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**MARYLAND HEALTH CARE COMMISSION**

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April 4, 2016

By E-Mail and Hand Delivery

Donna Kinzer, Executive Director  
Heath Services Cost Review Commission  
4160 Patterson Avenue  
Baltimore, Maryland 21215

**Re: CON Application – Baltimore Nursing and Rehabilitation Center  
d/b/a Restore Health**

Dear Ms. Kinzer,

I have been appointed as Reviewer of the Certificate of Need (CON) application filed by Baltimore Nursing and Rehabilitation, LLC, which proposes to build an 80-bed comprehensive care facility (CCF or nursing home) on Fayette Street in downtown Baltimore. I have recognized LifeBridge Health as an interested party in the review. Counsel for the applicant and the interested party are copied on this letter.

On October 3, 2014, the Maryland Health Care Commission (MHCC) published need projections for CCF beds that projected no need for additional nursing home beds in Baltimore City in 2016. The projections concluded that in 2016 Baltimore City would have a surplus of 120 CCF beds, which does not include a community-based services adjustment of 380. This could be viewed as resulting in a projected “total surplus” of 500 CCF beds in Baltimore City. On April 1, 2016, the MHCC published CCF bed need projections<sup>1</sup> for 2016 that reflected an updated CCF bed inventory that showed a decrease of 173 CCF beds in Baltimore City. While the City is still projected to have a 2016 net bed need of “zero,” the “total surplus” of CCF beds can be viewed as having been reduced from 500 to 327 CCF beds.

The applicant states that the proposed nursing home will “focus on new reimbursement models created as part of the Affordable Care Act that award providers for minimizing length of stay and hospital readmissions and thereby reduce the overall costs of patients.” (CON

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<sup>1</sup> [http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_ltc/documents/chcf\\_ltc\\_nh\\_bed\\_need\\_net\\_2016\\_20150401.pdf](http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/chcf_ltc_nh_bed_need_net_2016_20150401.pdf)

application, p. 7)<sup>2</sup> According to the applicant, the proposed facility is “designed to operate more broadly in the continuum of care and more closely integrated with the hospital [and] is designed explicitly to serve patients who are currently served in the hospital, thereby shifting volume from the hospital setting to the nursing home setting.”<sup>3</sup>

The applicant specifically assumes<sup>4</sup> that, in the future:

- Earlier transfer of hospitalized patients to a sub-acute setting will be permitted because CMS is expected to waive its current three-day hospital stay rule for Maryland’s Demonstration Model;
- Direct admits from the hospital emergency department or even from home will qualify for Medicare reimbursement, bypassing hospitalization entirely; and
- Use rates for nursing homes are expected to grow considerably under the new payment models.

Given the applicant’s assumptions, I am seeking HSCRC’s assessment regarding the following:

- (1) The likelihood that CMS will waive its three-day hospitalization rule for the Maryland Demonstration Model and the likelihood that direct admits, admissions following hospitalizations of less than three days, and bundled payment program with these features are likely to become added Medicare benefits in Maryland, and, if so the expected timing of such changes;
- (2) Does HSCRC have knowledge of hospitals having difficulty in finding CCFs in Baltimore City that are willing and able to admit patients with “special needs” such as ventilator patients, dialysis patients, or bariatric patients?; and
- (3) HSCRC’s opinion regarding the circumstances or prerequisites, if any, that are needed in order for CMS’ waiver of its three-day hospital stay rule to improve quality and lower the cost of health care in Maryland, thereby benefiting patients and the health care system.

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<sup>2</sup> See pages 28-29 of the CON application, which may be accessed at:  
[http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_con/documents/filed\\_2015/con\\_app\\_baltimore\\_nursing\\_20150410.pdf](http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_con/documents/filed_2015/con_app_baltimore_nursing_20150410.pdf)

<sup>3</sup> Applicant’s June 9, 2015 response to completeness questions, p. 2, accessible at:  
[http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_con/documents/filed\\_2015/con\\_baltimore\\_nursing\\_completeness\\_response\\_20150609.pdf](http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_con/documents/filed_2015/con_baltimore_nursing_completeness_response_20150609.pdf)

<sup>4</sup> CON application, pp. 28-29

Donna Kinzer, Executive Director, HSCRC  
Re: Baltimore Nursing and Rehabilitation, L.L.C.  
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If you need copies of any of the mentioned documents or other documents, please let Suellen Wideman know.

I look forward to receiving your input on these issues.

Sincerely,

A handwritten signature in black ink, reading "Maureen Carr-York". The signature is fluid and cursive, with the first name "Maureen" being more prominent and the last name "Carr-York" following in a similar style.

Maureen Carr-York  
Commissioner/Reviewer

cc: Peter Parvis, Esq.  
Richard McAlee, Esq.  
Stan Lustman, AAG  
Paul E. Parker  
Kevin McDonald  
Suellen Wideman, AAG  
(all copied by email)