



State of New Jersey
DEPARTMENT OF HEALTH AND SENIOR SERVICES
PO BOX 360
TRENTON, N.J. 08625-0360

CHRIS CHRISTIE
Governor

www.nj.gov/health

KIM GUADAGNO
Lt. Governor

POONAM ALAIGH, MD, MSHCPM, FACP
Commissioner

March 21, 2011

VIA UNITED PARCEL SERVICE

Joseph A. Trunifio, Ph.D.
Chief Executive Officer
Atlantic Health Systems, Inc.
475 South Street
Morristown, New Jersey 07962

Re: Newton Memorial Hospital
Transfer of Ownership
CN# FR 101004-19-01

Dear Dr. Trunifio:

I am approving your certificate of need (CN) application, submitted pursuant to N.J.A.C. 8:33-3.1, for the transfer of the ownership of Newton Memorial Hospital (NMH) from North Jersey Healthcare Corporation (NJHC) a New Jersey non profit corporation to Atlantic Health Systems, Inc. (Atlantic Health), a New Jersey non profit corporation. The application is being approved at the total project cost noted above.

This CN approval is limited to the transfer of ownership of NMH, a licensed acute care hospital with a 146-bed capacity, of which 90 are Medical/Surgical, 17 Obstetric OB/GYN, 13 Pediatric, 10 Adult ICU/CCU, 10 Adult Acute Psychiatric, and 6 Adult Closed Acute Psychiatric. It is designated as a Community Perinatal Center-Intermediate and is presently licensed to operate two Intermediate bassinets. The hospital's service complement would include the existing 4 Mixed Operating rooms, 1 Cystoscopy room, 2 Computerized Tomography scanners, Acute Hemodialysis services, and a Sleep Diagnostic and Treatment Center, an offsite ambulatory care facility located in Newton. In addition, the hospital will continue its designations as a Primary Stroke Center.

As set forth in the certificate of need application, Atlantic Health agrees to operate NMH as a general acute care hospital following the transfer of ownership from

NJHC, continue all existing medical services offered by NMH, and maintain the existing licensed bed capacity, service complement and programs at the hospital's existing location in Newton. Atlantic Health also agrees to hire substantially all hospital employees who are employed at NMH at the time of the transfer of ownership.

The standards that I am compelled to use in evaluating this application are set forth in statute (N.J.S.A. 26:2H-1 et seq.) and by administrative rule (N.J.A.C. 8:33). I must be satisfied that the application submitted by Atlantic Health is consistent with those requirements. A transfer of ownership of an entire general hospital and a transfer that will result in a new Medicare provider number for the hospitals involved are subject to the full CN review process (N.J.A.C. 8:33-3.3(a)1). For the purposes of the review, the application was considered a transfer of ownership of a licensed facility currently offering health care services and not a reduction, elimination or relocation of a health care service. Therefore, for the reasons that follow, I am approving, with conditions, the application submitted for the transfer of ownership of NMH to Atlantic Health. I note for the record that my decision to approve this CN application is consistent with the recommendation of the State Health Planning Board (SHPB), which recommended approval of CN# FR 101004-19-01 with conditions, at its March 3, 2011 meeting. In issuing this decision, I reviewed the CN application for the transfer of ownership of NMH, completeness questions, transcripts of the public hearings, written comments, exhibits, petitions, Department of Health and Senior Services (Department) staff recommendations, and SHPB recommendations. The referenced materials are incorporated and made a part of this final decision.

N.J.S.A. 26:2H-8, as well as N.J.A.C. 8:33-4.9(a), provide 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, I 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.

As part of the review process, the SHPB is also required to hold at least one public hearing in the service area of the health care facility within 30 days of the application being declared complete by the Department. A public hearing took place at Sussex Community College on February 17, 2011 with approximately 25 people attending, of which 14 provided verbal testimony. All 14 were in favor of the application, citing the difficulty that smaller, stand-alone hospitals have in terms of access to financing, complex technology and continuing education resources. All of the

commenters believed the approval of this application would greatly benefit patients in Newton and the surrounding area. The Department and SHPB reviewed these concerns and adequately addressed issues in the analysis and recommendations approved by the SHPB.

As to the specifics of this application, N.J.S.A. 26:2H-8(a) requires that I consider the availability of facilities or services which may serve as alternatives or substitutes. The applicant has demonstrated that while there are alternative hospitals with market share within the primary service area of NMH, Sussex County residents would likely experience substantial reductions in health care services if NMH were to close or significantly downsize. The applicant believes that this transfer of ownership is an excellent option to preserve the current level of health care services in the area. The applicant does not intend to downsize services or reduce availability to any service currently provided at NMH. I have taken into consideration that there is only one other hospital in Sussex County that offers comparable capabilities to NMH and find that this transfer of ownership will not disrupt or significantly alter the relationship of both hospitals nor the current level of care or services in the area. I agree that the proposed transfer of ownership, as opposed to the potential reduction of services or possible future closure of NMH, will preserve appropriate access to health care services for the community, including the medically indigent and medical underserved population. Thus, I am satisfied that this criterion is met.

I also find that the requirement at N.J.S.A. 26:2H-8(b) to consider the need for special equipment and services in the area would be met in this case following the transfer of ownership, Atlantic Health has agreed to offer the same services that are currently licensed at the present facility and provide more of an opportunity to NMH patient to access the specialized care provided at Morristown Memorial Hospital.

With respect to N.J.S.A. 26:2H-8(c) regarding the possible economies and improvement in services to be anticipated from the operation of joint central services, I find that applicant's plan to share certain services, such as financial management, human resources management, information technology, patient billing services and purchasing, will have a positive effect on both hospitals. Moreover, I note that this transfer of ownership will improve resource utilization, positively effectuate operational efficiencies, and enhance revenues. The applicant has also stated that economies and improvements will be accomplished without reducing any of the existing licensed bed complement or services provided at NMH.

N.J.S.A. 26:2H-8(d) requires me to examine the adequacy of financial resources and sources of present and future revenues. Financial analysis of the Atlantic Health application undertaken by the Department indicates that Atlantic Health possesses adequate financial resources to accomplish the proposed project. Both Atlantic Health and NJHC reported excess revenues (over expenses) in 2010. Atlantic Health reported about 159 days of cash on hand while NMH reported 146 days for the same. The applicant has stated that this transfer of ownership will help ensure the continued

financial viability of both NMH and Atlantic Health and the availability of adequate financial resources and future revenues in anticipation of reduced Medicare and Medicaid payments under the National Health Care Reform Act. With respect to N.J.S.A. 26:2H-8(e) regarding the availability of sufficient manpower in the several professional disciplines, I am satisfied that there will be sufficient qualified personnel since Atlantic Health has agreed to operate all of the existing beds and services presently at NMH and hire substantially all NMH employees at the time of transfer.

N.J.S.A. 26:2H-8(f) requires consideration of such other factors as may be established by regulation. Therefore, I have taken into consideration the applicable administrative rules governing the services subject to full review (i.e., N.J.A.C. 8:33-1.1 et seq.). Atlantic Health is in compliance with the access requirements set forth in N.J.A.C. 8:33-1.1 et seq. and N.J.A.C. 8:33-4.10(a). Specifically, Atlantic Health plans no changes to the care or services currently provided at NMH following this transfer of ownership and that it will promote access to low income persons, racial and ethnic minorities, women, disabled persons, the elderly, persons with HIV infections, and other persons who are unable to obtain care. Furthermore, NMH will continue to maintain its commitment to the community to preserve access to health care for the residents, including the medically indigent and medically underserved population. The applicant states that their policies are consistent with those previously at NMH regarding the provision of indigent care and its acceptance of all patients regardless of their ability to pay.

In addition, N.J.A.C. 8:33-4.9(a) requires a demonstration by the applicant that this transfer of ownership shall not have an adverse impact on the population being served in regards to access and quality of care. The applicant indicates that the transfer of ownership of NMH, as opposed to any reduction in services or possible future closure of the hospital, will preserve and enhance the financial viability of the hospital and allow it to continue as a general acute care hospital providing the same level of licensed beds and health care services in the community. In addition, Atlantic Health has made a commitment to maintain NMH as a general acute hospital.

Moreover, I find that Atlantic Health has provided an appropriate project description, which includes information as to the financial impact of the merger, operating costs and revenues, services affected, equipment involved, source of funds, utilization statistics, and justification for the proposed project (N.J.A.C. 8:33-4.10(b)), assurance that all residents of the area, particularly the medically underserved, will have access to services (N.J.A.C. 8:33-4.10(a)), and assurance that it will meet appropriate licensing and construction standards (N.J.A.C. 8:43G-1.1 et seq. and N.J.A.C. 8:33-410(d)).

Based on the foregoing, I am approving the application for the transfer of ownership of NMH. My decision to allow this transfer of ownership from NJHC to Atlantic Health is based on the fact that the operation of NMH under the proposed new ownership would be beneficial to the population in its service area since it will preserve

access to health care services for the community, including the medically indigent and medically underserved population. I believe that this approval will not have an adverse impact on the other existing hospital in Sussex County or the surrounding counties. There is no existing data to suggest that this transfer of ownership would alter NMH's relationship with the other existing Sussex County hospital or adversely impact the health status of any of the communities served by all hospitals in Sussex and surrounding counties.

Finally, I acknowledge that NMH has had a long standing commitment to the residents in its service areas and believe that this approval will better enable the hospital, under its new ownership, to maintain and enhance its commitment to the community into the foreseeable future. I also note that the management of NMH and the Atlantic Health hospitals share the same values and vision for providing quality health care services to the communities they serve. For the reasons set forth in this letter and noting the approval of the SHPB, I am approving Atlantic Health's application for the transfer of ownership of NMH subject to the following conditions, which I note were accepted by a representative of the applicant while addressing the SHPB:

1. The applicant completes the Office of Attorney General Community Health Care Assets Protection Act, N.J.S.A. 26:2H-7.10 et seq., review for the proposed transfer of the assets of NMH to Atlantic Health.
2. The applicant shall file a licensing application with the Department's Certificate of Need and Healthcare Facility Licensure Program (CNHCFL) to execute the transfer of the ownership of NMH license to Atlantic Health.
3. The applicant shall notify the Department's CNHCFL in writing, of who specifically is responsible for the safekeeping and accessibility of all NMH patients' medical records (both active and stored) in accordance with N.J.S.A. 8:26-8.5 et seq. and N.J.A.C. 8:43G-15.2.
4. As noted by the applicant, Atlantic Health shall hire substantially all NMH employees who are employed at the completion of the transfer of ownership.
5. Atlantic Health shall operate NMH as a general hospital, in compliance with all regulatory requirements, for at least seven years. This condition shall be imposed as a contractual condition of any subsequent sale or transfer, subject to appropriate regulatory or legal review, by Atlantic Health within the seven year period.
6. Atlantic Health shall continue all clinical services and community health programs currently offered at NMH. Any changes in this commitment involving either a reduction, relocation out of the hospital's current service area, or elimination of clinical services or community health programs offered by NMH's

former ownership shall require prior written approval from the Department and shall be subject to all applicable statutory and regulatory requirements.

7. Atlantic Health shall continue compliance with N.J.A.C. 8:43G-5.21(a), which requires that “[a]ll hospitals...provide on a regular and continuing basis, out-patient and preventive services, including clinical services for medically indigent patients, for those services provided on an in-patient basis.” Documentation of compliance shall be submitted within 30 days of the issuance of the license and quarterly thereafter for a period of seven years.
8. In accordance with N.J.S.A. 26:2H-18.64 and N.J.A.C. 8:43G-5.2(c), Atlantic Health shall not only comply with federal EMTALA requirements but also provide care for all patients who present themselves at NMH without regard to their ability to pay or payment source.
9. The value of indigent care provided by Atlantic Health shall be determined by the dollar value of documented charity care, calculated at the prevailing Medicaid rate, and shall not be limited to the amount of charity care provided historically by NMH.
10. Atlantic Health shall establish a functioning Board of Directors (or Trustees) for the hospital responsible for implementing hospital-wide policy, adopting bylaws, maintaining quality of care, and providing institutional management and planning consistent with the Atlantic Health organizational structure. This Board shall maintain suitable representation of the residing population of the hospital’s service area who are neither themselves employees of, nor related to employees of, any parent, subsidiary corporation or corporate affiliate. Annual notice shall be made to the Department of this Board’s roster, along with any policies governing Board composition, governance authority and Board appointments.
11. Atlantic Health shall provide an organizational chart of the hospital and each service that shows lines of authority, responsibility, and communication between Atlantic Health, hospital management and the Board. NMH, as licensee, shall be responsible for compliance.
12. Atlantic Health shall submit a report to the Department, on an annual basis for the initial seven years following the transfer of ownership, or upon request, detailing:
 - a. The investments it has made during the previous year at the hospital. Such report shall also include a detailed annual accounting of any long or short term debt or other liabilities incurred on the hospital’s behalf and reflected on NMH’s balance sheet; and

- b. The transfer of funds from the hospital to any parent, subsidiary corporation, or corporate affiliate and shall indicate the amount of funds transferred. Transfer of funds shall include, but not be limited to, assessments for corporate services, transfers of cash and investment balances to centrally controlled accounts, management fees, capital assessments, and/or special one-time assessments for any purpose; and
 - c. All financial data and measures required pursuant to N.J.A.C. 8:31B and from the financial indicators monthly reporting.
13. Within 15 days of approval of this application, Atlantic Health shall provide a report to the CNHCFL detailing the communication plan to NMH staff and to the community, including, but not limited to, elected officials, clinical practitioners and EMS providers, concerning the approval of the transfer of license and the availability of fully integrated and comprehensive health services. This shall include reference to the outreach plan referenced in Condition 15 below.
14. NMH shall hold an annual meeting pursuant to N.J.S.A. 26:2H-12.50 and develop mechanisms for the meeting that address the following:
- a. An opportunity for members of the local community to present their concerns regarding local health care needs and hospital operations, and how Atlantic Health should address these; and
 - b. A method for Atlantic Health to publicly respond to the concerns expressed by community members at the annual public Board meeting.

Atlantic Health shall develop these mechanisms within 90 days of this approval and share them with Department's CNHCFL Program.

15. An outreach plan shall be placed into effect to ensure that all residents of the hospital service area, especially the medically indigent, have access to the available services at NMH. A self-evaluation of this effort shall be conducted on a yearly basis for seven years after licensure to measure its effectiveness (including any payments accounted for activities), including, but not limited to, outreach, community programs, and health professional education. The annual self-evaluations shall be submitted to the Department for review and comment.
16. Atlantic Health shall endeavor to maintain existing HMO and commercial insurance coverage at NMH following acquisition, including, but not limited to, good faith negotiations. If Atlantic Health provides notice to terminate any HMO or commercial insurance contracts within the first year after transfer of license that will expand the out-of network service coverage, Atlantic Health shall in advance meet with representatives from the Department of Banking and Insurance and the Department of Health and Senior Services to discuss the

intent to terminate such contract and document how it will provide notice to patients and providers.

17. In accordance with the provisions of N.J.S.A. 26:2H-18.59h, Atlantic Health shall "offer to its employees who were affected by the transfer, health insurance coverage at substantially equivalent levels, terms and conditions to those that were offered to the employees prior to the transfer."
18. Atlantic Health shall report annually to the Department's CNHCFL Program concerning the status of the conditions referenced in this approval letter.
19. All the above conditions shall also apply to any successor organization to Atlantic Health who acquires NMH within seven years from the date of the CN approval.

Failure to satisfy the aforementioned conditions of approval may result in sanctions, including license suspension, monetary penalties and other sanctions in accordance with N.J.S.A. 26:2H-1 et seq. and all other applicable requirements. Acceptance of these conditions will be presumed unless written objections are submitted to the Department within 30 days of receipt of this letter. Upon receipt of such objections, this approval will be deemed suspended and the project shall be re-examined in light of the objections.

We look forward to working with you and helping you to provide a high quality of care to the patients of NMH. If you have any questions concerning this Certificate of Need, please do not hesitate to contact John Calabria, Director, Office of Certificate of Need and Healthcare Facility Licensure, at (609) 292-8773.

Sincerely,



Poonam Alaigh, MD, MSHCPM, FACP
Commissioner

c: John A. Calabria, CNHCFL