

GORDON • FEINBLATT_{LLC}
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November 30, 2018

VIA E-MAIL and HAND DELIVERED

Mr. Ben Steffen, Executive Director
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Re: BAYADA Home Health Care, Inc.
Western Maryland Home Health Review
Docket No.: 17-R2-2399

Dear Mr. Steffen:

I am writing on behalf of BAYADA Home Health Care, Inc. ("BAYADA") to request permission to allow BAYADA to amend its application for a Certificate of Need to establish a home health facility in Western Maryland. Specifically, BAYADA seeks to identify a new owner effective December 31, 2018, as described more fully in this letter.

We understand that the Commission will not consider any amendment to pending CON applications that have been docketed unless the other parties with pending CON applications consent to the amendment. We have notified and obtained the consent of the two other parties to the Western Maryland Home Health Review, Amedisys (Docket No. 17-R2-2398), and Adventist/AAHS (Docket No. 17-R2-2397). Both parties have indicated that they consent to allow BAYADA to amend its application to identify a new owner effective December 31, 2018. Copies of a letter and an email from counsel documenting their clients' consents are attached.

Following is a summary of the proposed change of ownership and impact on BAYADA's pending application.

I. *Transaction Summary*

Currently, BAYADA is solely owned by its founder Joseph Mark Baiada. To better fulfill its mission of providing excellent services to its medically fragile patients, effective as of December 31, 2018, Mr. Baiada is gifting his shares in BAYADA to a new 501(c)(3) non-profit corporation created by him to ensure that BAYADA operates in perpetuity pursuant to the standards and principles established by Mr. Baiada. The non-profit corporation will be run by a board of trustees whose members have expertise and experience in the provision of home health

services or issues that are relevant to the provision of health care services. No real estate or money will change hands during the transaction. Instead, Mr. Baiada is gifting all of his interest in BAYADA to the 501(c)(3) non-profit corporation without compensation from any individual or entity.

During the restructuring, Bayada will convert from a corporation to a limited liability company on December 18, 2018, and then back to a corporation on December 31, 2018. Its tax identification number and NPIs will remain the same throughout the transaction.

II. Impact on BAYADA's Pending CON Application

The restructuring of BAYADA's ownership will not change the applicant entity on its pending CON application and will not change any of the other information submitted to the Maryland Health Care Commission in support of BAYADA's application, other than the ownership of Bayada Home Health, Inc. The change of ownership will have no impact the way in which BAYADA renders patient care, nor will this restructuring cause a change in the providers who render care or the administrators of BAYADA's facilities. Instead, the principal change is the gift of BAYADA's shares from its current sole shareholder, Joseph Mark Baiada, to the new non-profit corporation.

Thank you for your consideration. Please contact me if you have any questions or need any additional information.

Very Truly Yours,



Margaret M. Witherup

Enclosures:

Letter from Margaret Witherup to counsel (Nov. 6, 2018)
Letter from Howard Sollins to Margaret Witherup (Nov. 16, 2018)
Email from Marta Harting to Margaret Witherup (Nov. 15, 2018)

cc: Suellen Wideman, Assistant Attorney General (via email and hand delivered)
Ruby Potter (via email)
Paul Parker, Director, Center for Health Care Facilities Planning & Development
(via email)
Kevin McDonald, Chief, CON (via email)
Howard L. Sollins, Esquire (via email)
Marta Harding, Esquire (via email)

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November 6, 2018

Via E-mail and U.S. Mail

Marta D. Harting
Venable LLP
50 E. Pratt Street
Baltimore, MD 21202

Howard L. Sollins
Baker Donelson
100 Light Street
Baltimore, MD 21202

Timothy Adelman
Hall Render Killian Health & Lyman, P.C.
180 Admiral Cochrane Drive, Suite 370
Annapolis, MD 21401

**Re: Bayada Home Health Care, Inc.
Change of Ownership for Pending CON Applications:**

Prince George's County Hospice Review, Docket No.
16-16-2383 (Related Docket Nos. 16-16-2382, 16-16-
2384, & 16-16-2385)

Baltimore City Hospice Review, Docket No. 16-16-2387
(Related Docket Nos. 16-16-2388, & 16-16-2389)

Western Maryland Home Health, Docket No. 17-R2-
2399 (Related Docket Nos. 17-R2-2397 & 17-R2-2398)

Upper Eastern Shore Home Health, Matter No. 18-R1-
2425 (Related Matters Nos. 18-R1-2424, 18-R1-2426, &
18-R1-2427)

Dear Ms. Harting and Messrs. Sollins and Adelman:

I am writing to advise you about an anticipated change of ownership of Bayada Home Health Care, Inc. (Bayada), and to request your clients' consent to an amendment of Bayada's pending CON applications in each of the above-docket and matters. We understand that the

Commission will not consider any amendment to pending CON applications that have been docketed unless the other parties with pending CON applications consent to the amendment.

I. *Transaction Summary*

Currently, Bayada is solely owned by its founder Joseph Mark Baiada. To better fulfill its mission of providing excellent services to its medically fragile patients, on December 31, 2018, Mr. Baiada is gifting his shares in Bayada to a new non-profit corporation created by him to ensure that Bayada operates in perpetuity pursuant to the standards and principles established by Mr. Baiada.

For accounting and tax purposes, the transaction will occur in two steps:

- 1) In the first step, on December 3, 2018, Mr. Baiada will transfer 100% of his equity in Bayada to Bayada Health, LLC, a newly formed entity of which he will be sole indirect owner.
- 2) In the second step, on December 31, 2018, Mr. Baiada will gift 100% of his interest in Bayada Health, LLC to a newly formed 501(c)(3) non-profit corporation. The non-profit corporation will be the “grandparent” entity of Bayada.

The 501(c)(3) non-profit corporation will be run by a board of trustees whose members have expertise and experience in the provision of home health services or issues that are relevant to the provision of health care services.

No real estate or money will change hands during the transaction. Instead, Mr. Baiada is gifting all of his interest in Bayada to the 501(c)(3) non-profit corporation without compensation from any individual or entity.

During the restructuring, Bayada will convert from a corporation to a limited liability company on December 18, 2018, and then back to a corporation on December 31, 2018. Its tax identification number and NPIs will remain the same throughout the transaction.


II. *Impact on Pending CON Applications*

The restructuring of Bayada’s ownership will not change the applicant on any of Bayada’s pending CON applications and will not change any of the information submitted to the Maryland Health Care Commission, other than the ownership of Bayada Home Health, Inc. It will have no impact the way in which Bayada renders patient care, nor will this restructuring cause a change in the providers who render care or the administrators of Bayada’s facilities. Instead, the principal change is the gift of Bayada’s shares from its current sole shareholder, Joseph Mark Baiada, to the new non-profit corporation.

Please contact me if you have any questions or need any additional information for your clients to consider our request.

Please let me know at your earliest convenience whether your clients in the above-referenced CON proceedings will consent to Bayada's request to amend its application to identify a new owner effective as of December 31, 2018. Thank you in advance for your cooperation in this matter.

Very truly yours,



Margaret M. Witherup

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HOWARD L. SOLLINS, SHAREHOLDER
Direct Dial: 410.862.1101
Direct Fax: 443.263.7569
E-Mail Address: HSOLLINS@bakerdonelson.com

November 16, 2018

Margaret M. Witherup, Esq.
Gordon Feinblatt LLC
233 East Redwood Street
Baltimore, Maryland 21202

Re: **Bayada Home Health Care, Inc.**
Change of Ownership for Pending CON Application
Western Maryland Home Health Review, Docket No. 17-R2-2399
(Related Docket Nos. 17-R2-2397 & 17-R2-2398)

Dear Ms. Witherup:

This is to advise you that Adventist HealthCare Home Health does not object to the proposed change of ownership during the certificate of need review as described in your November 6, 2018 letter.

Please contact me if you wish to discuss this further.

Sincerely,



Howard L. Sollins

HLS/lam
cc: Mr. Robert Jepson

Witherup, Margaret

From: Harting, Marta D. <MDHarting@Venable.com>
Sent: Thursday, November 15, 2018 5:25 PM
To: Sollins, Howard; Witherup, Margaret; Timothy B. Adelman (tadelman@hallrender.com)
Subject: RE: Request for Consent to allow Bayada to Amend Pending CON Applications

Margaret, for Western MD home health, Amedisys likewise does not object to Bayada making this change. I am waiting on answer from Amedisys on Prince George's hospice. I am also checking with Carroll Hospice on Baltimore City. I hope to have answers on both by the end of the week.

Regards,
Marta

From: Sollins, Howard [<mailto:hsollins@bakerdonelson.com>]
Sent: Thursday, November 08, 2018 7:14 AM
To: 'Witherup, Margaret' ; Harting, Marta D. ; Timothy B. Adelman (tadelman@hallrender.com)
Subject: RE: Request for Consent to allow Bayada to Amend Pending CON Applications

Margaret: I see this is one request in the context of various CON reviews. I'll need to respond separately for the each of the CON reviews in which we are involved.

With respect to the Western Maryland Home Health CON review, Adventist Home Health does not object. I will observe that based on historical discussions with Suellen Wideman at the MHCC I thought the MHCC has a strict rule against changing the ownership of an applicant through the CON process and up until First Use approval. Do you have assurances that the MHCC will allow an ownership change for an applicant with a pending CON application? It would be useful to know when this is and is not permitted.

Regards, Howard

BAKERDONELSON | HEALTH LAW

Howard L. Sollins
Shareholder

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Baltimore, MD 21202

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hsollins@bakerdonelson.com

From: Witherup, Margaret [<mailto:mwitherup@gfrlaw.com>]
Sent: Tuesday, November 06, 2018 11:59 AM
To: Marta D. Harting (mdharting@venable.com); Sollins, Howard; Timothy B. Adelman

(tadelman@hallrender.com)

Subject: Request for Consent to allow Bayada to Amend Pending CON Applications

Importance: High

Dear Counsel:

Please see attached letter requesting your clients' consent to allow Bayada to amend its pending CON applications to reflect a change in ownership effective as of December 31, 2018. Please let me know if you have any questions or need any additional information for your clients to consider the request. Thank you for your consideration.

Best regards,
- Maggie Witherup

Margaret M. Witherup
Member

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