

Memorandum to the Commissioner

Applicant: Care Realty LLC
173 Bridge Plaza North
Fort Lee, NJ 07024

Facility: Care One at Newton

Project Number: LLC-22122011-CL

Filing Date: June 5, 2023

Introduction

This memorandum presents, for Commissioner review and action, the Determination of Need (DoN) Program's recommendation regarding a request by Care Realty LLC for approval of a conservation project to re-open 40 previously licensed beds, bringing the bed total to 181. Given that the current bed configuration includes 3-4 bedded rooms, re-opening the 40 beds would allow the facility to de-densify resident rooms, as is required by Department of Public Health (DPH) de-densification licensure requirements for long-term care facilities set out in 105 CMR 150.000 (De-Densification Requirements) and increase the long-term care beds available to Massachusetts residents. The capital expenditure for the project is \$0.00 and therefore, the CHI commitment for the project is \$0.00.

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 150.000 are considered Conservation projects for the purposes of applying for a Notice of DoN. Given the Proposed Project has been submitted as a Conservation Project, pursuant to 105 CMR 100.210(B)(2), Factors 1, 2, and 5 do not apply. 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, Care Realty LLC, is a for-profit, limited liability corporation parent company of 2101 Washington Street Operating Company, LLC, d/b/a Care One at Newton (CareOne). CareOne was built in 1971 and has been directly owned and operated by 2101 Washington Street Operating Company, LLC since 2003.

The three-floor Facility is comprised of three units with 115 Level II and 26 Level III Skilled Nursing Facility (SNF) beds, for a total of 141 beds currently. All 26 Level III beds are located on

¹ [Long Term Care Notice](#)

the First Floor Lowell Unit. The current room configuration includes 12 private rooms, 50 two-bed rooms, 7 three-bed rooms, and 6 four-bed rooms. Table 1 details the Current Configuration.

Table 1: Current Configuration of Licensed Beds at Care One at Newton

	One Bedded Rooms	2 Bedded Rooms	3 Bedded Rooms	4 Bedded Rooms
Paloma Unit	5	13	2	1
Lowell Unit	2	18	1	2
Cabot Unit	5	19	4	2
Lake Unit	0	0	0	0
Bradford Unit	0	0	0	0

In Fiscal Year (FY)2021, CareOne operated 61 additional beds under the COVID 1135 waiver² issued by Centers for Medicare & Medicaid Services (the COVID Waiver), for a total operating bed count of 202 beds. During its operation under the COVID Waiver, CareOne maintained a high occupancy. In FY2021, the Facility operated at 83.5% capacity based on 202 operating beds. In FY2022, CareOne began to reduce its operating beds by attrition in an effort to align with its 141 licensed bed count, leading to a rise in its occupancy rate to 91.4%. The Applicant uses this increase to assert a continued high demand for the 40 previously licensed beds. As a result of this demand, the Applicant was unable to fully decant the beds through attrition at the time of application.³ Through the Proposed Project, the Applicant seeks to meet the need for continued access to SNF beds in Massachusetts.

The Applicant provided information to support their request to re-open 40 long term care beds, as required by DPH's memo, ending the moratorium on adding new long term care beds ("DoN Long Term Care Moratorium Memo."⁴). The DoN Long Term Care Moratorium Memo outlines the criteria an Applicant must demonstrate to request expansion of beds, including, but not limited to, serving a specialized population. In the Applicant's submission to demonstrate they meet the criteria to apply for new long-term care beds, the Applicant highlighted that CareOne works with local hospitals and the State Ombudsman to admit a specialized population of patients with mental health diagnoses. The Applicant notes that 58% of admissions in 2022 were for residents with a mental health diagnosis. Staff inquired about diagnosis details for the mental health admissions, but the Applicant stated that it does not track information at this level of detail.

² [COVID 1135 Waiver](#)

³ Bradford and Lake Units currently have 0 licensed beds, but operated 24 beds on the Lake Unit and 34 beds on the Bradford Unit under the COVID Waiver.

⁴ [DPH Long Term Care Moratorium Memo](#)

In Calendar Year (CY)2022, the average age of Care One at Newton residents was 78 years. The average length of stay in CY2022 was 52.48 days for Level II SNF Beds and 22.62 days for Level III SNF Beds. The Facility's residents during CY2022 were a mix of long-term care and short-term rehabilitation residents, with 66% of patients requiring short term rehabilitation and 34% of residents requiring long term care. Approximately 78% of CareOne's current payor mix consists of reimbursement from services to Medicare and Medicaid patients.⁵

The Proposed Project

Through the Proposed Project, the Applicant aims both to meet the De-Densification Requirements and expand its in-service beds by re-opening 40 beds, for a total of 181 licensed beds. The expanded facility will have 11 private (single) bedrooms and 85 two-bedded rooms across three floors and five units. The 40 re-licensed beds will be designated as Level II SNF Beds. The Applicant is able to bring the beds back online without any new construction, renovation, or capital expenditure as the beds currently exist and operated while under the COVID Waiver. Table 2 provides details of the Proposed Configuration.

Table 2: Proposed Configuration of Licensed Beds at Care One at Newton

	1 Bedded Rooms	2 Bedded Rooms	3 Bedded Rooms	4 Bedded Rooms
Paloma Unit (Ground Floor)	4	18	0	0
Lowell Unit (1st Floor)	2	19	0	0
Cabot Unit (2nd Floor)	5	23	0	0
Lake Unit (1st Floor)	0	10	0	0
Bradford Unit (1st Floor)	0	15	0	0

The Applicant noted in its submission to demonstrate they meet the criteria to apply for new long-term care beds, "In 2022 and when the Facility had 202 beds in operation, the number of MassHealth patients that were in existing beds on a daily basis averaged to about forty-eight (48) (or approximately 23.66%). The Facility's intent is to maintain that same percentage with the total number of new beds." The Applicant provided the information in Table 3, demonstrating that the projected payer mix for CareOne for three years post-approval will remain consistent with historical utilization. This table also aligns with the CPA Report revenue projections by Payer.

Table 3: CareOne Percent Patient Days By Payer⁶

Payer	2019	2020	2021	2022	Year 1 Post-Approval	Year 2 Post-Approval	Year 3 Post-Approval

⁵ See Appendix 3, Combined Projected Financial Statements and Independent Accountants' Compilation Report (CPA Report), Note 4.

⁶ 2019-2021 based on Capacity of 202 beds, 2022 based on 141 bed capacity, Post-Approval based on 181 bed capacity.

Medicaid	68%	35% ⁷	36%	35%	34%	34%	34%
Medicare	16%	45%	44%	44%	44%	44%	44%
HMO	10%	16%	16%	14%	14%	14%	14%
Private Pay	6%	5%	4%	8%	8%	8%	8%
Total	100%	100%	100%	100%	100%	100%	100%

Staff finds that the Applicant has presented sufficient information to support the position that the Proposed Project fits within the definitions in the DoN Regulation of Sustain and/or Restore; that this proposed Conservation Project is necessary to maintain the original functionality of the facility.

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. As previously noted, the Applicant is in the process of decanting all of the necessary beds through attrition.

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 CliftonLarsonAllen LLP (CPA Report).⁸ The scope of the analysis and conclusions in the CPA Report are based upon a detailed review of all relevant information, including financial projections (projections covered calendar years ended 2023 through 2027) and the related supporting documentation. As previously noted, the Proposed Project carries no cost to the Applicant and the CPA Report benchmarks the Applicant's financial predictions.

The CPA reports that the projected revenue consists primarily of net patient service revenue. Projected revenues are based on historical information, current available reimbursement rates, and best assumptions for changes in reimbursement rates, payor mix, and occupancy. Census

⁷ The drop in Medicaid and increase in Medicare and Managed Care is solely related to the impact of the public health emergency. During the PHE, the facility operated units dedicated to new admissions of COVID positive residents. Under the state and federal waivers, the facility operated two COVID units. In general, the admissions were either Medicare or Managed Care because those payers cover the first 100 days of a SNF admission, while Medicaid coverage begins when Medicare ends. As these patients were in the facility due to a COVID diagnosis, the stay was covered by Medicare or Managed Care.

⁸ Reasonableness is defined within the context of this report as supportable and proper, given the underlying information. Feasibility is defined as based on Management achieving the hypothetical assumptions used, the plan is expected to result in "sufficient funds available for capital and ongoing operating costs necessary to support the Proposed Project without negative impacts or consequences to the Applicant's existing Patient Panel" (per Determination of Need, Factor 4(a)).

projections starting in 2023 assume 96% occupancy by 2027. The projections applied a 5% revenue inflation factor.

The CPA reviewed the projected expenses in comparison to historical financial data provided by the Applicant. The Projections included an expense inflation factor of 5%. The Applicant reports a higher cost structure compared to 2021 Middlesex County data for expenses by department per patient day. The CPA Report notes that the higher cost structure is attributed to a large percentage of high acuity patients who have high clinical care needs.

The CPA also reviewed past and present capital expenditures and cash flow for benchmarking purposes. The CPA Report indicates that the Nursing Home intends to invest in the built environment of the residents at amounts consistent with the capital needs of the property and with their past expenditures.

As a result of the foregoing, the CPA stated *“The Nursing Home’s Earnings before Interest, Depreciation and Amortization (EBIDA)⁹ was above the 75th percentile in Middlesex County. The Nursing Home projects to be at or slightly below the 75th percentile upon approval of the project. For both 2021 and 2027 the Nursing Home’s EBIDA is above or slightly below the top quartile which is data that supports Management’s ability to contain and control operating costs.”*

Staff finds that the Applicant has met the requirements of Factor 4.

Factor 6

The Applicant, Care Realty, LLC, is a Long-Term Care Facility (LTCF) applying for a Conservation Project. Traditionally, LTCFs completing a Conservation Project would contribute 1% of total project costs to the Statewide Funds. In this case, the Applicant is re-opening 40 beds which results in no costs associated with this project. In turn, there are no CHI funds due for this application.

Findings

Based on a review of the materials submitted, the Department finds that the Proposed Project has met each applicable DoN Factor and recommends that the Commissioner approve this Application for Determination of Need, subject to all Standard Conditions as provided in the Regulations except for 105 CMR 100.310(A)(10) and the Other Conditions set out below.

Other Conditions

1. To comply with the Applicant’s assertion that the Payer mix will remain constant, the Applicant will report annually on the Payer mix for a period of 5 years.

⁹ EBIDA is a measure of a company’s operating performance. The greater a company’s EBIDA Margin, the lower the company’s operating expenses in relation to total revenue.

2. To ensure compliance with the licensed bed count, the Applicant will report on the number of staffed beds, the number of beds occupied, number of patients days, and the ALOS, annually for a period of 5 years.
3. To align with the Applicant's assertion that they admit a specialized population of patients with mental health diagnoses, the Applicant will report annually on both the number and percentage of patients admitted with a mental health diagnosis, sorted by diagnosis, for a period of 5 years.
4. In accordance with Factor 3, the Applicant will report on compliance with all regulatory laws regulations and requirements for a period of 5 years, including the requirement to meet the licensed bed count.