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October 7, 2019

VIA PDF & REGULAR MAIL

Mr. Kevin McDonald
Chief, Certificate of Need
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Re: Encompass Health Rehabilitation
Hospital of Salisbury
Matter No. 18-22-2435

Dear Mr. McDonald:

Attached please find four (4) copies of the responses to requests contained in a letter dated August 23, 2019, relating to Encompass Health Rehabilitation Hospital of Salisbury's ("EHRH Salisbury) Certificate of Need ("CON") application to add 10 beds to its existing 64-bed special hospital rehabilitation in Salisbury, Wicomico County. These responses also have been submitted as of this date electronically, in both Word and PDF format, to Ruby Potter at ruby.potter@maryland.gov.

Responses to MHCC Staff Requests of Applicant (Rehabilitation Hospital Corporation of America, LLC d/b/a Encompass Health Rehabilitation Hospital of Salisbury) and of Encompass Health Corporation:

(1) Provide details of the settlement. Include each limitation and/or condition placed on Encompass Health Corporation and/or any of its facilities regarding admissions or other operations.

There are no limitations or conditions placed on Encompass Health Corporation or any of its facilities. See Attachment 1 for details of the settlement.

(2) Does the settlement or other document require one or more specific actions by Encompass Health Care and/or any of its facilities? If so please describe and provide underlying documentation.

No.

(3) As a result of allegations that led to the settlement or as a result of the settlement, has Encompass Health Care instituted new operational policies or changes to management's oversight of operations? If so, please detail changes or policies, etc. that have been put in place to assure that all IRFs owned by Encompass Health Care comply with federal and state law.

No.

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(4) Did Encompass Health Care, the Centers for Medicare and Medicaid Services (CMS), and/or any government agency investigate or inquire about admission and/or billing practices at Encompass-Salisbury? If yes, please provide documents regarding findings and/or conclusions of each such inquiry and each corrective and/or other action taken.

No.

(5) Encompass-Salisbury and Encompass Health Corporation must provide current and complete information in Part III of its CON application (Part III).

See Attachment 2.

(6) Since Questions 3, 4, and 5 of Part III refer to the answer to Question 2, the applicant and Encompass Health Corporation must also provide updated and complete responses to each of these questions.

See Attachment 2.

Sincerely,



Carolyn Jacobs

Please see attached signature page

cc: Ruby Potter

Lori Brewster
Health Officer
Wicomico County Health Department
108 E. Main Street
Salisbury, MD 21801

Rebecca Jones, RN
Health Officer
Worcester County Health Department
6040 Public Landing Road
PO Box 249
Snow Hill, MD 21863-0249

Joseph Ciotola, M.D.
Health Officer
Queen Anne's County Health Department
206 N. Commerce Street
Centreville, MD 21617

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Laurie Humphries
Acting Health Officer
Cecil County Health Department t
401 Bow Street
Elkton, MD 21921-5515

Craig Stofko
Health Officer
Somerset County Health department
7920 Crisfield Highway
Westover, MD 21871

I hereby declare and affirm under the penalties of perjury that I have been designated by Encompass Health Corporation and that the facts stated in this response and attachments are true and correct to the best of my knowledge, information and belief.

10/7/19
Date

Edward Mowen
Signature of Owner or Board-designated Official

MidAtlantic Regional President
Position/Title

Edward Mowen
Printed Name


ACTION BY WRITTEN CONSENT
OF
THE OFFICERS
OF
ENCOMPASS HEALTH CORPORATION
IN LIEU OF A SPECIAL MEETING

The undersigned, all being officers of Encompass Health Corporation, a Delaware corporation (the "Company"), acting by written consent in lieu of a special meeting, do hereby adopt the following preamble and resolution:

WHEREAS, Rehabilitation Hospital of Corporation of America, LLC (the "Applicant Company"), is the applicant for a Certificate of Need to obtain a bed addition for its acute inpatient rehabilitation hospital in Wicomico County (the "CON application"), and the Company is the owner of the Applicant Company.

RESOLVED, that Edward Michael Mowen, the President of the MidAtlantic Region of the Company, is hereby authorized to sign for and to act on behalf of Encompass Health Corporation in connection with the CON application.

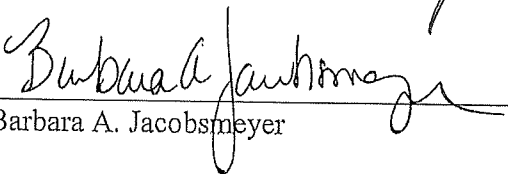
Dated as of the 17th day of October, 2019.



Douglas E. Coltharp



Patrick Darby



Barbara A. Jacobsmeyer

Attachment 1

Encompass Health – DOJ Settlement Details

The Department of Justice (DOJ) opened its investigation in 2012. Ultimately, the investigation concerned 6 qui tam suits brought by individual relator plaintiffs and consolidated in the Middle District of Florida. The DOJ issued subpoenas to 24 hospitals as part of its early investigation in 2013 and 2014, but most of the hospitals that received subpoenas were never required to produce documents and never attracted additional scrutiny from DOJ. Rehabilitation Hospital Corporation of America, LLC d/b/a Encompass Health Rehabilitation Hospital of Salisbury was not involved.

The DOJ asserted claims based on a post-treatment audit of 37 files with extrapolated results. Encompass Health disputed the review. The investigation lasted seven years, involved voluminous documents and over 30 depositions. It produced no evidence of falsity or fraud. Nevertheless, DOJ maintained that independent physicians at Encompass Health hospitals misdiagnosed particular myopathies to manipulate compliance with the 60% rule. The physicians at Encompass Health hospitals are not employed by Encompass Health and do not take direction from Encompass Health. Their diagnoses and determinations of medical necessity are independent. In every instance, the doctors stood by their diagnoses and their judgment on medical necessity.

CMS never challenged Encompass Health coding and never denied claims based on the DOJ's interpretation. Through a FOIA request, Encompass Health confirmed that the DOJ had discussed its theory with CMS as early as 2012. With full knowledge of the DOJ's interpretation, CMS never changed its position on Encompass Health coding practices and never denied its claims. In 2017 CMS declined to revise the IRF payment rule to remove the code at issue and thereby reflect DOJ's interpretation. In 2017 CMS proposed a rule that would adopt DOJ's interpretation (that's when Encompass Health filed its FOIA request, to determine DOJ's role in encouraging CMS to revise its rule retroactively to fit DOJ's litigation theory). Encompass Health commented against the proposed revision and CMS dropped it, issuing the new rule without DOJ's proposed interpretation and confirming that any alleged misuse of the subject code should be a matter of regulatory audit and review, not False Claims Act litigation.

Thereafter, the District Court in Florida, after extending DOJ's intervention period by over seven years, denied further extensions. DOJ declined to intervene in the qui tam suits brought by individual relator plaintiffs. Accordingly, Encompass Health was faced with a renewal of litigation by six plaintiffs that would potentially extend to all 130+ hospitals. Encompass Health's board of directors determined that a settlement of \$48 million was in the best interest of shareholders given the external cost of litigation and the substantial burden on internal resources from extended litigation. The release covers medical necessity, coding and coverage concerns for all hospitals from 2006 through the date of settlement.

In addition, this settlement confirms Encompass Health's past and current coding practices. Encompass Health expressly denied all wrong doing. Encompass Health did not enter into a Corporate Integrity Agreement (CIA). In addition to relieving Encompass Health of substantial reporting and oversight obligations, the absence of a CIA confirms the government is not requiring Encompass Health to change any of its practices. Although the government does not provide "exoneration" in such cases, by action CMS has ratified Encompass Health's use of the codes and DOJ and OIG have acknowledged Encompass Health has done nothing that requires correction.

Encompass Health has disclosed this matter in its public filings since 2013, and one of these public filings disclosing this matter was included with Encompass Health Rehabilitation Hospital of Salisbury's CON application. (*See* CON Application, Attachment 14, p. F-65.)

Attachment 2

**PART III - APPLICANT HISTORY, STATEMENT OF RESPONSIBILITY,
AUTHORIZATION AND RELEASE OF INFORMATION, AND SIGNATURE**

1. List names and addresses of all owners and individuals responsible for the proposed project.

See Organizational Chart attached as Exhibit 1.

2. Is any applicant, owner, or responsible person listed above now involved, or has any such person ever been involved, in the ownership, development, or management of another health care facility? If yes, provide a listing of each such facility, including facility name, address, the relationship(s), and dates of involvement.

Yes. As requested, Exhibit 2 contains a listing of all Encompass Health inpatient rehabilitation hospitals.

3. In the last 5 years, has the Maryland license or certification of the applicant facility, or the license or certification from any state or the District of Columbia of any of the facilities listed in response to Question 2, above, ever been suspended or revoked, or been subject to any disciplinary action (such as a ban on admissions)? If yes, provide a written explanation of the circumstances, including the date(s) of the actions and the disposition. If the applicant(s), owners, or individuals responsible for implementation of the Project were not involved with the facility at the time a suspension, revocation, or disciplinary action took place, indicate in the explanation.

No.

4. Other than the licensure or certification actions described in the response to Question 3, above, has any facility with which any applicant is involved, or has any facility with which any applicant has in the past been involved (listed in response to Question 2, above) ever received inquiries from a federal or any state authority, the Joint Commission, or other regulatory body regarding possible non-compliance with Maryland, another state, federal, or Joint Commission requirements for the provision of, the quality of, or the payment for health care services that have resulted in actions leading to the possibility of penalties, admission bans, probationary status, or other sanctions at the applicant facility or at any facility listed in response to Question 2? If yes, provide, for each such instance, copies of any settlement reached, proposed findings or final findings of non-compliance and related documentation including reports of non-compliance, responses of the facility, and any final disposition or conclusions reached by the applicable authority.

No, as to the applicant hospital. The applicant is not directly involved with the operation of any other Encompass facilities and, therefore, is not responding as to those facilities. However, the applicant notes that Encompass affiliates may incur citations, violations, or charges brought by governmental or accrediting agencies in the ordinary course of business. Any such matters have been successfully addressed in the ordinary course of business, and all affiliates are in good standing.

5. Has any applicant, owner, or responsible individual listed in response to Question 1, above, ever pled guilty to, received any type of diversionary disposition, or been convicted of a

criminal offense in any way connected with the ownership, development, or management of the applicant facility or any of the health care facilities listed in response to Question 2, above? If yes, provide a written explanation of the circumstances, including as applicable the court, the date(s) of conviction(s), diversionary disposition(s) of any type, or guilty plea(s).

No.

This Part III must be signed by one or more persons with knowledge of the information sought and officially Board-designated in writing by Encompass Health Corporation, the owner of the applicant to sign for and act for Encompass Health Corporation and Rehabilitation Hospital Corporation of America, LLC d/b/a Encompass Health Rehabilitation Hospital of Salisbury, the applicant in this review.

I hereby declare and affirm under the penalties of perjury that I have been designated by the Board of Encompass Health Corporation and that the facts stated in this Part III of the application and attachments to Part III are true and correct to the best of my knowledge, information, and belief.

10/7/19

Date

Edward Mowen

Signature of Board-designated Official

MidAtlantic Regional President

Position/Title

Edward Mowen

Printed Name

10/7/19

Date

Edward Mowen

Signature of Board-designated Official

Vice President of Rehabilitation Hospital

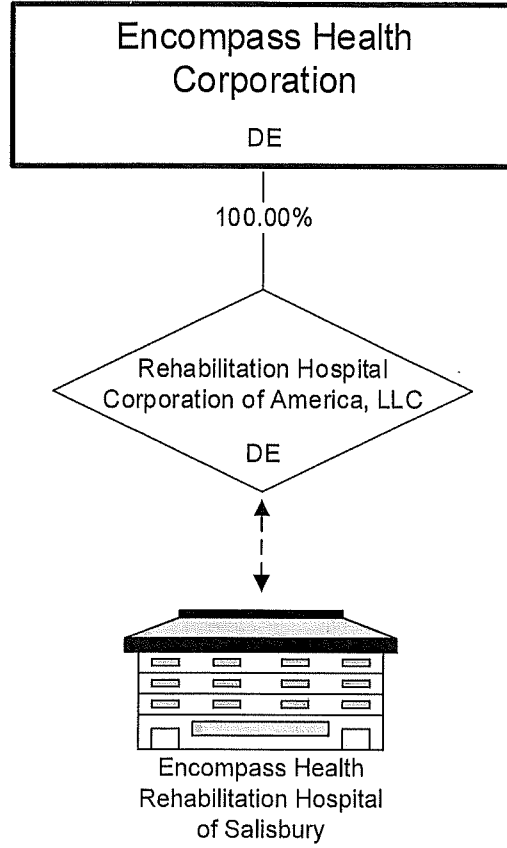
Position/Title

Corporation of America, LLC

Edward Mowen

Printed Name

Rehabilitation Hospital Corporation of America, LLC
d/b/a: Encompass Health Rehabilitation Hospital of
Salisbury



ENCOMPASS HEALTH CORPORATION INPATIENT REHABILITATION HOSPITALS
(as of 8/29/2019)

Facility Name	Address	City	State	Zip
Dothan	1736 East Main St.	Dothan	Alabama	36301
Montgomery	4465 Narrow Lane Road	Montgomery	Alabama	36116
Lakeshore	3800 Ridgeway Drive	Birmingham	Alabama	35209
North Alabama	107 Governors Drive SW	Huntsville	Alabama	35801
Gadsden	801 Goodyear Avenue	Gadsden	Alabama	35903
Regional	3715 US Highway 431 N	Phenix City	Alabama	36867
Shelby County	900 Oak Mountain Commons Lane	Pelham	Alabama	35124
Valley of the Sun	13460 North 67th Ave.	Glendale	Arizona	85304
Scottsdale	9630 E. Shea Blvd.	Scottsdale	Arizona	85260
Tucson	2650 North Wyatt Drive	Tucson	Arizona	85712
NW Tucson	1921 West Hospital Drive	Tucson	Arizona	85704
Yuma	901 West 24th Street	Yuma	Arizona	85364
East Valley	5652 E. Baseline Road	Mesa	Arizona	85206
Fort Smith	1401 South J St.	Fort Smith	Arkansas	72901
St. Vincent	2201 Wildwood Ave.	Sherwood	Arkansas	72120
Fayetteville	153 East Monte Painter Drive	Fayetteville	Arkansas	72703
Jonesboro	1201 Fleming Ave	Jonesboro	Arkansas	72401
Hot Springs	1636 Higdon Ferry Road	Hot Springs	Arkansas	71913
Bakersfield	5001 Commerce Drive	Bakersfield	California	93309
Tustin	14851 Yorba Street	Tustin	California	92780
Modesto	1303 Mable Avenue	Modesto	California	95355
Murrieta	35470 Whitewood Road	Murrieta	California	92563
Colorado Springs	325 S. Parkside Drive	Colorado Springs	Colorado	80910
Littleton	1001 West Mineral Avenue	Littleton	Colorado	80120
Middletown	250 East Hampden Road	Middletown	Delaware	19709
Largo	901 Clearwater Largo Road North	Largo	Florida	33770
Miami	20601 Old Cutler Road	Miami	Florida	33189
Sea Pines	101 East Florida Ave.	Melbourne	Florida	32901
Sunrise	4399 Nob Hill Road	Sunrise	Florida	33351
Tallahassee	1675 Riggins Road	Tallahassee	Florida	32308
Treasure Coast	1600 37th St.	Vero Beach	Florida	32960
Sarasota	6400 Edgelake Drive	Sarasota	Florida	34240
Panama City	1847 Florida Ave.	Panama City	Florida	32405
Spring Hill	12440 Cortez Blvd	Brooksville	Florida	34613
Ocala	2275 SW 22nd Lane	Ocala	Florida	34471
Martin	5850 SE Community Drive	Stuart	Florida	34997
Altamonte Springs	831 South State Road 434	Altamonte Springs	Florida	32714
Walton	1355 Independence Drive	Augusta	Georgia	30901
Newnan	2101 E. Newnan Crossing Blvd	Newnan	Georgia	30265
Savannah	6510 Seawright Drive	Savannah	Georgia	31406
Saint Alphonsus	711 North Curtis Road	Boise	Idaho	83706
Van Matre	950 South Mulford Road	Rockford	Illinois	61108
Deaconess	4100 Covert Ave.	Evansville	Indiana	47714
Coralville	9999 Unknown Ave	Coralville	Iowa	99999
Kansas	1504 SW 8th Ave.	Topeka	Kansas	66606
MidAmerica	5701 West 110th St.	Overland Park	Kansas	66211
Wesley	8338 West 13th St. N	Wichita	Kansas	67212
Northern Kentucky	201 Medical Village Drive	Edgewood	Kentucky	41017
Lakeview	134 Heartland Drive	Elizabethtown	Kentucky	42701
Cardinal Hill	2050 Versailles Road	Lexington	Kentucky	40504
Alexandria	104 North 3rd St.	Alexandria	Louisiana	71301
Portland	335 Brighton Ave. Unit 201	Portland	Maine	4102
Salisbury	220 Tilghman Road	Salisbury	Maryland	21804
Western Mass	222 State Street	Ludlow	Massachusetts	01056
Fairlawn	189 May St.	Worcester	Massachusetts	01602

New England	2 Rehabilitation Way	Woburn	Massachusetts	01801
Braintree	250 Pond Street	Braintree	Massachusetts	02184
Gulfport	4500 13th Street Suite 900	Gulfport	Mississippi	39501
Rusk	315 Business Loop 70 West	Columbia	Missouri	65203
Rehab Institute of St. Louis	4455 Duncan Ave.	St. Louis	Missouri	63110
Las Vegas	1250 South Valley View Blvd.	Las Vegas	Nevada	89102
Henderson	10301 Jeffreys Street	Henderson	Nevada	89052
Desert Canyon	9175 W Oquendo Road	Las Vegas	Nevada	89148
Concord	254 Pleasant St.	Concord	New Hampshire	03301
Toms River	14 Hospital Drive	Toms River	New Jersey	08755
Tinton Falls	2 Centre Plaza	Tinton Falls	New Jersey	07724
Vineland	1237 W Sherman Avenue	Vineland	New Jersey	08360
Albuquerque	7000 Jefferson St., NE	Albuquerque	New Mexico	87109
Novant	2475 Hillcrest Center Circle	Winston Salem	North Carolina	27103
Cincinnati	151 West Galbraith Road	Cincinnati	Ohio	45216
Mount Carmel	597 Executive Campus Drive	Westerville	Ohio	43082
Dayton	1 Elizabeth Place	Dayton	Ohio	45417
Broken Arrow	1200 West Albany Drive	Broken Arrow	Oklahoma	74012
Mechanicsburg	175 Lancaster Blvd.	Mechanicsburg	Pennsylvania	17055
Erie	143 East Second St.	Erie	Pennsylvania	16507
Nittany Valley	550 West College Ave.	Pleasant Gap	Pennsylvania	16823
York	1850 Normandie Drive	York	Pennsylvania	17408
Reading	1623 Morgantown Road	Reading	Pennsylvania	19607
Sewickley	303 Camp Meeting Road	Sewickley	Pennsylvania	15143
Harmarville	320 Guys Run Road	Pittsburgh	Pennsylvania	15238
Geisinger	64 Rehab Lane	Danville	Pennsylvania	17821
Altoona	2005 Valley View Blvd	Altoona	Pennsylvania	16602
San Juan	PMB #340 P.O. Box 70344	San Juan	Puerto Rico	00936
Manati	Carretera #2, Kilometro 47.7	Manati	Puerto Rico	00674
Florence	900 East Cheves St.	Florence	South Carolina	29506
Columbia	2935 Colonial Drive	Columbia	South Carolina	29203
Charleston	9181 Medcom St.	North Charleston	South Carolina	29406
Rock Hill	1795 Dr. Frank Gaston Blvd.	Rock Hill	South Carolina	29732
AnMed	1 Spring Back Way	Anderson	South Carolina	29621
Tidelands	4070 Highway 17 Bypass South, 4th Floor	Murrells Inlet	South Carolina	29576
Bluffton	107 Seagrass Station Road	Bluffton	South Carolina	29910
Sioux Falls	9999 Unknown	Sioux Falls	South Dakota	99999
Kingsport	113 Cassel Drive	Kingsport	Tennessee	37660
Vanderbilt	2201 Children's Way	Nashville	Tennessee	37212
Memphis	1282 Union Ave.	Memphis	Tennessee	38104
Chattanooga	2412 McCallie Ave.	Chattanooga	Tennessee	37404
North Memphis	4100 Austin Peay Highway	Memphis	Tennessee	38128
Franklin	1000 Physicians Way	Franklin	Tennessee	37067
Quillen	2511 Wesley Street	Johnson City	Tennessee	37601
Jackson	616 West Forest Avenue	Jackson	Tennessee	38301
Cane Creek LLC	180 Mount Pelia Road	Martin	Tennessee	38237
Humble	19002 McKay Drive	Humble	Texas	77338
The Woodlands	18550 IH 45 South	Conroe	Texas	77384
Midland Odessa	1800 Heritage Blvd.	Midland	Texas	79707
Texarkana	515 West 12th St.	Texarkana	Texas	75501
San Antonio	9119 Cinnamon Hill	San Antonio	Texas	78240
Arlington	3200 Matlock Road	Arlington	Texas	76015
City View	6701 Oakmont Blvd.	Fort Worth	Texas	76132
Plano	2800 West 15th St.	Plano	Texas	75075
Tyler	3131 Troup Hwy.	Tyler	Texas	75701
Wichita Falls	3901 Armory Road	Wichita Falls	Texas	76302

Sugar Land	1325 Highway 6	Sugar Land	Texas	77478
Cypress	13031 Wortham Center Drive	Houston	Texas	77065
Bryan	1600 Joseph Drive, Ste. 2000	Bryan	Texas	77802
Round Rock	1400 Hester's Crossing	Round Rock	Texas	78681
Vision Park	117 Vison Park Blvd	Shenandoah	Texas	77384
Abilene	6401 Directors Parkway	Abilene	Texas	79606
Dallas	7930 Northaven Road	Dallas	Texas	75230
Mid-Cities	2304 State Highway 121	Bedford	Texas	76021
Austin	330 West Ben White Blvd	Austin	Texas	78704
The Vintage	20180 Chasewood Park Drive	Houston	Texas	77070
Richardson	3351 Waterview Parkway	Richardson	Texas	75080
Pearland	2121 Business Center Drive	Pearland	Texas	77584
South Plains	5406 Colgate Street	Lubbock	Texas	79416
Katy	23331 Grand Reserve Drive	Katy	Texas	77494
Utah	8074 South 1300 East	Sandy	Utah	84094
Richmond	5700 Fitzhugh Ave.	Richmond	Virginia	23226
UVA	515 Ray C. Hunt Drive	Charlottesville	Virginia	22903
Petersburg	95 Medical Park Boulevard	Petersburg	Virginia	23805
Fredericksburg	300 Park Hill Drive	Fredericksburg	Virginia	22401
Northern Virginia	24430 Millstream Drive	Aldie	Virginia	20105
Bristol	103 North Street	Bristol	Virginia	24201
Huntington	6900 West Country Club Drive	Huntington	West Virginia	25705
Morgantown	1160 Van Voorhis Road	Morgantown	West Virginia	26505
Parkersburg	3 Western Hills Drive	Parkersburg	West Virginia	26105
Princeton	120 12th St.	Princeton	West Virginia	24740