




MARYLAND HEALTH CARE COMMISSION

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MEMORANDUM

TO: Commissioners

FROM: Kevin R. McDonald
Chief, Certificate of Need 

DATE: March 19, 2020

SUBJECT: Brinton Woods Health Care Center, LLC d/b/a Brinton Woods Health and Rehabilitation at Winfield, Docket No. 18-06-2422

Enclosed is the staff report and recommendation concerning a request for Project Change After Certificate of Need Approval filed by Brinton Woods Health and Rehabilitation at Winfield. The project involves the relocation of a 60 bed comprehensive care facility on the campus of Carroll Hospital to replace the facility currently located in Sykesville (Carroll County).

The applicant is requesting an increase in the approved cost of the project, which was originally approved by the MHCC on October 16, 2018 at a total project cost of \$14,837,500. Brinton Woods requests a \$2,338,640 increase (15.8%) in the approved cost of the project, bringing the total cost estimate for the project to \$17,176,140. The applicant states that construction bids came in at a cost that was significantly higher than that approved in the 2018 CON, and attributes that to:

- Original cost estimates being made without the benefit of final architectural design, and were instead based on preliminary concept drawings. The construction bids submitted to Brinton Woods were significantly higher than those submitted with the CON application.
- Inflation of construction costs and changes in market conditions; and
- Site work increases due to the unanticipated amounts of rock to be demolished and removed from the site.

Brinton Woods and LifeBridge Health, Inc. will fund the additional cost by increasing its cash contribution by \$2,338,640 (to a total of \$17,176,140).

Staff recommends that the Commission APPROVE the proposed change to the authorized cost of this project. The Certificate of Need issued to Brinton Woods Health and Rehabilitation at Winfield to construct a 60-bed CCF (Docket No. 13-16-2347) will retain the conditions attached to the original approval, which address the minimum level of service that must be provided to Medicaid patients. .

IN THE MATTER OF	*	BEFORE THE
	*	
BRINTON WOODS HEALTH CARE	*	
	*	
CENTER, LLC d/b/a	*	
	*	
BRINTON WOODS HEALTH AND	*	MARYLAND HEALTH
	*	
REHABILITATION AT WINFIELD	*	CARE COMMISSION
	*	
Docket No. 18-06-2422	*	
	*	

**STAFF REPORT
REQUEST FOR PROJECT CHANGE AFTER
CERTIFICATE OF NEED APPROVAL**

I. BACKGROUND

On October 16, 2018, the Maryland Health Care Commission (Commission) awarded a Certificate of Need (CON) for the relocation of Brinton Woods Health Care Center, LLC d/b/a Brinton Woods Health and Rehabilitation at Winfield (Brinton Woods), a 60-bed comprehensive care facility (CCF), or nursing home. The Commission approved construction of a 47,500 square foot (SF) facility on the campus of Carroll Hospital in Westminster (Carroll County) as a replacement for the existing facility in Sykesville (Carroll County).

Prior to the application that resulted in the issuance of that CON, LifeBridge Health, Inc. acquired a majority (55%) of the ownership interest in Brinton Woods, the owner and operator of the CCF, and a 55% ownership interest in Brinton Woods Senior Living, LLC, the owner of the real property and improvements that are leased to Brinton Woods Health Care Center, LLC. The remaining 45% of the facility is currently owned by five individuals; however, on February 21, 2020, MHCC received notification that LBH Carroll County Nursing and Rehabilitation, LLC, an indirect, wholly-owned subsidiary of Lifebridge Health, Inc., will acquire the remaining ownership interest in Brinton Woods and in Brinton Woods Senior Living, LLC, if the Commission approves the requested modification.

Brinton Woods provides short-term rehabilitation and long-term skilled nursing services. Its current physical plant, approved for replacement, does not fully comply with current life safety codes.¹ The approved replacement facility will increase the number of private patient rooms from six to 40 and will reduce the number of semi-private rooms from 27 to 10. The 2018 CON approved a total project cost of \$14,837,500, which was to be funded by cash.

¹ A two-story section of the building that accounts for approximately 25% of the facility's space and houses the facility's six private patient rooms is one of the areas not in compliance with current codes.

Requested Project Change

Brinton Woods requests a \$2,338,640 increase (15.8%) in the approved cost of the project, bringing the total cost estimate for the project to \$17,176,140. The applicant states that construction bids came in at a cost that was significantly higher than that approved in the 2018 CON.

Brinton Woods attributes this increase in the estimated project cost to the following factors: (1) the original project cost estimate was developed prior to final architectural design and was based on preliminary concept drawings; (2) changes in market conditions have driven inflation in construction costs in the 16 months since approval of the CON; and (3) the estimated cost of site work has increased due to the unanticipated amounts of rock that must be removed from the site.

The funding source for the project continues to be cash.

II. APPLICABLE REGULATIONS

COMAR 10.24.01.17B provides that certain “changes that would place the project at variance with its Certificate of Need ... shall receive approval from the Commission ...” Brinton Woods seeks to make a permissible modification,² that is, to incur “capital cost increases that exceed the approved capital cost inflated by an amount determined by applying the Building Cost Index published in *Health Care Cost Review* from the application submission date to the date of the filing of a request for approval of a project change” as provided at COMAR 10.24.01.17C(2).

Under COMAR 10.24.01.17D(3), the Commission may approve the requested change, approve it in part or with conditions, deny approval of the change for stated reasons, or require a complete CON review because of the scope of the requested change.

III. COST INCREASE AND FINANCIAL IMPACT OF THE REQUEST

The Change in Project Cost Exceeds the Inflation Allowance

As shown in Table 1 below, the applicant is projecting that an additional expenditure of \$2,338,640 beyond the project expenditure approved in October 2018 will be required to implement the approved project.

CON regulations provide for an inflation allowance, but require increases that exceed that allowance to seek Commission approval. The allowance is calculated using the building cost indices published on a quarterly basis by IHS Global Insight in *Healthcare Cost Review* (https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_con/documents/con_cap_cost_index_20200127.pdf).

In October 2018, a total current capital cost of \$14,837,500 for this project was approved based on the applicant’s cost estimate. Using the building cost inflation index noted above, the allowable inflation allowance for this project is \$15,255,799, approximately \$418,000, or 2.8%. As such, the regulations require Commission authorization of the proposed cost increase.

² Brinton Woods’s modification request does not involve an impermissible modification to the project (i.e., a change that would require submission and approval of a new CON application).

Current Request Compared with the Original CON Approved Budget

Table 1 compares the approved costs of this project (October 2018) and the applicant's current cost estimate (February 2020) based on construction contract bidding.

Table 1: Project Budget: Approved October 2018 CON Compared with Updated February 2020 Cost Estimate

A. Uses of Funds				
	Original CON	Modification	Variance	% Change
New Construction				
Land Purchase	--	--	--	--
Building (including fixed equipment)	\$11,312,375	\$13,850,515	\$2,358,140	22.4%
Site Preparation	\$899,500	\$1,000,000	\$100,500	11.2%
Architect/Engineering Fees	\$1,300,000	\$1,000,000	(\$300,000)	(23.1%)
Permits	\$100,000	\$100,000	--	--
Subtotal – New Construction	\$13,611,875	\$15,950,000	\$2,338,640	17.2%
Other Capital Costs				
Movable Equipment	\$ 1,000,000	\$1,000,000	--	--
Contingencies	\$225,625	\$225,625	--	--
Subtotal - Other Capital Costs	\$ 1,225,625	\$1,225,625	--	--
TOTAL CAPITAL COSTS	\$14,837,500	\$17,176,140	\$2,338,640	15.8%
Financing and other Cash Requirements (\$0)				
Total Uses of Funds	\$14,837,500	\$17,176,140	\$2,338,640	15.8%
B. Sources of Funds				
Cash	\$14,837,500	\$17,176,140	\$2,338,640	15.8%
Total Sources of Funds	\$14,837,500	\$17,176,140	\$2,338,640	15.8%

Source: Table C, Project Budget, from original CON application and the Request for Project Change

Brinton Woods's explanation for the major increases in the estimated project cost can be summarized as follows.

1. The original construction cost estimate, which was accepted by the Commission and became the approved project cost in the CON, was based on concept drawings that were less than 50 percent complete. The amended project estimates in this request are based on the bids Brinton Woods received based on the final drawings, site surveys, material selections and construction plans provided to contractors.
2. A second factor in the building cost increase is identified as inflation in the cost of supplies and labor. In both cases, increases in demand for construction materials and construction labor related to the relative strength of the economy and the attendant increase in demand for these resources is cited.
3. The estimated cost of site work increased just over 11 percent due to the unanticipated amount of rock that needs to be removed from the site. This is a relatively small component (\$100,500) of the project cost increase.

Brinton Woods reports that architectural and engineering fees are now expected to be less than the 2018 estimate, an offset to the building and site cost increases of \$300,000.

Impact on Financial Performance

In its request, Brinton Woods reported that the facility underperformed financially in 2018 and 2019 compared to the projections in its original CON application, due to a lower overall occupancy rate and a higher ratio of patients covered by Medicaid. The actual occupancy rate for the facility was 5% lower in 2018 and 8% lower in 2019 than had been projected in the CON application. At the same time, the percentage of Medicaid patients was 5% higher than expected in both years. Beginning with the last quarter of 2019 and continuing through January 2020, Brinton Woods has experienced higher occupancy rates and a percentage of Medicaid patients that has been more in line with previous projections.

The data provided in Table 2 shows positive operating results for the facility in 2018 and 2019, and net income projected to increase with the move to the new facility, anticipated in 2021. The applicant explains that the higher net income projection is based on: (1) an assumption of higher average patient acuity; (2) increases in Medicare and Medicaid reimbursement rates that have occurred since the previous iteration of these projections; and (3) an assumption of an increase in the daily private pay rate over the previous projection.

Table 2: Utilization and Financial Statistics and Projections, Brinton Woods (uninflated) 2018-2022

Utilization, Revenues, and Expenses	Actual		Projected		
	2018	2019	2020 (existing facility)	2021 (new facility)	2022
Admissions	262	257	325	382	440
Patient days	18,623	17,868	19,032	19,371	19,710
Average annual bed occupancy rate	85.0%	81.6%	86.7%	88.5%	90.0%
Medicare patient days (% of total)	27.2	24.8%	27.5%	32.3%	40.7%
Medicaid patient days (% of total)	56.8	56.7%	56.9%	52.1%	46.3%
Net operating revenue	\$6,253,846	\$6,185,193	\$7,157,423	\$7,590,677	\$8,103,156
Total operating expenses	\$6,132,492	\$5,996,406	\$6,570,395	\$7,049,541	\$7,646,185
Net Income	\$121,354	\$188,787	\$587,028	\$541,136	\$456,971

Source: Applicant’s Request for Modification, Tables D and F

IV. ANALYSIS AND RECOMMENDATION

In its review of the applicant’s 2018 CON application, Commission staff did not conclude that the 2018 project cost estimate was understated based on the Marshall Valuation Service construction cost index applicable at that time. The applicant’s estimated cost per square foot was higher than the MVS benchmark cost for nursing home construction, so a “lowball” original estimate of project cost by the applicant is not a basis for concern in this case.

Commission staff concludes that there is a basis for believing that the *Healthcare Cost Review* building cost inflation index used by the Commission may somewhat understate recent building cost inflation. In January 2020, *Construction Analytics* published a review of six

reference inflation indices of non-residential building construction.³ For the 2017 to 2018 period, annual inflation reported for these indices ranged from 4.1% to 7.4%. The range for 2018 to 2019 ranged between 4.0% and 5.6% and for 2019-2020, the range was 3.9% to 4.6%. This source notes the recent growth in construction activity and the recent low unemployment rate in construction trades as factors in rising inflation and also notes that demand for increasing margins by contractors during periods of strong growth in construction project demand is also a significant factor in higher levels of inflation. Other sources such as the Associated General Contractors of America have noted the increased volatility of building materials prices in the last two years as factors in construction cost inflation and the related use of higher contingency allowances in contractor bidding. Such volatility tends to increase the variance seen between cost indices and actual bid cost or finished project costs.

While the project will cost more to complete, this increase will not result in higher cost for the Medicare and Medicaid programs, which are expected to pay for a high proportion of the total patients served by Brinton Woods. Medicare reimburses prospectively with rates that take patient acuity and geographic region into account but not the cost experience of specific facilities. Medicaid has a ceiling for capital that the proposed facility would reach even without this increase. Thus, any increase in construction costs will not increase the level of reimbursement from Medicare or Medicaid. Prices sought for the smaller proportion of patients paying for care out-of-pocket and patients covered by private third-party payors can, of course, reflect the higher cost experience of the CCF although such pricing can also be limited by conventional market forces.

While the increase in the total project cost is significant, Brinton Woods and LifeBridge Health, Inc. have documented the availability of cash to fund the project. Because the project is not using debt financing, cash outlays for interest expenses will not increase as a result of the rise in project cost; only the non-cash accounting expense of depreciation will change. The applicant continues to project an ability to generate income from operations.

Because there are no material changes occurring in the location, capacity, or nature of the project, staff concludes that this requested modification does not change the findings of need for the project or the positive findings concerning the impact of this project made in 2018.

For these reasons, staff recommends that the Commission **APPROVE** the proposed change to the authorized cost of this project. The Certificate of Need issued to Brinton Woods Health and Rehabilitation at Winfield to construct a 60-bed CCF (Docket No. 13-16-2347) will continue to have the same conditions attached to the original approval, which address the minimum level of service that must be provided to Medicaid patients.

³ <https://edzarenski.com/2020/01/28/construction-inflation-2020/>

IN THE MATTER OF	*	BEFORE THE
	*	
BRINTON WOODS HEALTH AND	*	MARYLAND HEALTH
	*	
REHABILITATION AT WINFIELD	*	CARE COMMISSION
	*	
Docket No. 18-06-2422	*	
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FINAL ORDER

Based on Commission Staff's analysis of this request for project change, it is this 19th day of March 2020, **ORDERED** that:

The request by Brinton Woods Health Care Center, LLC for changes to the approved project to replace and relocate the existing 60-bed comprehensive care facility known as Brinton Woods Health and Rehabilitation at Winfield from Sykesville to the campus of Carroll Hospital Center in Westminster, for which a Certificate of Need was issued on October 16, 2018, is **APPROVED**, with a new approved total project cost of \$17,176,140.

The Modified Certificate of Need is subject to the following conditions:

1. At the time of first use review, Brinton Woods Health Care Center, LLC shall provide the Commission with a completed Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain at least the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2)(b); and
2. Brinton Woods Health Care Center, LLC shall meet and maintain at least the minimum proportion of Medicaid patient days required by its Memorandum of Understanding with the Maryland Medical Assistance Program and by Nursing Home Standard COMAR 10.24.08.05A(2).