

Memorandum to the Commissioner

Applicant: Berkshire Healthcare Systems, Inc

265 N. Main Street

Yarmouth, MA 02664

Facility: Fairview Extended Care Services, Inc. d/b/a/ Windsor Nursing & Retirement Home

Project Number: -22032410-CL

Filing Date: June 16, 2022

Introduction

This memorandum presents, for Commissioner review and action, the Determination of Need (DoN) Program's recommendation regarding a request by Berkshire Healthcare Systems, Inc. at Fairview Extended Care Services, Inc. d/b/a/ Windsor Nursing & Retirement Home (Windsor) to renovate and construct an addition to enable the facility to de-densify resident rooms to come into compliance with new Department of Public Health (DPH) de-densification licensure requirements for long-term care facilities set out in 105 CMR 150 (the "De-Densification Requirements") by relocating 23 beds. The maximum capital expenditure for the project is \$4,261,334. The CHI commitment is \$42,613.34.

On April 28, 2021, DPH issued a memo¹ noting that construction or renovations at a long-term care facility that is planned solely to reduce the number of beds per room to come into compliance with the De-Densification Requirements set out in 105 CMR 150 are considered Conservation projects for the purposes of applying for a Notice of DoN. Conservation Projects are defined as "Construction that consists solely of a project(s) that would Sustain or Restore a Health Care Facility or service for its designated purpose, and to its original functionality, without Modernization, Addition, or Expansion. The construction included in this Proposed Project is solely to enable the facility to come into compliance with the updated De-densification Requirements and is therefore appropriately submitted as a Conservation Project. Pursuant to 105 CMR 100.210(B)(2), Factors 1, 2, and 5 do not apply to Conservation Projects. Therefore, Staff reviewed this proposal in the context of Factors 3 (Compliance), 4 (Financial Feasibility), and 6 (Community Health Initiatives). Pursuant to 105 CMR 100.630, this Application has been delegated by the Department for review and Final Action by the Commissioner.

Background

The Applicant, Berkshire Healthcare System, is a non-profit charitable organization that operates fourteen (14) skilled nursing and rehabilitation facilities, 2 assisted living facilities, 2 hospice companies, and housing for seniors in Massachusetts. All of its skilled nursing and rehabilitation centers are dually-certified by Medicaid and Medicare, and are also Joint

¹ <https://www.mass.gov/doc/long-term-care-notice-pdf/download>

Commission Certified. The facility, Windsor, has also received the Bronze National Quality Award.²

The Windsor, provides short-term and long-term nursing care, rehabilitative care, and hospice and respite care to residents.

The structure is a one story 46,100 gross square foot skilled nursing facility with 120 licensed beds in two 60-bed nursing units. The current configuration of rooms and beds is in Table 1 below. Wing A has 12 three-bedded rooms, and Wing B has 11 three-bedded rooms. Originally constructed in 1975 there have been no additions to the facility since opening. The facility is in Life Safety compliance, having made ongoing renovations and improvements to the interior and exterior to ensure the comfort and safety of its residents, staff, and family members.

Table 1 - The Current Configuration of Rooms And Beds at Windsor

	Current Configuration of Rooms and Beds			
Beds per room	Wing A	Wing B	Total Rooms	Total Beds
Single	2	1	3	3
2 beds	11	13	24	48
3 beds	12	11	23	69
4 beds	0	0	0	0
Current Total	25	25	50	120

Windsor Nursing & Retirement Home admissions come primarily from Cape Cod Hospital (79%) and Falmouth Hospital (9%). The current patient population for 2022 is 51% male and 49% female. The average age of residents is 73.6 years. Reflecting its community, 99% of residents are Caucasian. The average length of stay (ALOS) in 2021 for short term residents was 32 days and for long-term residents was 195. Its short-term rehospitalization rate of 13.8% is below state (22.9%) and national (24.9%) rates. Its long-term rehospitalization rate is 1.48% per 1,000 patient days, similar to the national rate of 1.45%.

The payor mix shows that the majority (76%) of Windsor facility residents had their care covered by Medicaid,³ 15% were covered by Medicare Part A, 6% were primarily other insurance paid (Fallon, United Health Care Medicare HMO, USAA, Medicaid HMO) and 3% were private pay residents.

The Proposed Project

Through the Proposed Project, the Applicant aims to bring the facility into compliance by constructing two new wings connected to the existing facility that will house the 23 beds

² AHCA/NCAL National Quality Award Program Bronze <https://www.ahcancal.org/Quality/National-Quality-Award-Program/Pages/default.aspx>

³ This represents primarily longer stay residents who were either admitted to the facility on Medicaid or who spent down their private resources over time and then converted to Medicaid.

currently located in three bedded rooms.⁴ Each wing will add six new rooms (adding a total of 9,972 square feet). Table 2 shows the configuration of beds and rooms following project implementation.

Table 2 The Configuration of Beds and Rooms at Windsor Following Project Implementation

	Configuration of Rooms and Beds if Approved			
Beds per room	Wing A	Wing B	Total Rooms	Total Beds
Single	2	2	4	4
2 beds	29	29	58	116
3 beds	0	0	0	0
4 beds	0	0	0	0
Project Total	31	31	62	120

The additions will be able to accommodate skilled short-term, subacute transitional care (TCU) patients, who comprise approximately 20% of the population, thereby meeting the discharge needs of area hospitals and the community.

Factor 3

The Applicant has certified that it is in compliance and in good standing with federal, state, and local laws and regulations, including, but not limited to M.G.L. c. 30, §§ 61 through 62H and the applicable regulations thereunder, and in compliance with all previously issued notices of Determination of Need and the terms and conditions attached therein.

Factor 4

Under Factor 4, the Applicant must demonstrate that it has sufficient funds available for capital and operating costs necessary to support the Proposed Project without negative effects or consequences to the existing Patient Panel. Documentation sufficient to make such finding must be supported by an analysis conducted by an independent CPA.

The Applicant submitted a report performed by John P. Sannella, CPA (CPA Report⁵). The scope of the analysis and conclusions in the CPA Report are based upon a detailed review of all relevant information, including actual operations for the years ending 2019, 2020, and 2021 and on the Applicant's compiled financial projections (Projections) for the five years ending 2022, 2023, 2024, 2025 and 2026, and the related supporting documentation.

The CPA reports the projected revenue consists primarily of net patient service revenue (NPSR). First year of operation NPSR is based on financial data for the current period, Management's historical experience with operating the Facility, and current nursing home reimbursement

⁴ there are no four bedded rooms

⁵ The CPA states it was *prepared in accordance with the attestation standards established by the American Institute of Certified Public Accountants* for the projected operation of the Windsor Nursing & Retirement Center.

rates and regulations. Subsequent years were projected utilizing best assumptions for changes in reimbursement rates, payor mix, and occupancy.

The CPA states the projected operating expenses for the first year of the projection were derived from financial relevant to current and historical operations of the facility and review of each expense category.⁶ Subsequent years factored in anticipated inflation and increases for all expenses.

The CPA also reviewed past and present capital expenditures and cash flow to determine whether the Applicant will likely have sufficient funds to service the debt. According to the documents reviewed, the Project will be financed by a construction loan with a 25-year amortization period.

As a result of its analysis, the CPA stated *“Based upon my review of the relevant documents and analysis of the projected financial statements, I determined the Projections operating surpluses are reasonable expectations based upon achieving the hypothetical assumptions that Management has included in the Projections. Accordingly, I determined that the Projections are financially feasible and sustainable and not likely to have a negative impact on the patient panel.”*

Factor 6

The Community Health Initiative (CHI) component of the DoN regulation requires Long Term Care Facilities completing a Conservation project to contribute 1% of the total value of the project, to the CHI Healthy Aging Fund. Payment must be made in in two equal installments with the first payment due within 6 months of receipt of a duly approved Notice of Determination of Need, and the second, on the first anniversary of the Notice. Any deviation to this payment schedule will require program approval. For this proposed Conservation Project, the CHI contribution will be \$42,613.34. Based on the Applicant’s compliance with the above requirement, the Applicant meets the terms of Factor 6.

Findings

Based upon a review of the materials submitted, staff finds that the Proposed Project has met each applicable DoN Factors and recommends that the Commissioner approve this Application for Determination of Need, subject to all Standard Conditions as provided in the Regulations And the Other Conditions set out below.

Conditions

1. All standard conditions apply except 100.310(A)(10).
2. The total required CHI contribution of \$42,613.34 will be directed to the Massachusetts Healthy Aging Fund.
3. To comply with the Holder’s obligation to contribute to the Massachusetts Healthy Aging Fund, the Holder must submit to Health Resources in Action (the fiscal agent for the CHI Statewide Initiative) in two equal installments of \$21,306.67 as follows:

⁶ including salaries and benefits, supplies, depreciation and interest expenses

1. The Holder must submit the first check to HRiA within 6 months from the date of the approved Notice of Determination of Need.
2. The Holder must submit the second installment of funds to HRiA on the first anniversary of the approved Notice of Determination of Need.

The Holder must promptly notify DPH (CHI contact staff) when each payment has been made.

Payment should be sent to:
Health Resources in Action, Inc. (HRiA)
2 Boylston Street, 4th Floor
Boston, MA 02116
Attn: Ms. Bora Toro