



State of New Jersey
DEPARTMENT OF HEALTH
PO BOX 360
TRENTON, N.J. 08625-0360
www.nj.gov/health

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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Commissioner

June 15, 2020

VIA ELECTRONIC & FIRST-CLASS MAIL

David Klugmann, LNHA
Administrator
Eastern Pines Convalescent Center
29 North Vermont Avenue
Atlantic City, New Jersey 08401

Re: Eastern Pines Convalescent Center
CN# ER 18 0402-01-02
Addition of five Specialized Long-Term
Care Beds for Severe Behavior
Management
Total Project Cost: \$100,000
Expiration Date: June 15, 2025

Dear Mr. Klugmann:

In the January 2, 2018 New Jersey Register, the Department of Health (Department) published a Certificate of Need (CN) Call to establish new specialized long-term care (LTC) beds for severe behavior management. The Call was issued following a collection of data from providers of specialized LTC beds for severe behavior management asking for facility utilization and capacity data for calendar years 2014, 2015, and 2016. Based on this analysis of the data received, the Department determined that there is a limited need for additional new specialized LTC beds for severe behavior management (e.g., five for Region 1 – South Jersey, which encompasses Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem Counties). Considering that the need for specialized LTC beds for severe behavior management is limited, the Department determined that any additional beds approved would have a minimal impact on the healthcare system as a whole and, therefore, would be subject to the expedited CN review process, rather than the full CN review process, in accordance with N.J.A.C. 8:33-5.1(b)(2).

Please be advised that the Department is approving Eastern Pines, LLC's expedited review CN application, submitted on April 2, 2018, pursuant to the CN Call and N.J.A.C. 8:33-5.1(b)(2), for the addition of five specialized LTC beds for severe behavior management, allocated to Region 1 – North Jersey. The applicant, Eastern Pines, LLC is the licensed operator of Eastern Pines Convalescent Center (Eastern Pines), a licensed LTC facility with 141 LTC beds and 10 ventilator care beds with hemodialysis located in Atlantic County, at 29 North Vermont Avenue in Atlantic City. As a result of this CN approval, and following licensing application approval, Eastern Pines will be licensed to operate 141 LTC beds, 10 ventilator care beds with hemodialysis and five severe behavior management beds. This application is being approved at the total project cost as noted above.

The application notes that Eastern Pines is an existing LTC facility with a history of accepting all patients that meet the admission criteria regardless of their payment source, and has well-established transfer agreements with area hospitals. Eastern Pines provides specialized services that encompasses an Alzheimer/dementia unit; a high acuity unit; a pulmonary unit; a dialysis unit and a behavioral program. The applicant anticipates that referrals shall continue from the same sources and purports that Eastern Pines shall exceed the 85 percent minimum desired annual occupancy rate for specialized care units with a projected utilization statistic for the five severe behavior management beds to yield 90 percent in the first year and 95 percent by the second year. The application further advises that Eastern Pines is easily accessible by all major thoroughfares throughout the County, whereby public bus transportation lead commuters at curbside and directly in front of the facility. This mode of transportation affords easy access to family members visiting patients at the facility.

The proposed specialized severe behavior management unit will reportedly be implemented on the third floor of East Wing, consisting of approximately 4,000 square feet, which will require minimal renovation. This unit will be operated as a separate and distinct area with its own nursing station and ancillary support area for the sole purpose of providing treatment to patients that have been adequately assessed and diagnosed as requiring specialized severe behavior management care.

The applicant believes that approval of this application will have a direct, positive and orderly impact on the health care system by allowing Eastern Pines to enhance care to ethnic minorities and medically underserved population with the proposed addition of the five specialized LTC beds for the provision of severe behavior management services. The applicant states that Eastern Pines is the only LTC facility located in Atlantic City and affirms that it provides much needed access to severe behavior management services in an area of the county with the highest number of persons living below the poverty level, at 34.3 percent, as compared to 10.4 percent of New Jersey residents and 14.4 percent of all residents of Atlantic County. The applicant further reports that the population to be served with the establishment of the five proposed specialized LTC beds will have the benefit of Eastern Pine's easy accessibility to low-cost public transportation options within the region. Eastern Pines is committed to continue accepting patients from State/County psychiatric hospitals,

regardless of their payment source. Eastern Pines has an overall Medicaid occupancy level of approximately 95 percent and projects that the proposed specialized behavioral management unit will also yield an average Medicaid occupancy rate of 95 percent. Lastly, based on the aforementioned description in relation to the positive impact of access to service, the applicant believes that the establishment of the five specialized LTC beds for severe behavior management services will have minimal impact on the health care system as a whole, and thus meets the criteria for N.J.A.C. 8:33-5.1(b)(2).

N.J.S.A. 26:2H-8 provides for the issuance of a CN only where the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, will not have an adverse economic or financial impact on the delivery of health services in the region or statewide, and will contribute to the orderly development of adequate and effective health care services. In making such determinations, the Department must take into consideration: a) the availability of facilities or services that may serve as alternatives or substitutes; b) the need for special equipment and services in the area; c) the possible economies and improvement in services to be anticipated from the operation of joint central services; d) the adequacy of financial resources and sources of present and future revenues; e) the availability of sufficient manpower in several professional disciplines; and f) such other factors as may be established by regulation.

The Department believes that the criterion regarding the availability of facilities or services which may serve as alternatives or substitutes is not applicable inasmuch as the services in this application will have a minimal impact on the health care system as a whole, as the Department's statistical bed need methodology determined only a limited need of additional new specialized LTC beds for severe behavior management. Likewise, the need for sufficient special equipment and services in the area does not apply as Eastern Pines is an existing LTC provider that has established a behavioral program, which has led to the acquirement of specialized equipment and services.

As to the specifics of this application, the Department believes this project can be economically accomplished and maintained. In addition, a financial analysis undertaken by staff at this Department indicates that Eastern Pines possesses adequate financial resources to complete the project. According to the applicant, Eastern Pines is financially sound and possesses a long-range of financial stability to undertake and sustain the proposed bed addition. Therefore, with the addition of the five specialized LTC beds for severe behavior management care and expected occupancy, the applicant foresees no unfavorable economic or financial impact to occur as a result of this project.

The Department notes that the applicant has confirmed that Eastern Pines current staffing is sufficient to support and provide appropriate levels of care to the five patients with severe behavior management needs. However, should the facility require additional staff to support these LTC patients with specialized service needs, the Department is confident that there are sufficient available personnel in the area to meet staffing needs.

The Department has taken into consideration the applicable regulations for the services subject to expedited review (i.e., N.J.A.C. 8:33-5.3). The Department finds that Eastern Pines has provided an appropriate project description, which includes information as to the total project cost, utilization statistics and justification for the proposed project (N.J.A.C. 8:33-5.3(a)(1)); and assurance that all residents of the area, particularly the medically underserved, will have access to services (N.J.A.C. 8:33-5.3(a)(2)). In addition, Eastern Pines demonstrated a track record of substantial compliance with the Department's licensing standards (8:33-5.3(a)(3)(ii)).

Based on the foregoing, the Department is approving Eastern Pines, LLC's application for the establishment of five specialized LTC beds for severe behavior management, with Conditions, as follows:

- 1) Pursuant to N.J.A.C. 8:33H-1.15(a)(4), applicants receiving CN approval to add specialized LTC beds to an existing facility shall reserve a minimum of 45 percent of the total specialized LTC bed complement to be occupied by Medicaid-eligible residents who either have spent down to the level of Medicaid eligibility during their nursing home stay or who are directly admitted to the facility as Medicaid-eligible residents, as defined in N.J.A.C. 8:33H-1.2. The facility shall meet this 45 percent overall occupancy by Medicaid-eligible patients in its specialized LTC beds by the end of the first year of licensure and continue meeting this percentage thereafter.
- 2) The applicant shall submit: 1) schematic drawings of the entire proposed physical plant for review to the Department; 2) upon notice by the Department that the applicant can proceed to the Department of Community Affairs (DCA), full architectural plans to DCA; and 3) upon approval by DCA, DCA-approved plans to the Local Building Officials. Schematic drawings and architectural plans shall be in compliance with all applicable State, Federal and Local physical plant regulations, including NFPA 101 Life Safety Code (2012), as amended and supplemented.
- 3) At least 90 days prior to the applicant's anticipated date of approval to operate the awarded beds, the applicant shall file a licensing application with the Division for approval to operate the beds. The applicant shall not commence operation of the awarded beds prior to Department's approval and licensure.
- 4) All of the conditions shall also apply to any successor organization to the applicant that acquires the awarded beds within five years from the date of CN approval.

Failure to satisfy the aforementioned conditions may result in sanctions, including license suspension, monetary penalties and other sanctions in accordance with N.J.S.A. 26:2H-1 et seq. and all applicable regulations. Therefore, acceptance of these conditions shall be presumed, unless written objections are submitted to the Department within 30 days of receipt of this letter. Upon receipt of such objections, this approval will be deemed suspended and the project shall be examined in light of the objections.

Please be advised that this approval is limited to the proposal as presented and reviewed. The application, related correspondences and any completeness questions and responses are incorporated and made a part of this approval. An additional review by the Department may be necessary if there is any change in scope, as defined at N.J.A.C. 8:33-3.9. However, a change in cost of an approved CN is exempt from CN review 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 licensure for the beds/services with the Certificate of Need and Healthcare Facility Licensure Program.
- 2) Where the actual total project cost exceeds the CN approved total project cost and is greater than \$1,000,000, the applicant shall remit the additional CN 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 CN approved total project cost.
- 3) The Department will not issue a license for beds/services until the additional fee is remitted in full.

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. The Department has 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.

Any approval granted by this Department relates to CN and/or Licensing requirements only and does not imply acceptance by a reimbursing entity. This letter is not intended as an approval of any arrangement affecting reimbursement or any remuneration involving claims for health care services.

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 Licensing Program to operate the additional specialized LTC beds for severe behavior management. A survey by Department staff will be required prior to commencing services.

Furthermore, please be advised that, regardless of any management agreement between the licensee and another entity, the licensee is responsible for all financial, operational, and management control. Oversight of the facility is the licensee's non-delegable duty. All health services provided by the facility and the revenue generated by a facility from providing these health services are the responsibility of the licensee.

The Department looks forward to working with you and helping you to provide a high quality of care. If you have any questions concerning either this CN or the licensure of the specialized LTC beds for severe behavior management, please do not hesitate to telephone Ms. Felicia Harris, Chief, Certificate of Need and Healthcare Facility Licensure Program, at (609) 292-6552.

Sincerely,

A handwritten signature in blue ink, appearing to read 'MO' followed by a long horizontal flourish.

Marcela Ospina Maziarz, MPA
Deputy Commissioner
Health Systems

cc: Jean DeVitto, DOH (Electronic mail)
Felicia Harris, DOH (Electronic copy)