



State of New Jersey
DEPARTMENT OF HEALTH
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Commissioner

July 18, 2019

Heather Stockman
Atrium Post Acute Care of Matawan
38 Freneau Avenue
Matawan, New Jersey 07747

Re: CN# ER 180408-13-02
Atrium Post Acute Care of
Matawan

Etay Sahar
Atrium Post Acute Care of Princeton
5000 Windrow Drive
Princeton, New Jersey 08540

Re: CN# ER 180413-12-02
Atrium Post Acute Care of
Princeton

Rebecca B. Wolf, MPH, FACHE
Bayshore Healthcare Center
715 North Beers Street
Holmdel, New Jersey 07733

Re: CN# ER 180416-13-32
Bayshore Healthcare Center

Shalom Stein
Complete Care at Green Acres
1931 Lakewood Road
Toms River, New Jersey 08755

Re: CN# ER 180407-15-32
Complete Care at Green Acres

Shimi Falik
Leisure Chateau Rehabilitation
962 River Avenue
Lakewood, New Jersey 08701

Re: CN# ER 180411-15-02
Leisure Chateau Rehabilitation
Expiration Date: July 18, 2024

Marvin Beinhorn
Pine Brook Care Center
104 Pension Road
Englishtown, New Jersey 07726

Re: CN# ER 180407-13-02
Pine Brook Care Center

Debra Quinn Martone
Powerback Rehabilitation Piscataway
10 Sterling Drive
Piscataway, New Jersey 08854

Re: CN# ER 18 0409-12-02
Powerback Rehabilitation
Piscataway

Re: Region 2 CN Call for Specialized Long-Term Care Beds for Ventilator Care

Dear Ms. Stockman, Mr. Sahar, Ms. Wolff, Mr. Stein, Mr. Falik, Mr. Beinhorn and Ms. Martone:

In the January 2, 2018 New Jersey Register, the New Jersey Department of Health (Department) published a Certificate of Need (CN) Call for the establishment of new specialized long-term care (LTC) beds for ventilator care. The call was issued following a collection of data for calendar years 2014, 2015, and 2016 from general acute care hospitals and LTC acute hospitals through a survey that requested data regarding any placement delays that resulted in extended stays after the patients were clinically cleared for discharge, due to the unavailability of specialized LTC beds for ventilator care. In addition, the Department surveyed providers of specialized LTC beds for ventilator care asking for facility utilization and capacity data for calendar years 2014, 2015, and 2016. Based on the Department's analysis of the data it received, the Department determined that there is a limited need for additional new specialized LTC beds for ventilator care in Region 2 (Hunterdon, Mercer, Middlesex, Monmouth, Ocean, and Somerset counties) and Region 3 (Bergen, Essex, Hudson, Morris, Passaic, Sussex, Warren and Union counties). Seven (7) applications were received to meet the need of 10 new Specialized LTC beds for ventilator care identified in the call for Region 2. For the reasons set forth below, the Department has determined to award Leisure Chateau Rehabilitation 10 new Specialized LTC beds for ventilator care and to deny the balance of the CN applications. This letter supplements and replaces the approval letter dated May 8, 2019.

In summary form, the project proposals for Region 2 are as follows:

<u>Facility</u>	<u>Location</u>	<u># of Beds</u>	<u>Total Cost</u>	<u>Project Type</u>
Atrium Post Acute Care of Matawan	Matawan Monmouth County	10	\$400,000	Addition
Atrium of Princeton	Princeton Middlesex County	10	\$250,000	New
Bayshore HealthCare Center	Holmdel Monmouth County	6	\$88,200	Addition

<u>Facility</u>	<u>Location</u>	<u># of Beds</u>	<u>Total Cost</u>	<u>Project Type</u>
Complete Care at Green Acres	Toms River Ocean County	10	\$150,000	New
Leisure Chateau Rehab.	Lakewood Ocean County	10	\$200,000	New
Pine Brook Care Center	Englishtown Monmouth County	10	\$75,000	New
PowerBack Rehab.	Piscataway Middlesex County	10	Did not answer	New

N.J.S.A. 26:2H-8 provides for the issuance of a CN only where the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, will not have an adverse economic or financial impact on the delivery of health services in the region or statewide, and will contribute to the orderly development of adequate and effective health care services. In making such determinations, the Department must take into consideration: (a) the availability of facilities or services which may serve as alternatives or substitutes; (b) the need for special equipment and services in the area; (c) the possible economies and improvement in services to be anticipated from the operation of joint central services; (d) the adequacy of financial resources and sources of present and future revenues; (e) the availability of sufficient manpower in the several professional disciplines; and (f) such other factors as may be established by regulation.

With respect to the first criterion (i.e., whether the action proposed is necessary to provide required health care in the area to be served), the Department has considered the need for specialized LTC beds for ventilator care by means of the formula published at N.J.A.C. 8:33H-1.6(d), using the most recent statewide utilization data available at the time of the call. The need formula reflects the number of persons in New Jersey hospitals or other health care facilities at a given point in time who are medically-ready for discharge to a facility that provides long-term ventilator care, as adjusted to account for projected population growth. The formula identified a limited need for 10 additional new specialized LTC beds for ventilator care in Region 2. Since at this point in time in New Jersey there are few available alternatives to LTC ventilator beds other than ventilator care in acute care facilities, the bed need projected by the formula is reasonable evidence to the Department that approval of sufficient beds to meet the need is necessary to provide required health care services, in Region 2.

As to the second criterion (i.e., whether each of the proposed projects could be economically accomplished and maintained), the Department notes that an analysis performed by the Department indicates that three (3) of the seven (7) applicants for Region 2, Bayshore Healthcare Center, Leisure Chateau Rehabilitation, and Pine Brook Care Center, are in sound financial condition, and have the financial resources to undertake and sustain their projects. Four applicants, Atrium Post Acute Care of Matawan, Atrium Post Acute Care of Princeton, Complete Care at Green Acres, and PowerBack Rehabilitation did not submit complete responses to the Department regarding their financial resources.

Moving to the third criterion (i.e., whether the action as proposed would have an adverse economic or financial impact on the delivery of health services in the region or statewide), the Department notes that the addition of these beds in an area with a demonstrated need for additional capacity should not have a negative financial impact on the area's health care delivery system. In addition, to the extent that the implementation of the additional beds helps reduce excessive length of stay in the region's general acute care hospitals, these beds will have a positive financial impact on hospitals in the region. The implementation of these beds would also bring additional needed services, as well as more choices, to the residents of the area.

Finally, with respect to the fourth criterion (i.e., whether the addition of adult LTC ventilator beds to serve Region 2 would contribute to the orderly development of adequate and effective health care services in the region), the Department again notes that a need has been identified, and that addressing this need will not only meet patient service needs, but will also facilitate patient choice of and access to services. Additionally, as previously noted, implementation of these beds will have a positive impact on the financial condition of hospitals in the region. As such, the Department believes that the addition of beds will contribute to the orderly development of health care services in the area.

For the record, the Department notes that none of the applicants would realize any economies or improvements from the operation of joint central services, since each proposes to operate its own independent facility.

The Department has considered the applicable regulatory criteria here in a separate paragraph, realizing, however, that these criteria are to be considered when contemplating the broader statutory criteria set forth at N.J.S.A. 26:2H-8. The regulations governing specialized LTC services are set forth at N.J.A.C. 8:33H, the Certificate of Need: Policy Manual for Long-Term Care Services, and at N.J.A.C. 8:33, the Certificate of Need: Application and Review Process. The criteria at N.J.A.C. 8:33H-1.6(g)1-6 require applicants to provide: (1) a detailed description of the services and program of care that will be provided; (2) specific admission and discharge criteria for the proposed unit, which clearly identify the types of patients who will be treated in the specialized care beds; (3) a specific plan to provide in-service training for nursing staff and others who will work with specialized care patients, including an orientation program for new staff members, ongoing in-service education, and opportunities to pursue advanced education and certification in the appropriate clinical specialties; (4) a description of physical plant

considerations and special architectural features of the proposed unit, as well as an identification of any special equipment that will be installed in order to accommodate patients' needs; (5) a signed transfer agreement with at least one general acute care hospital with a licensed capacity of at least 200 beds to which specialized care patients can be transferred within 30 minutes total travel time for the purpose of receiving emergency medical treatment, if the proposed specialized care unit will not be located within an acute care hospital; and (6) a specific plan to provide coordination and continuity of care for patients who may be discharged from the proposed specialized care beds when this is feasible and beneficial to the patient/family/significant other. Bayshore Health Care Center, Leisure Chateau Rehabilitation, Complete Care at Green Acres, Atrium Post Acute Care of Matawan, and Atrium Post Acute Care of Princeton demonstrated satisfactory compliance with each of the six (6) criteria listed above. Pine Brook Care Center failed to provide a signed transfer agreement and PowerBack Rehabilitation Piscataway did not provide a detailed description of the services and program of care that would be provided.

With respect to N.J.A.C. 8:33H-1.16 through 1.18, N.J.A.C. 8:33H-1.16 requires that applicants demonstrate the financial feasibility of their projects; N.J.A.C. 8:33H-1.17 in relevant part requires applicants for LTC ventilator beds to have piped-in oxygen and suction, and other physical plant modifications to accommodate ventilator-dependent patients, and N.J.A.C. 8:33H-1.18(b) requires that "where possible, each facility shall be located where access is easily obtained via low-cost public transportation." All applicants of Region 2 for this call either agree to install, or in other cases already have, piped-in oxygen and suction, and all have access to public transportation, as will be described later in more detail. With respect to financial feasibility, the Department's analysis of financial documentation submitted in the applications indicated that the current condition of three (3) of the applicants, Bayshore Health Care Center, Leisure Chateau Rehabilitation, and Pine Brook Care Center is sound. The Department could not determine the financial condition of Atrium Post Acute Care of Matawan, Atrium Post Acute Care of Princeton, Complete Care at Green Acres, and PowerBack Rehabilitation Piscataway due to the applicants not responding adequately to the Department's questions regarding their financial resources.

The Department has also considered the general CN review criteria as set forth in N.J.A.C. 8:33. The most relevant criteria in the review of these competing applications for LTC ventilator units are to be found at N.J.A.C. 8:33-4.10, "Specific criteria for review." The access/service area criteria at N.J.A.C. 8:33-4.10(a) are in relevant part: (a)1, the contribution of the proposed service in meeting the health-related needs of members of the medically-underserved groups as may be identified in the applicant's service area; (a)2, the extent to which medically-underserved populations currently use the applicant's service or similar services in comparison to the percentage of the population in the applicant's service area which is medically-underserved, and the extent to which medically-underserved populations are expected to use the proposed services if approved; (a)4, how and to what extent the applicant will provide services to the medically-indigent, Medicaid recipients and members of medically-underserved groups; (a)7, access by public or private transportation to the proposed project, including

applicant-sponsored transportation services; and (a)8, as applicable, means of assuring effective communication between the staff of the proposed project and non-English speaking people and those with speech, hearing, or visual handicaps must be documented. N.J.A.C. 8:33-4.10(b) requires that an applicant discuss: (1), demographics of the area, particularly as related to the populations affected by the proposed project; (b)2, economic status of the service area, particularly as related to special health service needs of the population and future facility cash flow; and (b)6, the immediate and long-term financial impact on the institution, including the method of financing, the impact of the proposed project on capital cost, operating cost, projected revenues, and charges for two years following project completion, and impact of the project on the provider's financial condition, as measured by financial statements, including balance sheets, income statements, and cash-flow statements. Lastly, 4.10(d) states that "each applicant for CN shall demonstrate character and competence, quality of care, and an acceptable track record of past and current compliance with State licensure requirements, applicable Federal requirements, and State CN requirements...." All applicants were asked to address these criteria in their applications.

There were strong applicants located in Monmouth and Ocean Counties. However, the Leisure Chateau Rehabilitation located in Ocean County is less than one (1) mile from Specialty Hospital of Central Jersey, which is the only long-term acute care hospital serving Monmouth and Ocean Counties. Due to the lack of geographically-accessible options, Specialty Hospital of Central Jersey has discharged patients to facilities out county and out-of-state. Each applicant's documentation of access to public transportation to their facility was also considered in evaluating access, since the service area for long-term ventilator care is regional. Leisure Chateau Rehabilitation demonstrated the facility can be conveniently reached by public and private transportation.

In regard to track record and quality of care, N.J.A.C. 8:33-4.10(d) requires each CN applicant to demonstrate character and competence, quality of care, and an acceptable track record of past and current compliance with State licensure requirements, applicable Federal requirements, and State CN requirements, including, but not limited to, the following:

N.J.A.C. 8:33-4.10(d)1, The performance of the applicant in meeting its obligation under any previously approved CN including full compliance with the cost and scope as approved, as well as all conditions of approval; N.J.A.C. 8:33-4.10(d)4, a CN application submitted by an applicant who was cited for any State licensing or Federal certification deficiency during the period identified in (d)3 (i.e., beginning 12 months preceding submission of the application and extending to the date on which the Commissioner renders a decision...), which presented a serious risk to the life, safety, or quality of care of the facility's residents or residents, shall be denied....; N.J.A.C. 8:33-4.16(b), any conditions placed on a CN approval shall become part of the licensure requirements of the approved facility. Failure

to comply with conditions of approval may result in licensure action by the Department and may constitute an adequate basis for denying CN applications by an applicant who is out of compliance with conditions on previous approvals. The applicant must contest any condition, if at all, within 30 days of receipt of notice. The applicant shall vacate his right to oppose said condition(s) if he fails to submit written notice to the Department within this time that he contests any condition; and N.J.A.C. 8:33-4.16(d), where an applicant has failed to meet conditions of approval of previously approved certificates of need, it may form an adequate basis for the Department to bar the applicant from filing any subsequent certificates of need until the conditions in question are satisfied.

All applicants have acceptable track records.

The Standards for Licensure of Long-term Care Facilities, N.J.A.C. 8:39, require that residents in a general LTC facility receive an average of 2.5 hours of nursing care per day, which may be divided among Registered Nurses (RN), Licensed Practical Nurses (LPN) and Certified Nursing Assistants. Under Medicaid's regulations, N.J.A.C. 10:63, LTC ventilator units are considered Special Care Nursing Facilities (SCNF), where the residents have a "technologically or therapeutically complex condition which requires the delivery of intensive and coordinated health care services on a 24-hour basis." The nursing care provided to these residents under Medicaid rules averages 5.5 hours per day, and the additional three (3) hours are to be provided 60 percent by RNs and 40 percent by LPNs. In addition, Medicaid requires the presence of a licensed respiratory therapist on a 24-hour basis in a SCNF unit for ventilator-dependent residents. All applicants in this batch were required a) to indicate that they were aware of these higher staffing requirements on ventilator units, and (b) to describe their plans for recruiting and retaining the required staff, and all applicants for Region 2 have appropriately done so.

Please be advised, the Department is approving the expedited review CN application of Leisure Chateau rehabilitation and awarding Leisure Chateau Rehabilitation 10 new specialized LTC beds for ventilator and denying Atrium Post Acute Care of Matawan's, Atrium Post Acute Care of Princeton's, Bayshore Healthcare Center's, Complete Care at Green Acres', Pine Brook Care Center's, and Powerback Rehabilitation Piscataway's expedited review CN application submitted on April 2, 2018 pursuant to the CN Call and N.J.A.C. 8:33-5.1(b)(2), for the addition of 10 specialized LTC for ventilator care in Region 2. The decision to deny Atrium Post Acute Care of Matawan, Atrium Post Acute Care of Princeton and Complete Care at Green Acres is pursuant to N.J.A.C. 8:33-4.10(b). Specifically, the applicants did not respond adequately to questions concerning their financial resources. PowerBack Rehabilitation Piscataway is also being denied pursuant to N.J.A.C. 8:33-4.10(b) for failing to respond adequately to questions concerning their financial resources. PowerBack Rehabilitation Piscataway is also being denied for not providing a detailed description of the services and program of care provided. Pursuant to N.J.A.C. 8:33H1-6(g)(6) Pine Brook Care Center is being denied. More specifically, Pine Brook Care center did not provide a signed transfer agreement. Bayshore Healthcare Center is being denied, because the Department has determined that given

to N.J.A.C. 8:33H1-6(g)(6) Pine Brook Care Center is being denied. More specifically, Pine Brook Care center did not provide a signed transfer agreement. Bayshore Healthcare Center is being denied, because the Department has determined that given Leisure Chateau's demonstrated referral relationship with Specialty Hospital of Central Jersey Leisure Chateau Rehabilitation has the ability to provide greater access to care for Region 2.

Pursuant to N.J.S.A. 26:2H-9, Atrium Post Acute Care of Matawan, Atrium Post Acute Care of Princeton, Bayshore Healthcare Center, Complete Care at Green Acres, Pine Brook Care Center, and Powerback Rehabilitation Piscataway are entitled to contest the denial of a CN by requesting a hearing at the Office of Administrative Law. A request for this hearing must be made within 30 days of receipt of this notice. Request shall be addressed to Ms. Joy Lindo, Office of Legal and Regulatory Affairs, P.O. Box 360, Trenton, New Jersey 08625.

If you have any questions please do not hesitate to contact Felicia L. Harris, Chief, CN and Healthcare Facility Licensure Program, at (609) 376-7732.

Sincerely,



Marcela Ospina Maziarz, MPA
Deputy Commissioner
Health Systems

cc: Jean M. DeVitto, DOH (Electronic mail)
Stephanie Mozgai, DOH (Electronic mail)
Sue Kelly, DOH (Electronic mail)