

June 30, 2017

**DONOGHUE  
BARRETT  
& SINGAL**

Via Email

Nora Mann, Esq., Director  
Determination of Need Program  
Department of Public Health  
250 Washington Street, 6<sup>th</sup> Floor  
Boston, MA 02108

Re: Application Number – N/A-17063009-AM  
Request for Approval of Immaterial Change to Determination of Need Project #4-1573, Brighton Health Group, LLC d/b/a Presentation Rehabilitation and Skilled Care Center

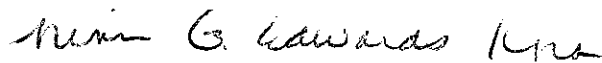
Dear Attorney Mann:

We write on behalf of Brighton Health Group, LLC (“Applicant”) d/b/a Presentation Rehabilitation and Skilled Care Center (“Facility”). The Applicant is the holder of Determination of Need Project (“DoN”) Number #4-1573 (“Project”). The Applicant submits the enclosed attestation requesting an immaterial change to the Project in accordance with 105 C.M.R. §100.635 of the Department of Public Health’s (“Department”) DoN regulations. Please note that the DoN Application Form is concurrently being submitted through the DoN Program website.

We note that a filing fee is not being submitted in connection with this application. The DoN Application Form appears to reflect that a filing fee is required for this amendment. It is our understanding that a filing fee is not required for the amendment of a previously approved DoN application.

We thank you for your attention to this matter. Please do not hesitate to contact Nicole Sexton, Esq. or me if you any questions regarding this immaterial change request.

Sincerely,



Nina G. Edwards

Enclosure

cc: P. Sheehan

**Donoghue Barrett & Singal**  
One Beacon Street, Suite 1320  
Boston, MA 02108-3106  
T 617.598.6700  
F 617.722.0276  
www.dbslawfirm.com



I, the undersigned, on behalf of Brighton Health Group, LLC (“Applicant”) d/b/a Presentation Rehabilitation and Skilled Care Center (“Facility”), hereby certify and attest to the Massachusetts Department of Public Health (“DPH”) Determination of Need (“DoN”) Program as follows:

1. The Applicant is the current holder of approved Determination of Need (“DoN”) Project #4-1573 (“Project”). The approved Project is for new construction and renovations to the one hundred twenty-two (122) bed Facility. Attached at Exhibit A is a copy of the approval dated December 10, 2013. The Facility is in the process of implementing the DoN approval. The Applicant seeks approval from the DoN Program for an inflation adjustment to reflect current Project costs. As the DoN was approved in 2013, the Project costs no longer accurately reflect current pricing. The Applicant hereby respectfully requests an immaterial change to its DoN in accordance with 105 C.M.R. §100.635(A)(1) for inflation adjustment. The following description is provided in support of the Applicant’s request for an immaterial change.

The approved Project approved is for new construction and renovations to the existing Facility. This includes a new three-story addition that will include the replacement of seventeen (17) beds. The Project was designed to allow the Applicant to modernize and improve the Facility’s physical plant. The Project was proposed as a two phase project, with the first phase permitting critical renovations, equipment repair and replacement, and refurbishing of the existing physical plant, with the second stage to include expansion and decompression of beds. The approved maximum capital expenditure (“MCE”) for the Project is \$13,372,718 (September 2013 dollars). The approved gross square footage (“GSF”) for the Project is 10,687 GSF for new construction and 44,006 GSF for renovation.

On September 24, 2014, the Applicant received Plan Review approval for the first phase of the Project. A copy of the Plan Review approval letter is attached at Exhibit B. Soon after receipt of Plan Review approval, the Applicant began the first phase of the Project. At this time, construction activities for phase 1 are nearing conclusion.

In reviewing the Project costs, it was determined that the phase 1 renovation costs have certain minor variances compared to the costs projected in 2013. This is due predominately to higher costs than initially projected for certain items arising from inflation. As a result the Applicant requests an inflation adjustment to the MCE to July 2017 dollars to account for the increased costs of the Project. The inflation adjustment will ensure the Project costs accurately reflect the current cost of the work performed.

In addition, to the extent necessary after adjusting the approved Project costs for inflation, the Applicant requests the Department's approval of select insignificant or minor adjustments to certain of its projected cost categories. This will permit the approved DoN cost categories to more accurately align the current projected expenditures for phase 1 of its DoN project. Please note that the Applicant is not requesting any changes in the total MCE approved, other than for inflation. The request only relates to minor adjustments within the cost categories for the MCE calculation.

The various minor changes that the Applicant has experienced in its cost categories have arisen as a result of unexpected issues. In particular, the construction work has taken longer than expected due to the need to work around resident care delivery. This resulted in an increase in net interest expense during construction. Also, certain electronic systems such as the Wanderguard system significantly increased in cost over the last three years. Lastly, the amount of resources required to secure the special permit for the work was substantially more than projected. Therefore, we request the adjustment to these cost categories consistent with the requirements of 105 C.M.R. §100.635(A)(1) for an immaterial change amendment to the Applicant's approved DoN.

The following chart reflects the updated cost category allocations.

Category of Expenditure	Approved New Constr. (Sep 2013 \$)	Approved Renovation (Sep 2013 \$)	Current New Constr. (July 2017 \$)	Current Renovation (July 2017 \$)
<b>Land Costs</b>				
Land Acquisition Costs	\$1,500,000	\$0	\$1,500,000	\$0
Other Non-Depreciable Land Development Costs	\$7,500	\$0	\$7,500	\$0
Site Survey and Soil Investigation	\$12,500	\$0	\$12,500	\$0
<b>Total Land Costs</b>	<b>\$1,520,000</b>	<b>\$0</b>	<b>\$1,520,000</b>	<b>\$0</b>
<b>Construction Costs</b>				
Depreciable Land Develop. Costs	\$530,000	\$300,000	\$530,000	\$480,000
Construction Contract	\$2,901,000	\$6,000,000	\$2,901,000	\$5,595,522
Fixed Equip. Not in Contract	\$0	\$0	\$0	\$0
Architectural & Engineering Costs	\$0	\$0	\$0	\$0
Pre-Filing Planning and Development Costs	\$8,000	\$32,000	\$8,000	\$35,000
Post-Filing Planning and Development Costs	\$30,000	\$40,000	\$30,000	\$100,000
Other: IT, EMR, Security	\$42,000	\$186,000	\$42,000	\$357,000
Other: Furnishing	\$62,000	\$230,000	\$62,000	\$162,750
Net Interest Expense During Constr.	\$112,000	\$448,000	\$112,000	\$577,500
Major Moveable Equipment	\$70,788	\$648,890	\$70,788	\$708,750
<b>Total Construction Costs</b>	<b>\$3,755,788</b>	<b>\$7,884,890</b>	<b>\$3,755,788</b>	<b>\$8,016,522</b>
<b>Financing Costs</b>				
Cost of Securing Financing	\$42,408	\$169,632	\$42,408	\$38,000
<b>Total Financing Costs</b>	<b>\$42,408</b>	<b>\$169,632</b>	<b>\$42,408</b>	<b>\$38,000</b>
<b>Total Capital Expenditure</b>	<b>\$13,372,718</b>		<b>\$13,372,718</b>	

2. In accordance with 105 C.M.R. §100.635(A)(1), this request has provided a comparison of the approved project with the proposed change as well as the associated costs.

Signed on this 29 day of June 2017, under the pains and penalties of perjury.

For Company:



---

By: Patrick Sheehan  
Its: Manager

**Attachment/Exhibit**

**A**



The Commonwealth of Massachusetts  
 Executive Office of Health and Human Services  
 Department of Public Health  
 Bureau of Health Care Safety and Quality  
 Determination of Need Program  
 99 Chauncy Street, Boston, MA 02111

DEVAL L. PATRICK  
 GOVERNOR  
 JOHN W. POLANOWICZ  
 SECRETARY  
 CHERYL BARTLETT, RN  
 COMMISSIONER

Tel: 617-753-7340  
 Fax: 617-753-7349  
 www.mass.gov/dph/don

December 10, 2013

VIA EMAIL

Andrew S. Levine, Esq.  
 Donoghue Barrett & Singal  
 One Beacon Street, Suite 1320  
 Boston, MA 02108-3106  
[alevine@dbslawfirm.com](mailto:alevine@dbslawfirm.com)

NOTICE OF DETERMINATION OF NEED  
RE: Project No. 4-1573  
Brighton Health Group LLC d/b/a Presentation  
Rehabilitation & Skilled Care Center  
(new construction and renovations to 122 bed nursng  
facility)

Dear Mr. Levine:

This is to notify you that pursuant to M.G.L. c.111, §25C and the regulations adopted thereunder, including the provisions of 105 CMR 100.504, I hereby approve with conditions the Determination of Need application filed by Brighton Health Group LLC d/b/a Presentation Rehabilitation & Skilled Care Center ("Presentation") to undertake a substantial capital expenditure. Presentation is a licensed skilled nursing facility located at 10 Bellamy Street, Brighton MA 02135. The application, as approved, provides for renovations and new construction of a three-story addition that includes the replacement of 17 beds. This Notice of Determination of Need incorporates by reference the attached Staff Summary.

The approved gross square footage ("GSF") associated with this project is 10,687 GSF of new construction and 44,006 GSF of renovation. The approved maximum capital expenditure ("MCE") is \$13,372,718 (September 2013 dollars), itemized as follows:

	New Construction	Renovation	Total
Land Acquisition Cost	\$1,500,000	\$ 0	\$1,500,000
Site Survey	12,500	0	12,500
Other Non-Depreciable Land Development	7,500	0	7,500
Depreciable Land Development	530,000	300,000	830,000
Construction Contract	2,901,000	6,000,000	8,901,600
Pre-filing Planning & Development	8,000	32,000	40,000
Post-filing Planning & Development	30,000	40,000	70,000
Other: IT, EMR, Security	42,000	186,000	228,000
Other: Furnishings, Signage	62,000	230,000	292,000
Net Interest Expense during Construction	112,000	448,000	560,000
Major Movable Equipment	70,788	648,890	719,678
Cost of Securing Financing	<u>42,408</u>	<u>169,632</u>	<u>212,040</u>
Total	\$5,318,196	\$8,054,522	\$13,372,718

The approved MCE incorporates the proposed financing of finance \$10,740,582 of the proposed MCE of \$13,372,718 (September 2013 dollars) through a 20-year mortgage with a commercial bank with an anticipated 5.00% rate of interest. The balance of \$2,632,136, or approximately 20% of the MCE, will be funded with internal funds.

The approved incremental operating cost for the project's first full year (FY 2018) of operation is \$1,281,635 (September 2013 dollars), itemized as follows:

Salaries, Wages and Fringe	\$ 167,362
Supplies and Other Expenses	231,219
Depreciation	695,054
Interest	<u>188,000</u>
Total	\$1,281,635

All operating costs are subject to review and approval by the Center for Health Information and Analysis, the Executive Office of Health and Human Services, and by third party payers according to their policies and procedures.

The reasons for this approval with conditions are as follows:

1. Brighton Health Group LLC d/b/a Presentation Rehabilitation & Skilled Care Center seeks a Determination of Need for renovations and new construction of a three-story addition that includes the replacement of 17 beds at the existing facility located at 10 Bellamy Street, Brighton MA 02135.
2. The Department found the health planning process for the project to be satisfactory.
3. The Department found, consistent with the May, 1993 DPH/DoN Guidelines for Nursing Facility Replacement and Renovation ("Guidelines") that the Applicant has demonstrated need for new construction to undertake substantial renovations and replacement of existing beds through new construction.
4. The Department found that the project, with adherence to a certain condition, meets the operational objectives of the Guidelines.
5. The Department found that the project meets the compliance standards of the Guidelines.
6. The Department found that the maximum capital expenditure of \$13,372,718 (September 2013 dollars) is reasonable, based upon similar, previously approved projects.
7. The Department found that the incremental operating costs of \$1,281,635 (September 2013 dollars) are reasonable based upon similar, previously approved projects.
8. The Department found that the project is financially feasible and within the financial capability of the Applicant.
9. The Department found that the project meets the relative merit provisions of the Guidelines.
10. The Department found that the project conforms to the DoN Guidelines for Environmental and Human Health Impact.
11. The Department found that the project is exempt from the community health initiatives requirement.

This Determination is effective upon receipt of this Notice. The Determination is subject to the conditions set forth in Determination of Need Regulation 105 CMR 100.551, including sections 100.551 (C) and (D) which read in part:

- (C) ...such determination shall be valid authorization only for the project for which made and only for the total capital expenditure approved.
- (D) ...no construction may begin until the holder has received final plan approval in writing from the Division of Health Care Quality.

This Determination is subject to the following conditions, in addition to the terms and conditions set forth in 105 CMR 100.551. Failure of the Applicant to comply with the conditions may result in Department sanctions, including possible fines and/or revocation of the DoN.

1. Brighton Health Group LLC d/b/a Presentation Rehabilitation & Skilled Care Center shall accept the maximum capital expenditure of \$13,372,718 (September 2013 dollars) as the final cost figure except for those increases allowed pursuant to 105 CMR 100.751 and 100.752.
2. The total approved GSF of construction for this project is 10,687 GSF of new construction and 44,006 GSF of renovations to existing space.
3. Brighton Health Group LLC d/b/a Presentation Rehabilitation & Skilled Care Center shall maintain formal affiliation agreements with at least one local acute care hospital and one local home care corporation that addresses provision for respite services.
4. Brighton Health Group LLC d/b/a Presentation Rehabilitation & Skilled Care Center shall maintain Medicare certification for its eligible beds.
5. Brighton Health Group LLC d/b/a Presentation Rehabilitation & Skilled Care Center shall initiate all actions appropriate to protecting the privacy, health, and safety of the residents of the facility during the construction process.
6. Upon implementation of the project, any assets such as land, building improvements, or equipment that are either destroyed or no longer used for patient care, shall not be claimed for reimbursement for publicly aided patients.
7. The Department shall reserve the right to conduct a review of the financial feasibility of the project based on the Center for Health Information and Analysis's established rates of reimbursement for Medicaid patients at the time final maximum capital expenditures or any adjustments to the final maximum capital expenditures are submitted to the Determination of Need Program for approval. In the event that such expenditures exceed the approved maximum capital expenditure, Brighton Health Group LLC d/b/a Presentation Rehabilitation & Skilled Care Center shall submit a revised Factor Six (Financial Schedules) upon request by the Department. Further, Brighton Health Group LLC d/b/a Presentation Rehabilitation & Skilled Care Center is advised that an increase in equity may be necessary to assure the financial feasibility of the project.



8. The approved MCE does not include any capital expenditures associated with this project made prior to the date of DoN approval with the exception of expenditures incurred in the planning and development of the DoN application. Should the Applicant find that any of the expenses submitted are not in fact eligible for consideration because they preceded the date of the DoN approval or are not capital expenses, the Applicant shall submit an amendment that will adjust the MCE accordingly. All submissions made to the Center for Health Information and Analysis pursuant to this DoN shall be in accordance with this condition.

Sincerely,



Cheryl Bartlett, RN  
Commissioner

CB: bp

cc: Sherman Lohnes, Division of Health Care Quality  
Daniel Gent, Division of Health Care Quality  
Paul DiNatale, Division of Health Care Quality  
Patty McCusker, Division of Health Care Finance and Policy  
Ron Pawelski, Executive Office of Elder Affairs  
Public File

**Attachment/Exhibit**

**B**



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
Division of Health Care Facility Licensure and Certification  
99 Chauncy Street, 11<sup>th</sup> Floor, Boston, MA 02111

DEVAL L. PATRICK  
GOVERNOR

JOHN W. POLANOWICZ  
SECRETARY

CHERYL BARTLETT, RN  
COMMISSIONER

Tel: 617-753-8000  
www.mass.gov/dph

Via Email

September 24, 2014

Patrick Sheehan, Administrator  
Sheehan Purchase LLC  
255 Lebanon Avenue  
Pittsfield, MA 01201

RE: Presentation Rehabilitation &  
Skilled Care Center  
10 Bellamy Street  
Brighton, MA 02135  
Additional Minor Renovations  
(Floors Ground, 1 & 2)  
PLAN APPROVAL

Dear Mr. Sheehan:

I am pleased to inform you that the support documentation which you and your architect, *Donahue Architects, Inc.*, submitted for the above referenced project has been reviewed and meets the Department's criteria for plan approval under our "Abbreviated Review" process.

Based on the Affidavit and the Architect's Compliance Checklists documenting compliance with physical plant requirements for licensure, the plans submitted to this office on August 11, 2014 are approved. This approval is not based on a detailed review of the plans by this Department.

As stated in the Affidavit, the Department shall have continuing authority to review the plans submitted, conduct on-site inspections, and withdraw this plan approval for reasons related to compliance or change in project scope. The above referenced facility shall have a continuing obligation to make any changes required by the Department to comply with Licensure Regulations, whether or not construction or alterations have been completed.

Construction of the project must conform to the plans for which written approval has been issued by this office.

September 24, 2014

Presentation Rehabilitation & Skilled Care Center

Additional Minor Renovations

(Floors Ground, 1 & 2)

Page 2

This approval is for the design phase only and not for the occupancy and use of the project area. Licensure changes will only be effective after you notify the Department in writing as stipulated at the end of this letter and receive licensure approval for the proposed changes.

#### OTHER JURISDICTIONS

It is your responsibility to submit plans and specifications for review to the Local Building Inspector.

It is also your responsibility to ensure that the project complies with the codes and regulations listed below:

- NFPA 101 Life Safety Code (2000 Edition) and associated NFPA standards (required for Medicare/Medicaid Certification)
- Architectural Access Board Regulations (521 CMR)

#### CONSTRUCTION PHASING

The patient care areas affected by the renovations must be vacated during each phase of the construction. Construction work must not interfere with patient care in adjacent areas. The areas used temporarily to house the displaced functions must meet physical plant regulations.

Appropriate protection barriers must be provided during the construction to ensure that patient areas are not contaminated with dust and microorganisms associated with the various phases of demolition and construction work.

#### PROJECT DESCRIPTION

The project will affect the floors listed below:

- Ground Floor (Renovations for new entry vestibule and expanded lobby, activity rooms, dining rooms, physical therapy room, occupational therapy rooms, beauty salon/barber shop, and associated support functional spaces)
- First Floor (Renovations for 4 common resident shower rooms, addition of nourishment kitchen to dayroom/dining room and associated support functional spaces)
- Second Floor (Renovations for 4 common resident shower rooms, addition of nourishment kitchen to dayroom/dining room and associated support functional spaces)

September 24, 2014  
Presentation Rehabilitation & Skilled Care Center  
Additional Minor Renovations  
(Floors Ground, 1 & 2)  
Page 3

WAIVER REQUESTS

The waiver requests for the following subjects are currently under review by Department staff:

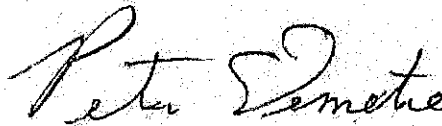
- 30 Bed Level 2 Unit with 2 Showers and no freestanding Tub.
  - 30 Bed Level 3 Unit with 2 Showers and no freestanding Tub.
- The reviewed waiver request forms including the waiver determinations will be communicated to you separately. The project must comply with any conditions that will be included in the reviewed waiver request forms.

LICENSURE PROCESS

A written notification must be sent to the Department to initiate the required licensure actions, which may include an on-site licensure survey. Please send the notification and a copy of this letter to David Brown, Licensure & Certification Coordinator, at the above letterhead address, at least two (2) months prior to the anticipated date of occupancy or use.

If you have any questions, please call at (617) 753-8081.

Very truly yours,



Peter Demetre  
Project Engineer

cc: Brian Donahue  
Kate Anno  
David Brown