

HUSCH BLACKWELL

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May 30, 2023

By Email

Dennis Renaud, Director
Determination of Need Program
Department of Public Health
67 Forest Street
Marlborough, MA 01752

Re: Application by Care Realty, LLC for Long-Term Care Conservation Project
Determination of Need - #LLC-22122011-CL

Dear Mr. Renaud:

We write in follow up to your correspondence dated March 2, 2023 with respect to a Long-Term Care Conservation Project Determination of Need application (the “Proposed Project”) for CareOne at Newton, a skilled nursing facility in Newton, Massachusetts (the “Facility”) by Care Realty, LLC (the “Applicant”). Specifically, you requested that the Applicant provide confirmation that the Proposed Project meets certain criteria related to the addition of beds within a long-term care facility as outlined in that certain memorandum published on April 28, 2021 by the Massachusetts Department of Public Health regarding Applications for Determination of Need from Long-Term Care Facilities (the “Memorandum”). We have addressed each of the criteria outlined in the Memorandum below and provided attachments and supplemental information as necessary:

1. Proposed Project Addresses Treatment and Services Specialized Populations, including but not limited to, Residents with COVID-19

The Proposed Project will allow the Facility to continue to serve both hard to place patients with mental health diagnoses as well as patients recovering from COVID-19. With respect to admitting patients that hospitals are experiencing difficulty placing due to behavioral health needs, the Facility has an active and robust system in place to work with local hospitals and the State Ombudsman to admit patients to the facility with mental health diagnoses. This is evidenced by the fact that the Facility had 912 admissions for residents with a mental health

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diagnosis in 2022, or approximately 76 such admissions per month. With the total number of admissions in 2022 being 1,564, and an average of 130 admissions per month, the percentage of admissions for residents with a mental health diagnosis was approximately 58% in 2022. To support these residents, the Facility has programming which accommodates the needs of this population in terms of recreational programming, community reintegration and supports to arrange for discharge back to community to an appropriate setting. There is an extensive social work, discharge and case management team in place to support this population and an extensive discharge planning process to ensure continuity of care for patients with a variety of mental health needs. In addition, during the pandemic, the Facility had the longest running COVID-19 recover unit with 988 COVID-19 admissions in 2022, or approximately 82 per month. The beds added by virtue of the Proposed Project will help the Facility continue to serve these populations

2. Enhanced Infection Control Measures

The Facility abides by certain Policies and Procedures addressing Infection Control and has a distinct Infection Prevention and Control Program in place based on accepted national infection prevention and control standards. Consistent with the requirements of its Infection Prevention and Control Program, the Facility has and continues to work with Somayha Mahmoud, a Certified Infection Preventionist, to identify and mitigate infection control risks posed by the Proposed Project, including taking those measures specifically called out in the Memorandum.¹ For your reference, we have included copies of the Policies and Procedures and Infection Prevention and Control Program materials referenced herein at Exhibit A.

3. New Capacity is Reserved for MassHealth Patients

The Facility is enrolled in MassHealth and the additional beds will be available to serve MassHealth patients as with any other bed in the Facility. 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.

4. Nursing Home Survey Performance Tool Ratings

The Applicant's facilities in the Commonwealth are among the top quartile performers as measured and reported in the Commonwealth's Nursing Home Survey Performance Tool. satisfies the requirements of this criteria based on its current Survey Performance Tool Ratings.

5. The Proposed Project Addresses DPH's DON Health Priority: Social Environment

¹ At a minimum, the Facility has worked with Ms. Mahmoud to minimize horizontal surfaces, ensure that there is a handwashing sink deep enough to prevent splashes as close to the entrance of the Facility as possible, and increase the number of air exchanges in the Facility's spaces.

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The Proposed Project meets the requirement of satisfying one of the DPH's Health Priorities, in this instance, investing in a "Social Environment". DPH has stated in its Determination of Need Health Priorities Guidelines that a facility provides a Social Environment by having social networks, social participation, social cohesion, social capital, social support, social inclusion, social integration, discrimination, trust, and norms. The Facility meets this requirement of meeting a DPH Health Priority, as it provides such a Social Environment for residents, and specifically by having a focus on admitting residents with mental health or behavioral health diagnoses as noted above. In addition, the extensive discharge planning process incorporates the needs of residents when they return to the community.

Furthermore, in pursuit of providing a Social Environment that meets the goals of the DPH's Health Priorities, the Facility includes amenities in order to promote positive mental and physical health outcomes of its residents. For example, the Facility offers restaurant-style dining including special events to promote social dining. In addition, the Facility also offers various other opportunities for socialization, including having on-site beauty and health centers, as fitness and strength training programs for seniors, and a wide array of homelike programs including therapeutic recreation, creative arts therapies, outings, individualized therapy and spiritual services. All of these on-site programs provide the Facility's residents with a Social Environment that is a source of support and helps protect the residents from stressors and the effects of stress.

We thank you for your review of this information and materials. Please do not hesitate to contact me if you have any questions or require additional information.

Sincerely,

HUSCH BLACKWELL LLP

A handwritten signature in black ink, appearing to read "Crystal R.", with a long horizontal flourish extending to the right.

Crystal M. Bloom

Exhibit A
Infection Prevention and Control Program;
Policies and Procedures regarding Infection Control

Policies and Practices – Infection Control

Policy Statement

This facility's infection control policies and practices are intended to facilitate maintaining a safe, sanitary and comfortable environment and to help prevent and manage transmission of diseases and infections.

Policy Interpretation and Implementation

1. This facility's infection control policies and practices apply equally to all personnel, consultants, contractors, residents, visitors, volunteer workers, and the general public alike, regardless of race, color, creed, national origin, religion, age, sex, handicap, marital or veteran status, or payor source.
2. The objectives of our infection control policies and practices are to:
 - a. Prevent, detect, investigate, and control infections in the facility;
 - b. Maintain a safe, sanitary, and comfortable environment for personnel, residents, visitors, and the general public;
 - c. Establish guidelines for implementing Isolation Precautions, including Standard and Transmission-Based Precautions;
 - d. Establish guidelines for the availability and accessibility of supplies and equipment necessary for Standard and Transmission-Based Precautions;
 - e. Maintain records of incidents and corrective actions related to infections; and
 - f. Provide guidelines for the safe cleaning and reprocessing of reusable resident-care equipment.
3. The Quality Assurance and Performance Improvement Committee, through the Infection Control Committee, shall establish, review, and revise infection control policies and practices, and help department heads and managers ensure that they are implemented and followed.
4. All personnel will be trained on our infection control policies and practices upon hire and periodically thereafter, including where and how to find and use pertinent procedures and equipment related to infection control. The depth of employee training shall be appropriate to the degree of direct resident contact and job responsibilities.
6. The Administrator or Governing Board, through the Quality Assurance and Performance Improvement and the Infection Control Committees, has adopted the infection control policies and practices. Inquiries concerning our infection control policies and facility practices should be referred to the Infection Preventionist or Director of Nursing Services.

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References

OBRA Regulatory Reference Numbers	§483.80(a) Infection prevention and control program.; §483.70(b) Compliance with Federal, State, and Local Laws and Professional Standards.
Survey Tag Numbers	F880; F836
Other References	www.osha.gov www.cdc.gov www.cdc.gov/mmwr/preview/mmwrhtml/rr5210a1.htm
Related Documents	
Version	1.3 (H5MAPL0654)

Infection Prevention and Control Program

Policy Statement

An infection prevention and control program (IPCP) is established and maintained to provide a safe, sanitary and comfortable environment and to help prevent the development and transmission of communicable diseases and infections.

Policy Interpretation and Implementation

1. The infection prevention and control program is developed to address the facility-specific infection control needs and requirements identified in the facility assessment and the infection control risk assessment. The program is reviewed annually and updated as necessary.
2. The program is based on accepted national infection prevention and control standards.
3. The infection prevention and control program is a facility-wide effort involving all disciplines and individuals and is an integral part of the quality assurance and performance improvement program.
4. The elements of the infection prevention and control program consist of coordination/oversight, policies/procedures, surveillance, data analysis, antibiotic stewardship, outbreak management, prevention of infection, and employee health and safety.
5. **Coordination and Oversight**
 - a. The infection prevention and control program is coordinated and overseen by an infection prevention specialist (infection preventionist).
 - b. The qualifications and job responsibilities of the Infection Preventionist are outlined in the *Infection Preventionist Job Description*.
 - c. The infection prevention and control committee is responsible for reviewing and providing feedback on the overall program. Surveillance data and reporting information is used to inform the committee of potential issues and trends. Some examples of committee reviews may include:
 - (1) documented IPCP incidents and corrective actions taken;
 - (2) whether physician management of infections is optimal;
 - (3) whether antibiotic usage patterns need to be changed because of the development of resistant strains;
 - (4) whether information about culture results or antibiotic resistance is transmitted accurately and in a timely fashion; and
 - (5) whether there is appropriate follow-up of acute infections.
 - d. The committee meets regularly, at least quarterly, and consists of team members from across disciplines, including the Medical Director.
6. **Policies and Procedures**
 - a. Policies and procedures are utilized as the standards of the infection prevention and control program. Policies and procedures reflect the current infection prevention and control standards of practice.
 - b. The infection prevention and control committee, Medical Director, Director of Nursing Services, and other key clinical and administrative staff review the infection control policies at least annually.
 - c. The review will include:
 - (1) Updating or supplementing policies and procedures as needed;
 - (2) Assessment of staff compliance with existing policies and regulations; and
 - (3) Any trends or significant problems since the previous review.

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7. Surveillance

- a. Process surveillance (adherence to infection prevention and control practices) and outcome surveillance (incidence and prevalence of healthcare acquired infections) are used as measures of the IPCP effectiveness.
- b. Surveillance tools are used for recognizing the occurrence of infections, recording their number and frequency, detecting outbreaks and epidemics, monitoring employee infection, monitoring adherence to infection prevention and control practices, and detecting unusual pathogens with infection control implications.
- c. The information obtained from infection control surveillance activities is compared with that from other facilities and with acknowledged standards (for example, acceptable rates of new infections), and used to assess the effectiveness of established infection prevention and control practices.
- d. Standard criteria are used to distinguish community-acquired from facility-acquired infections.

8. Antibiotic Stewardship

- a. Culture reports, sensitivity data, and antibiotic usage reviews are included in surveillance activities.
- b. Medical criteria and standardized definitions of infections are used to help recognize and manage infections.
- c. Antibiotic usage is evaluated and practitioners are provided feedback on reviews.

9. Data Analysis

- a. Data gathered during surveillance is used to oversee infections and spot trends.
- b. One method of data analysis is by manually calculating number of infections per 1000 resident days as follows:
 - (1) The infection preventionist collects data from the nursing units, categorizes each infection by body site (these can also be categorized by organism or according to whether they are facility- or community-acquired), and records the absolute number of infections;
 - (2) To adjust for differences in bed capacity or occupancy on each unit, and to provide a uniform basis for comparison, infection rates can be calculated as the number of infections per 1000 patient days (a patient day refers to one patient in one bed for one day), both for each unit and for the entire facility;
 - (3) Monthly rates can then be plotted graphically or otherwise compared side-by-side to allow for trend comparison; and
 - (4) Finally, calculating means and standard deviations (using computer software) allows for screening of potentially clinically significant rates of infections (greater than two standard deviations above the mean).
- c. The Medical Director will help design data collection instruments, such as infection reports and antibiotic usage surveillance forms, used by the Infection Preventionist.

10. Outbreak Management

- a. Outbreak management is a process that consists of:
 - (1) determining the presence of an outbreak;
 - (2) managing the affected residents;
 - (3) preventing the spread to other residents;
 - (4) documenting information about the outbreak;
 - (5) reporting the information to appropriate public health authorities;
 - (6) educating the staff and the public;
 - (7) monitoring for recurrences;
 - (8) reviewing the care after the outbreak has subsided; and
 - (9) recommending new or revised policies to handle similar events in the future.
- b. Specific criteria will be used to help differentiate sporadic cases from true outbreaks or epidemics.

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- c. The medical staff will help the facility comply with pertinent state and local regulations concerning the reporting and management of those with reportable communicable diseases.

11. Prevention of Infection

- a. Important facets of infection prevention include:
 - (1) identifying possible infections or potential complications of existing infections;
 - (2) instituting measures to avoid complications or dissemination;
 - (3) educating staff and ensuring that they adhere to proper techniques and procedures;
 - (4) communicating the importance of standard precautions and cough etiquette to visitors and family members;
 - (5) enhancing screening for possible significant pathogens;
 - (6) immunizing residents and staff to try to prevent illness;
 - (7) implementing appropriate isolation precautions when necessary; and
 - (8) following established general and disease-specific guidelines such as those of the Centers for Disease Control (CDC).

12. Immunization

- a. Immunization is a form of primary prevention.
- b. Widespread use of influenza vaccine in the nursing facility is strongly encouraged.
- c. Policies and procedures for immunization include the following:
 - (1) the process for administering the vaccines;
 - (2) who should be vaccinated;
 - (3) contraindications to vaccination;
 - (4) potential facility liability and release from liability;
 - (5) obtaining direct and proxy consent, and how often;
 - (6) monitoring for side effects of vaccination; and
 - (7) availability of the vaccine, and who pays for it.

13. Monitoring Employee Health and Safety

- a. The facility has established policies and procedures regarding infection control among employees, contractors, vendors, visitors, and volunteers, including:
 - (1) situations when these individuals should report their infections or avoid the facility (for example, draining skin wounds, active respiratory infections with considerable coughing and sneezing, or frequent diarrheal stools);
 - (2) pre-employment screening for infections required by law or regulation (such as TB);
 - (3) any limitations (such as visiting restrictions) when there are infectious outbreaks in the facility; and
 - (4) precautions to prevent these individuals from contracting infections such as hepatitis and the HIV virus from residents or others.
- b. Testing for medical conditions is done in compliance with other laws (such as the Americans with Disabilities Act), and regulations protecting individual confidentiality and/or prohibiting discrimination against those with certain disabilities or conditions.
- c. Those with potential direct exposure to blood or body fluids are trained in and required to use appropriate precautions and personal protective equipment.
 - (1) The facility provides personal protective equipment, checks for its proper use, and provides appropriate means for needle disposal.
 - (2) A protocol is in place for managing those who stick themselves with a needle that was possibly or actually in contact with blood or body fluids.

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References

OBRA Regulatory Reference Numbers	§483.80(a) Infection Control
Survey Tag Numbers	F880
Related Documents	Facility Assessment Antibiotic Stewardship Policies Infection Prevention and Control Committee Infection Preventionist Policies and Practices – Infection Control Infection Prevention and Control Assessment Tool for Long-term Care Facilities
Version	1.1 (H5MAPL1445)