



State of New Jersey
DEPARTMENT OF HEALTH
PO BOX 358
TRENTON, N.J. 08625-0358
www.nj.gov/health

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SHEREEF M. ELNAHAL, MD, MBA
Commissioner

August 6, 2018

VIA ELECTRONIC AND FIRST CLASS MAIL

Richard Pineles
Managing Member
Bergen Passaic LTACH, LLC
55 South Newman Street
Hackensack, NJ 07601

REVISED LETTER
CORRECTED EXPIRATION DATE

Re: CN# ER 040905-02-43 E/T
Bergen Passaic Long Term
Acute Care Hospital
Total Project Cost: \$20,000,000
Expiration Date: January 24, 2020

Dear Mr. Pineles:

Enclosed is a revised approval letter for the above noted certificate of need (CN) approval for an extension of time. Although the top of page two of the original and revised approval letters indicates the approval is for 18-months, the original letter inadvertently included an incorrect 5-year expiration date on page one. Extensions of time of an already approved CN are provided an 18-month extension. Thus, the expiration date of this approval is corrected as noted above.

I apologize for any inconvenience this may have caused. If you have any questions concerning this matter, please do not hesitate to call me at (609) 292-8773.

Sincerely,

John A. Calabria
Director
Certificate of Need and
Healthcare Facility Licensure

Susan Kelley (By Electronic Mail)
Louisa Steska (By Electronic Mail)
Alison Gibson (By Electronic Mail)
Felicia L. Harris (By Electronic Mail)
Susan Jackson (By Electronic Mail)
Gary Spiewak (By Electronic Mail)
Lic. File

Richard Pineles
CN# ER 040905-02-43 E/T
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State of New Jersey
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PHILIP D. MURPHY
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SHEREEF M. ELNAHAL, MD, MBA
Commissioner

July 24, 2018

VIA ELECTRONIC AND FIRST CLASS MAIL

Richard Pineles
Managing Member
Bergen Passaic LTACH, LLC
55 South Newman Street
Hackensack, NJ 07601

REVISED LETTER
CORRECTED EXPIRATION DATE

Re: CN# ER 040905-02-43 E/T
Bergen Passaic Long Term
Acute Care Hospital
Total Project Cost: \$20,000,000
Expiration Date: January 24, 2020

Dear Mr. Pineles:

Please be advised that the Department of Health (Department) is approving Bergen Passaic Long Term Acute Care Hospital (LTACH), LLC's (Bergen Passaic) application, submitted on May 1, 2018, pursuant to N.J.A.C. 8:33-5.1(a)6, for an extension of time for CN# ER 040905-02-43, which was due to expire on June 30, 2016. As you are aware, the original certificate of need (CN) granted on December 10, 2004 for the establishment of a 72 bed freestanding LTACH at the Bergen Passaic LTACH in Bergen County was to have expired on December 10, 2006, but was extended to June 10, 2008, then to December 10, 2009, and further extended by The Permit Extension Act of 2008 (Act), P.L. 2008, c. 78, as amended by P.L. 2009, c. 336, P.L. 2012, c. 48, and P.L. 2014, c. 84. The Act was signed on September 6, 2008, and provided that, for a certificate of need specific to development in existence during the period of January 1, 2007 through July 1, 2010, the running period of the approval is automatically suspended for the extension period through July 1, 2010. Amendments to the Act extended the expiration date of the Permit Extension Act through December 31, 2012, and December 31, 2015, respectively. Pursuant to the Act as amended, and including the time tolled under the Act, the expiration of CN# ER 040905-02-43 was extended through June 30, 2016. After the expiration of the Act, the CN was further extended to June 29, 2018. Be advised, your certificate of need is now extended for an

extended to June 29, 2018. Be advised, your certificate of need is now extended for an additional 18-month time period, as noted above, subject to the conditions noted below. However, if after this period the applicant requires any additional extension, a new demonstration/documentation of need will be required to be submitted.

The decision to approve Bergen Passaic's extension application is based on a review of the documents you submitted and the timeline you projected identifying expected licensure by January 2020. In your application, you reiterate the circumstances accounting for the project's delay including the protracted hearings and litigation pertaining to the property, and the adverse results over an extended period, leading to the current projection for completion. The Department also takes note of the fact that the Centers for Medicare & Medicaid Services (CMS) imposed a moratorium on the issuance of new Medicare Provider Agreements for newly established LTAC units, except for those having already been issued a CN, as has Bergen Passaic, effective April 1, 2014. It is the Department's understanding that the moratorium expired on September 30, 2017.

As this project has been pending since 2004, the Department is concerned that actual progress toward the ultimate licensure of the LTACH be achieved. You have provided the following proposed schedule for implementation of this CN:

- | | |
|------------------|------------------------------------|
| 1. August 2018 | Approval of the Extension of Time |
| 2. November 2018 | Execution of Development Agreement |
| 3. December 2018 | Initiation of Development process |
| 4. December 2019 | Completion of physical plant |
| 5. January 2020 | Licensure of facility |

The Department, **as a condition of approval of this extension of time**, is requiring that you submit detailed quarterly progress reports to verify progress according to the schedule outlined above. These reports should be submitted to the Department in October 2018, January 2019, April 2019, July 2019, October 2019 and January 2020 and should provide a detailed description of the steps taken during the preceding three-month period in moving this project toward completion. As this project was originally approved on December 10, 2004 and is approaching 14 years old, please be advised that the Department will not favorably consider another extension of time. In accordance with N.J.A.C. 33-3.10(3) "If the project has not been licensed by the Department's Office of Certificate of Need and Healthcare Facility Licensure, within the original or, if applicable, extended time frame identified within this subchapter, the certificate of need shall automatically be deemed to be terminated."

The total project cost originally fixed at \$20,000,000 remains the same, to be financed through a Commercial Bank and equity participation. Please be advised that this approval is limited to the proposal as presented and reviewed. An additional review

by the Department of Health (Department) may be necessary if there is any change in scope as defined in N.J.A.C. 8:33-3.9. However, in accordance with N.J.A.C. 8:33-3.9(a) 1-3, a change of cost of an approved certificate of need is exempt from certificate of need review but 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 license for the beds/services with the Certificate of Need and Healthcare Facility Licensure Program.
2. Where the actual 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 percent 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.

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 determination 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.

Any approval granted by this Department relates to certificate of need and/or licensing requirements only and does not imply acceptance by a reimbursing entity. Issues involving reimbursement are solely between the facility and the third party payer. The Department is neither a party to such matters nor an arbiter of disputes between the parties.

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, the federal anti-referral (Stark) and federal anti-kickback laws. We have not undertaken an independent investigation of such information. If material facts 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.

Richard Pineles
CN# ER 040905-02-43 E/T
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We look forward to working with you and helping you to provide a high quality of care to your residents. If you have any questions concerning this certificate of need or regarding the licensure of these 72 long term acute care beds, please do not hesitate to telephone Mr. John A. Calabria, Director, Division of Certificate of Need and Licensing, at 609-292-8773.

Sincerely,



Marcela Ospina Maziarz, MPA
Deputy Commissioner
Health Systems

cc: John A. Calabria (By Electronic Mail)
Susan Kelley (By Electronic Mail)
Louisa Steska (By Electronic Mail)
Alison Gibson (By Electronic Mail)
Felicia L. Harris (By Electronic Mail)
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