



State of New Jersey
DEPARTMENT OF HEALTH
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Governor

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Lt. Governor

CATHLEEN D. BENNETT
Commissioner

April 13, 2017

VIA ELECTRONIC AND FIRST CLASS MAIL

France Tucker
VITAS Healthcare Corporation Atlantic
70 South Orange Avenue – Suite 210
Livingston, New Jersey 07039

RE: CN# ER 161101-16-28
VITAS Healthcare Corporation Atlantic
Total Project Cost: \$754,343
Expiration Date: April 13, 2022

Dear Mr. Tucker:

Please be advised that I am approving VITAS Healthcare Corporation Atlantic's (VITAS) application, submitted on November 1, 2016, pursuant to N.J.A.C. 8:33-5.1(a)(3), to establish a 13 bed comprehensive personal care home (CPCH) facility used exclusively for inpatient hospice care, located at 220 Hamburg Turnpike, Wayne, Passaic County. This application is approved at the total project cost noted above.

N.J.S.A. 26:2H-8 provides for the issuance of a certificate of need 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 to the aforementioned specifics of this application, I note that in identifying those services that are subject to expedited review, the Department of Health (Department) chose services that would have a minimal impact on the health care

system as a whole and, therefore, for which a statistical bed need methodology would not be necessary. The services in this application are subject to expedited review pursuant to N.J.A.C. 8:33-5.1(a)(3) and, therefore, a statistical bed need methodology is not required. I believe that the criterion regarding the availability of facilities or services which may serve as alternatives or substitutes is not applicable inasmuch as the services in this application will have a minimal impact on the health care system as a whole. The need for sufficient special equipment and services in the area does not apply as this application is for an assisted living residence, which does not require any special equipment. Based on the information provided, I do not believe that this facility will realize economies or improvements from the operation of joint central services. I believe that this project can be economically accomplished and maintained as the applicant projects a positive net income by the end of the first year of operation. I also note that while professional staff will be required to accommodate the implementation of the CPCH, I am confident that there is sufficient professional staff available in the area to meet those staffing needs.

Finally, I have taken into consideration the applicable regulations for the services subject to expedited review (i.e., N.J.A.C. 8:33-5.3 and 8:33H-1.16). I find that VITAS has provided an appropriate project description, which includes information as to the total project cost, operating costs and revenues, services affected, equipment involved, source of funds, utilization statistics, and justification for the proposed project (8:33-5.3(a)(1)); assurance that all residents of the area, particularly the medically underserved, will have access to services (8:33-5.3(a)(2)); and documentation that it will meet appropriate licensing and construction standards (8:33-5.3(a)(3)(i)). In addition, VITAS has demonstrated a track record of substantial compliance (8:33-5.3(a)(3)(ii)).

Please be advised that this approval is limited to the proposal as presented and reviewed. The application, related correspondence, and any completeness questions and responses are incorporated and made a part of this approval. An additional review by the Department may be necessary if there is any change in scope, as defined at N.J.A.C. 8:33-3.9. However, a change in cost of an approved certificate of need is exempt from certificate of need review subject to the following:

- 1) The applicant shall file a signed certification as to the final total project cost expended for the project at the time of the application for licensure for the beds/services with the Certificate of Need and Healthcare Facility Licensure Program.
- 2) Where the total project cost exceeds the certificate of need approved total project cost and is greater than \$1,000,000, the applicant shall remit the additional certificate of need application fee due to the Certificate of Need and Healthcare Facility Licensure Program. The required additional fee shall be 0.25% of the total project cost in excess of the certificate of need approved total project cost.

- 3) The Department will not issue a license for the beds/services until the additional fee is remitted in full.

Furthermore, pursuant to N.J.S.A. 26:2H-12.16(b) and N.J.A.C. 8:36-5.1(h), a new facility that is licensed to operate an assisted living residence or comprehensive personal care home shall reserve ten percent of its total bed complement for use by Medicaid-eligible persons. The ten percent utilization by Medicaid-eligible persons shall be met through Medicaid conversion of persons who enter the assisted living residence or comprehensive personal care home as private paying persons and subsequently become eligible for Medicaid, or through direct admission of Medicaid-eligible persons. An assisted living residence or comprehensive personal care home shall achieve this 10% utilization within three years of licensure to operate and shall maintain this level of utilization thereafter. The Department will monitor that this condition threshold is met and maintained during the duration of licensure. Please be advised that the above does not apply if these CPCH beds are used exclusively for hospice patients.

The Department, in approving this application, has relied solely on the facts and information presented to us. The Department offers no opinion as to whether the proposed ownership or business organization is in compliance with the Codey Act, Board of Medical Examiners administrative rules, or the federal anti-referral (Stark) and federal anti-kickback laws. The Department has not undertaken an independent investigation of such information. If material facts with respect to this application have not been disclosed or have been misrepresented, the Department may take appropriate administrative regulatory action to rescind the approval or refer the matter to the Office of the Attorney General.

Finally, regardless of any management agreement addressing the operation of the facility between the licensee and any other entity, the licensee is responsible for financial, operational and management control. All health services provided by the facility and the revenue generated by a facility from providing these health services are the responsibility of the licensee.

Any approval granted by this Department relates to certificate of need and/or licensing requirements and does not imply acceptance by a reimbursing entity. This letter is also not intended as an approval of any arrangement affecting reimbursement or any remuneration involving claims for health care services.

This approval is not intended to preempt in any way any municipality's authority to regulate land use within its borders and shall not be used by you to represent that the Department has made any findings or determinations relative to the use of any specific property. Please be advised that services may not commence until such time as a license has been issued by the Certificate of Need and Healthcare Facility Licensure Program to operate. A survey by Department staff may be required prior to commencing services; if such a determination is made, you will need to contact a

representative from the Department's Division of Health Facility Survey and Field Operations to discuss this matter at (609) 292-9900.

We look forward to working with you to provide a high quality of care to your residents. If you have any questions concerning this certificate of need application or the licensure of the CPCH beds, please do not hesitate to contact Mr. John Calabria, Director, Division of Certificate of Need and Licensing, at (609) 292-8773.

Sincerely,



Alison Gibson
Deputy Commissioner
Health Systems

c. S. Dougherty
J. Calabria