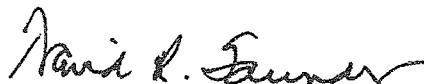
"FIRST: The name of the corporation shall be PRESBYTERIAN SENIOR CARE OF WESTERN NEW YORK, INC."

EIGHTH: To accomplish the latter foregoing amendment, the address within or without this state to which the Secretary of State shall mail a copy of any process accepted on behalf of the corporation shall be changed to: "Hiscock & Barclay, LLP, 1100 M&T Center, 3 Fountain Plaza, Buffalo, New York 14203-1414."

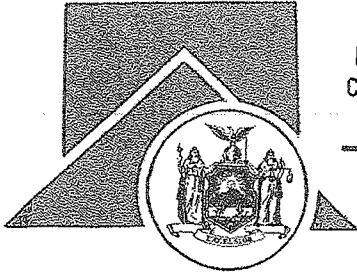
NINTH: The foregoing amendments of the Certificate of Incorporation of the corporation were authorized by a majority of the members of the corporation at a duly called meeting thereof.

TENTH: The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process accepted on behalf of the Corporation is: Hiscock & Barclay, LLP, 1100 M&T Center, 3 Fountain Plaza, Buffalo, New York 14203-1414.

Date: June 21, 2005



David Saunders, President and Chief Executive Officer



STATE OF NEW YORK
DEPARTMENT OF HEALTH
CORNING TOWER BUILDING
ALBANY, N.Y. 12237

PUBLIC HEALTH COUNCIL

January 23, 2006

Mr. Eugene M. Laks
Hiscock & Barclay
50 Beaver Street
Albany, New York 12207-2830

Re: Certificate of Amendment of the Certificate of Incorporation of Presbyterian Homes of Western New York, Inc.

Dear Mr. Laks:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 20th day of January, 2006, I hereby certify that the Public Health Council consents to the filing of the Certificate of Amendment of the Certificate of Incorporation of Presbyterian Homes of Western New York, Inc., dated June 21, 2005.

Sincerely,

Donna W. Peterson

Donna W. Peterson
Executive Secretary

/md

**CERTIFICATE OF DISSOLUTION
OF
PRESBYTERIAN SENIOR CARE OF WESTERN NEW YORK, INC.**

Under Section 1003 of the Not-for-Profit Corporation Law

I, Karin A. Ziegler, the President and Chief Executive Officer of Presbyterian Senior Care of Western New York, Inc., hereby certify as follows:

FIRST: The name of the corporation is Presbyterian Senior Care of Western New York, Inc. (the “Corporation”). The Corporation was originally formed under the name Presbyterian Homes of Western New York, Inc.

SECOND: The Certificate of Incorporation of the Corporation was filed with the New York State Department of State on the 25th day of September, 1957.

THIRD: The names and addresses of each of the officers and directors of the Corporation and the title of each are as follows:

<u>Name</u>	<u>Director/Officer Title</u>	<u>Address</u>
Mary Beth Karr	Board Chair	91 Four Seasons Road E. Amherst, NY 14226
Thomas Grogan	Vice Board Chair	170 Curley Drive Orchard Park, NY 14127
Karin Ziegler	President and Chief Executive Officer	437 Hammocks Drive Orchard Park, NY 14217
Lynn M. Osborne	Director of Finance	5542 Coachmans Lane Hamburg, NY 14075
Jenna Bichler-Cross	Vice President of Marketing and Business Development	5560 Big Tree Road Orchard Park, NY 14127
Robert Hoag	Treasurer	4704 Brentwood Drive Williamsville, NY 14221
William Gray	Director	940 Lexington Avenue Buffalo, NY 14222
Elaine Pyne	Director	849 Delaware Avenue Buffalo, NY 14204

Beverly Kubala	Director	2560 Walden Avenue Suite 104 Buffalo, NY 14225
Gayle Murphy	Director	231 Union Street Hamburg, NY 14075
Jeffrey Beich	Director	1879 Whitehaven Road #393 Grand Island, NY 14072
Rev. Leslie Latham	Director	51 Rockne Road Buffalo, NY 14223
Kathleen O'Hara	Director/Secretary	348 Parker Avenue Buffalo, NY 14216
Jeffrey Seekins	Director	27 Harding Avenue Lockport, NY 14094
Eugene Cullen	Director	170 Carnoustie Drive East Amherst, NY 14052
Kara Donovan	Director	4845 Middleton Drive Lockport, NY 14094
Brittany Perez	Director	Hayes Hall 3435 Main Street Buffalo, NY 14214

FOURTH: At the time of dissolution, the Corporation is a charitable New York not-for-profit corporation.

FIFTH: At the time of the authorization of the Corporation's Plan of Dissolution and Distribution of Assets pursuant to Section 1002 of the Not-for-Profit Corporation Law, the Corporation held no assets legally required to be used for a particular purpose.

SIXTH: The Corporation elects to dissolve.

SEVENTH: The dissolution was authorized by a vote of the Board of Directors, followed by the two-thirds vote of the Corporation's members.

EIGHTH: The Corporation is a charitable corporation with no assets to distribute other than a reserve not exceeding \$25,000 for the purpose of paying ordinary and necessary expenses of winding up its affairs including attorney and accountant fees, and the Corporation has liabilities not in excess of \$10,000. Prior to the delivery of this Certificate of Dissolution to

the Department of State for filing, a copy of the Plan of Dissolution which contains the statement prescribed by paragraph (b) of Section 1001 of the Not-for-Profit Corporation Law has been duly filed with the Attorney General.

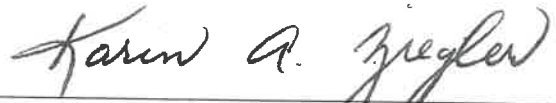
NINTH: The dissolution of the Corporation requires the approval of the Attorney General and the New York State Department of Health, and such approvals are annexed hereto or endorsed hereon. No approval of the dissolution of the Corporation by any other government body or officer is required.

TENTH: The Corporation has carried out the Plan of Dissolution.

ELEVENTH: Prior to the filing of this Certificate of Dissolution with the Department of State, the endorsement of the Attorney General will be stamped below.

[signature page follows]

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Dissolution of the Corporation this 10th day of April, 2020.

A handwritten signature in black ink, reading "Karin A. Ziegler". The signature is written in a cursive style with a large, stylized "Z" at the end.

Karin A. Ziegler, President & CEO

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, on this 10th day of April 2025, approves the filing of the Certificate Dissolution of Presbyterian Senior Care of Western New York, Inc., dated April 10, 2020.



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:

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

Proposed Owners:

Member	%
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 Tomlinson	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.

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

<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

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 Gershenthorn, 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, Jospeh, 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, Puj, 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	<u>0</u>	<u>0%</u>	<u>324</u>	<u>2.02%</u>	<u>380</u>	<u>2.02%</u>
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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to transfer a 40.10% membership interest in the Center to 18 individual physician members, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

242292 E

FACILITY/APPLICANT:

Crystal Run Ambulatory Surgery
Center of Middletown

APPROVAL CONTINGENT UPON:

N/A

APPROVAL CONDITIONAL UPON:

1. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

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



Project # 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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a single-specialty ambulatory surgery center for gastroenterology at 775 Park Avenue, Huntington Station, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

251014 E

FACILITY/APPLICANT:

Atrium Endoscopy

APPROVAL CONTINGENT UPON:

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

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of 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]

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



Project # 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 1st Lien Loan of \$4,142,350, and a 2nd Lien Loan of \$3,313,880 from Lincoln Capital, which will be covered through a SBA 504 loan. The loan for \$3,313,880 is expected to fund the

landlord's portion of the buildouts associated with CON 242263 and 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)				
Procedures		<u>\$472,101</u>		<u>\$290,276</u>
Cost Per Procedure		1,680		1,915
		\$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 Bridge Loan from Lincoln Capital 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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a multi-specialty ambulatory surgery center to be constructed at 1 Maspeth Avenue, Brooklyn, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

242221 B

FACILITY/APPLICANT:

Ambulatory Surgery Center of Williamsburg

APPROVAL CONTINGENT UPON:

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

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of an executed 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]

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



Project # 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:

Proposed Operator	
Medical Center of Williamsburg, LLC*	
Member:	%
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 bridge loan from Lincoln Capital.

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, a 1st Lien Loan of \$4,142,350 from Empire State Certified Development Corporation d/b/a Pursuit BDC, and a 2nd Lien Loan of \$3,313,880 from Lincoln Capital Management. The loan for \$3,313,880 is expected to fund the landlord's portion of the buildouts associated with CON 242263 and CON 242221. After construction is finished and SBA closing is planned, the SBA funds will be used to pay the Lincoln Capital Management LLC Bridge Loan.

<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 – Lincoln Capital 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 Bridge Loan from Lincoln Capital 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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish and construct a Diagnostic and Treatment Center to be located at 1 Maspeth Avenue, Brooklyn, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

242263 B

FACILITY/APPLICANT:

Medical Center of Williamsburg

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]

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



Project # 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).

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.

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

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

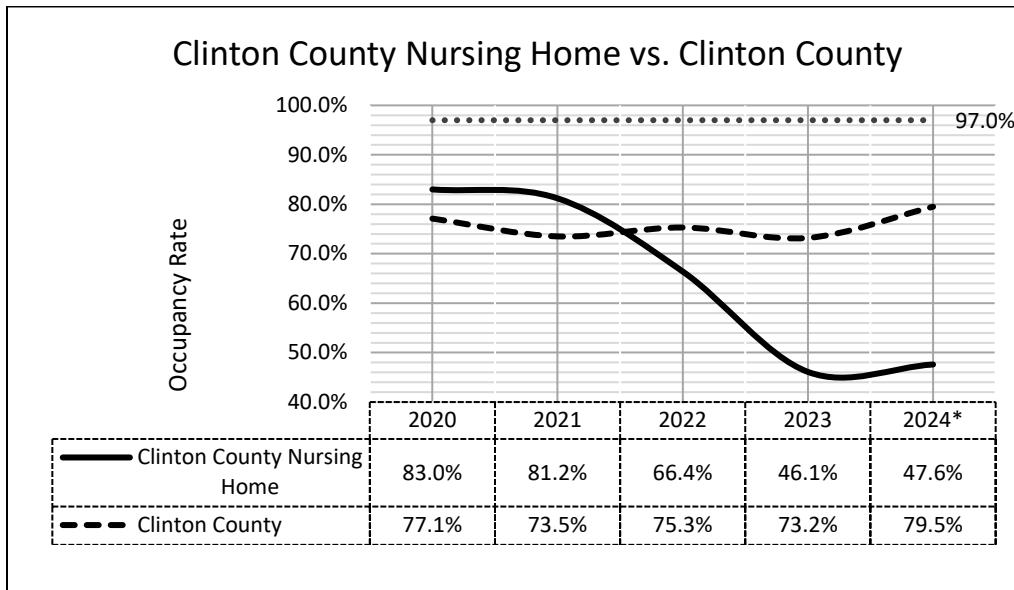
Need Analysis

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 RHCs	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 RHCs cost report

*2024 data is self-reported and not verified. Occupancy through 2023 is from the RHCs'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
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: RHCs 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: RHCs 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>	
<u>Revenues</u>	<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		0		273,109		288,283
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	\$10.60	142,561	\$28.55	750,192	\$27.04	750,192
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 Zigelbaum 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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish CLRNC Operating LLC as the new operator of Clinton County Nursing Home, an 80-bed Residential Health Care Facility currently operated by Clinton County at 16 Flynn Avenue, Plattsburgh, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

231220 E

FACILITY/APPLICANT:

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

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]

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



Project # 232241-E
WRNC Operating LLC d/b/a
Wells Rehabilitation and Nursing Center

Program: Residential Health Care Facility
Purpose: Establishment

County: Fulton
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

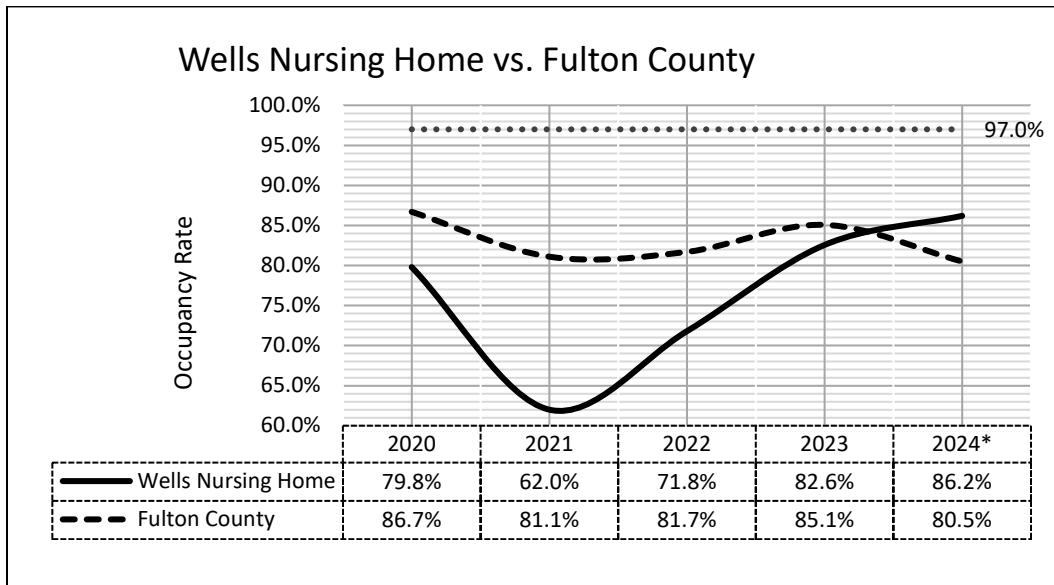
Need Analysis

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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish WRNC Operating LLC as the new operator of Wells Rehabilitation and Nursing Center, a 100-bed Residential Health Care Facility currently operated by Wells Nursing Home, Inc. at 201 West Madison Avenue, Johnstown, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

232241 E

FACILITY/APPLICANT:

WRNC Operating LLC d/b/a Wells
Rehabilitation and Nursing Center

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]

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



Project # 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

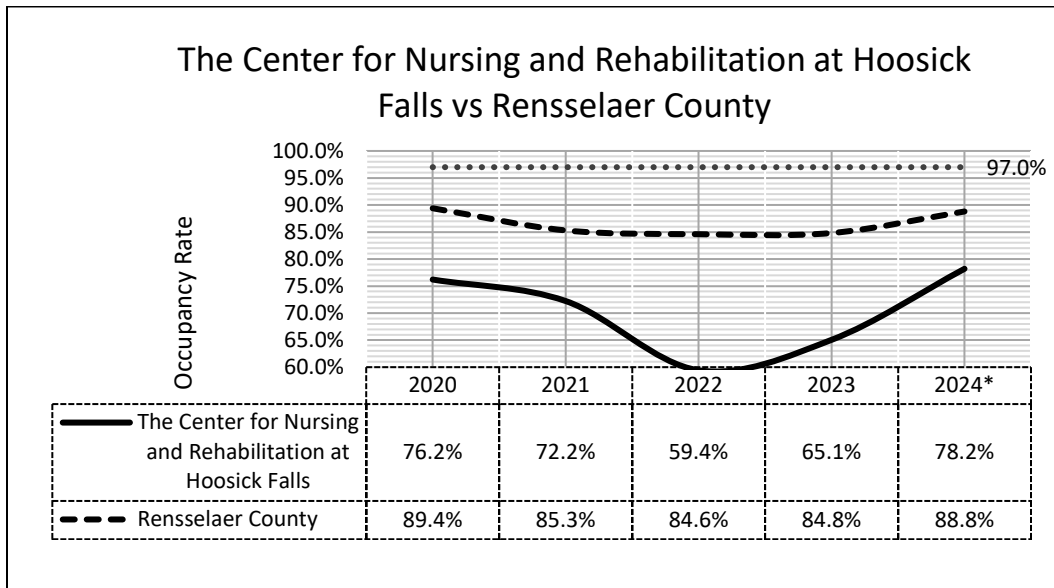
Need Analysis

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

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish Hoosick Falls Center LLC as the new operator of The Center for Nursing and Rehabilitation at Hoosick Falls, an existing 82-bed residential health care facility located at 21 Danforth Street, Hoosick Falls, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

202251 E

FACILITY/APPLICANT:

Hoosick Falls Center LLC d/b/a Hoosick Falls
Rehabilitation and Nursing Center

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]

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



Project # 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

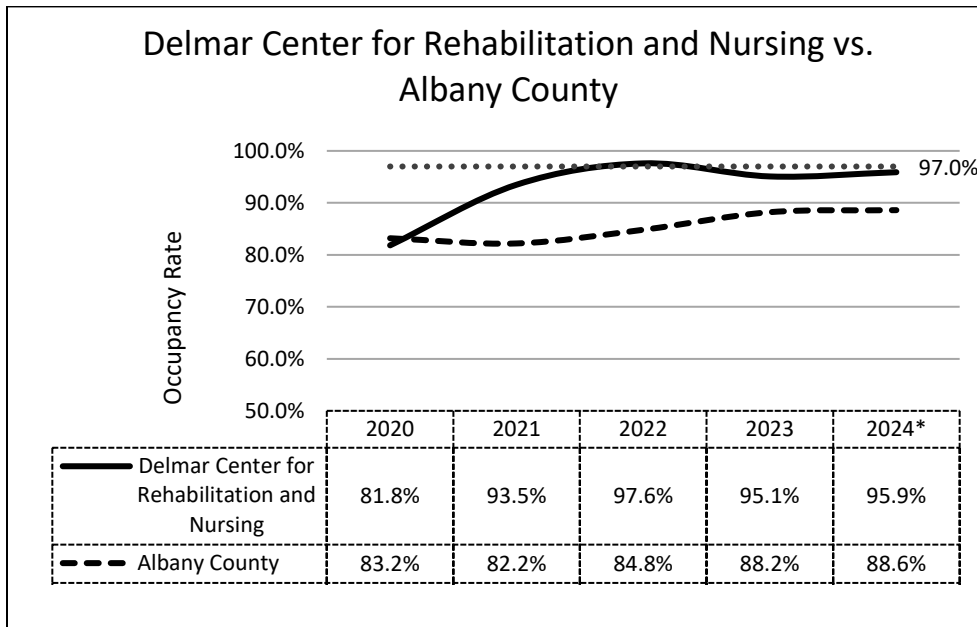
Need Analysis

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 RHCFS	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 RHCf 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
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.

- o 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.

RESOLUTION

RESOLVED, that the Public Health and Health Planning Council, pursuant to the provisions of Section 2801-a of the Public Health Law, on this 10th day of April 2025, having considered any advice offered by the Regional Health Systems Agency, the staff of the New York State Department of Health, and the Establishment and Project Review Committee of this Council and after due deliberation, hereby proposes to approve the following application to establish Delmar SNF Operations Associates, LLC as the new operator of Bethlehem Commons Care Center, a 120-bed Residential Health Care Facility currently operated by Good Samaritan Lutheran Health Care Center, Inc. at 125 Rockefeller Road, Delmar, and with the contingencies, if any, as set forth below and providing that each applicant fulfills the contingencies and conditions, if any, specified with reference to the application, and be it further

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

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

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

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

NUMBER:

242133 E

FACILITY/APPLICANT:

Delmar SNF Operations Associates, LLC d/b/a
Delmar Center for Rehabilitation and Nursing

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]

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