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Public Comment
9/7/23



Department of Health

Public Health and Health Planning Council

Project # 231044-E
Sunset SNF Operations LLC d/b/a Sunset Lake Center for Rehabilitation and Nursing

Program: Residential Health Care Facility
Purpose: Establishment

County: Sullivan
Acknowledged: February 21, 2023

Executive Summary

Description

Sunset SNF Operations LLC, a Delaware limited liability company authorized to conduct business in New York State, requests approval to be established as the new operator of Sullivan County Adult Care Center (SCACC). SCACC is a 146-bed, not-for-profit corporation, Article 28 residential health care facility (RHCF) with a 17-registrant licensed adult day care health program (ADCHP). The RHCF and ADCHP programs occupy leased space at 256 Sunset Lake Road, Liberty (Sullivan County). Upon approval, the facility will be named Sunset Lake Center for Rehabilitation and Nursing.

On January 9, 2023, the County of Sullivan entered into a Facility Transition Agreement (FTA) with Sunset SNF Operations, LLC, for the sale and acquisition of the operations associated with the RHCF and ADCHP programs for the assumption of certain liabilities estimated at approximately \$1M. The applicant will lease the premises from Sunset Lake Local Development Corporation (a not-for-profit entity unrelated to the applicant).

Ownership of the operations before and after the requested change is as follows:

Current Operator
County of Sullivan
 A Municipal Corporation

Proposed Operator	
Sunset SNF Operations, LLC	
Members:	
Sunset Operations Holdings, LLC	100%
Esther Klein	95%
Kathryn Perez	5%

OALTC Recommendation

Contingent Approval

Need Summary

There will be no changes to beds or services as a result of this application. Based upon weekly census data, current occupancy, as of June 28, 2023, was 67.8% for the facility and 83.8% for Sullivan County.

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3606(2).

Financial Summary

The purchase price for the operations is the assumption of certain liabilities estimated to be approximately \$1 million, to be paid off during the ordinary course of business. The proposed budget is as follows:

Budget	Year One	Year Three
Revenues	\$16,605,154	\$17,385,098
Expenses	<u>\$16,169,838</u>	<u>\$16,574,923</u>
Net Income	\$435,316	\$810,175

Health Equity Impact Assessment

Recommendations

Long Term Care Ombudsman Program

The LTCOP recommends Approval. (See LTCOP Attachment A)

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of an executed Consulting Agreement acceptable to the Department of Health. [BFA]
2. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]

Approval conditional upon:

1. This project must be completed by **one year from the date of the recommendation letter**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and the expiration of the approval. It is the responsibility of the applicant to request prior approval for any extensions to the project approval expiration date. [PMU]

Council Action Date

September 7, 2023

The table below shows the CMS Rating and the utilization of the six closest RCHFs to Sullivan County Adult Care Center.

Facility Name	CMS Overall Rating	Beds	Distance from other RCHFs Miles/Distance	Occupancy			
	As of 6/2023			2019	2020	2021	2022
Sullivan County Adult Care Center	1	146	0 miles/0 mins	80.8%	66.4%	58.1%	65.2%
Achieve Rehab	3	140	3.6miles/7 mins	91.5%	86.0%	90.9%	85.7%
Roscoe Rehab	4	85	20.8 miles/25 mins	94.7%	84.7%	81.2%	86.2%
St Joseph's Place (Orange)	5	42	36.0 miles/44 mins	93.6%	70.9%	69.7%	59.2%
Highland Rehab (Orange)	1	98	38.3 miles/41 mins	89.3%	92.6%	91.1%	92.0%
Middletown Park (Orange)	5	230	38.6 miles/55 mins	86.8%	81.5%	84.6%	83.2%
Mountainside Care (Delaware)	5	82	42.7 miles/57 mins	95.0%	96.0%	82.0%	65.4%

The following table provides the Case Mix Index (CMI) for the facility and surrounding RCHFs, which reflects the relative resources predicted to provide care to a resident. The higher the case mix weight, the greater the resource requirement for the residents.

Case Mix Index	2019		2020		2021	
	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only	All Payor Mix	Medicaid Only
Sullivan County Adult Care Center	1.126	0.8282	1.0356	0.9206	1.029	0.923
Achieve Rehab	1.4137	1.0246	1.3333	1.345	1.311	1.156
Roscoe Rehab	1.261	1.2005	1.2545	1.3125	1.161	1.328
St Joseph's Place (Orange)	1.3164	0.8761	1.178	0.887	1.098	0.884
Highland Rehab (Orange)	1.5336	1.2385	1.4411	1.307	1.469	1.36
Middletown Park (Orange)	1.5242	1.2342	1.3783	1.2299	1.458	1.32
Mountainside Care (Delaware)	0.9741	0.8509	0.9163	0.9125	0.898	0.885

Medicaid Access

To ensure that the Residential Health Care Facility needs of the Medicaid population are met, 10 NYCRR §670.3 requires applicants to accept and admit a reasonable percentage of Medicaid residents in their service area. The benchmark is 75% of the annual percentage of residential healthcare facility admissions that are Medicaid-eligible individuals in their planning area. This benchmark may be increased or decreased based on the following factors:

- The number of individuals within the planning area currently awaiting placement to a residential health care facility and the proportion of total individuals awaiting such placement that are Medicaid patients and/or alternate level of care patients in general hospitals.
- the proportion of the facility's total patient days that are Medicaid patient days and the length of time that the facility's patients who are admitted as private paying patients remain such before becoming Medicaid eligible;
- the proportion of the facility's admissions who are Medicare patients or patients whose services are paid for under provisions of the federal Veterans' Benefits Law;
- the facility's patient case mix based on the intensity of care required by the facility's patients or the extent to which the facility provides services to patients with unique or specialized needs;
- the financial impact on the facility due to an increase in Medicaid patient admissions.

Program Analysis

Project Proposal

This application proposes to establish Sunset SNF Operations as the new operator of Sullivan County Adult Care Center, a 146-bed Residential Health Care Facility located at 256 Sunset Lake Road, Liberty.

	Existing	Proposed
Facility Name	Sullivan County Adult Care Center	Sunset Lake Center for Rehabilitation and Nursing
Address	256 Sunset Lake Road Liberty, NY 12754	Same
RHCF Capacity	146 beds	Same
ADHCP Capacity	17	Same
Type of Operator	Municipal Corporation (County)	Limited Liability Company
Class of Operator	Pubic	Proprietary
Operator	County of Sullivan	Sunset SNF Operations, LLC <u>Member:</u> Sunset SNF Operations Holdings, LLC 100% <u>Members:</u> Esther Klein 95% Kathryn Perez 5%

This application indicates that the proposed buyer will enter into a new CASA (consulting and services agreement) with Sunset Lakes Consulting LLC. The existing CASA between the County of Sullivan and Sunset Lakes Consulting will terminate once the ownership transaction described in this application is effectuated. There is a relationship between the parties in that the sole member of Sunset Lakes Consulting LLC is Esther Klein, who is also a 95% member of Sunset SNF Operations LLC, the proposed operating entity.

Upon approval of this Application, Sunset Lake Local Development Corporation (a not-for-profit entity unrelated to the applicant) will lease the RHCF to Sunset Operations LLC for a term of 20 years.

Character and Competence

Esther Klein discloses employment at Catapult Learning Center, LLC as a teacher's coach and indicates self-employment as a Skilled Nursing Operator since October 2018. Esther indicates receipt of a high school diploma and discloses the following ownership interests:

Nursing Homes

Ten Broeck Center for Rehabilitation & Nursing (NY) (27.5%)	10/2018 to present
Westhampton Care Center (NY) (3%)	01/2018 to present
Valencia Hills Health and Rehabilitation Center (FL) (11.25%)	02/2022 to present
Seven Hills Health and Rehabilitation Center (FL) (11.25%)	02/2022 to present
Springs at Boca Ciega Bay (FL) (11.25%)	02/2022 to present
Springs at Lake Pointe Woods (FL) (11.25%)	02/2022 to present
Surrey Place Healthcare and Rehabilitation (FL) (11.25%)	02/2022 to present
Diamond Ridge Health and Rehabilitation Center (FL) (11.25%)	02/2022 to present
Madison Health and Rehabilitation Center (FL) (11.25%)	02/2022 to present
Tampa Lakes Health and Rehabilitation Center (FL) (11.25%)	02/2022 to present
Scott Lake Health and Rehabilitation Center (FL) (11.25%)	02/2022 to present

End-Dated Nursing Homes

Abbey Woods Center for Rehab and Healing (MO) (25%)	04/2017 to 06/2019
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Facility	Ownership Since	Overall	Health Inspection	Quality Measure	Staffing
New York					
Sullivan County Adult Care Center	Subject Facility	*	*	***	**
Ten Broeck Center for Rehabilitation & Nursing	Current	****	***	*****	**
	10/2018	*****	****	*****	**
Westhampton Care Center	Current	****	***	*****	**
	1/2018	****	***	*****	***
Florida					
Valencia Hills Health and Rehabilitation Center	Current	***	***	***	***
	2/2022	*	**	****	*
Seven Hills Health and Rehabilitation Center	Current	****	****	****	***
	2/2022	****	***	**	****
Springs at Boca Ciega Bay	Current	****	***	*****	****
	2/2022	****	***	***	****
Springs at Lake Pointe Woods	Current	*****	****	*****	****
	2/2022	*****	*****	*****	***
Surrey Place Healthcare and Rehabilitation	Current	*****	*****	*****	****
	2/2022	*****	****	*****	****
Diamond Ridge Health and Rehabilitation Center	Current	**	*	*****	***
	2/2022	**	*	*****	***
Madison Health and Rehabilitation Center	Current	*****	*****	***	****
	2/2022	*****	*****	***	****
Tampa Lakes Health and Rehabilitation Center	Current	***	***	****	***
	2/2022	***	**	****	*****
Scott Lake Health and Rehabilitation Center	Current	***	***	****	***
	2/2022	****	***	****	****

Data date: 7/2023

A review of the operations of Surrey Place Healthcare and Rehabilitation for the time period indicated above reveals no enforcements.

A review of the operations of Diamond Ridge Health and Rehabilitation Center for the time period indicated above reveals no enforcements.

A review of the operations of Madison Health and Rehabilitation Center for the time period indicated above reveals no enforcements.

A review of the operations of Tampa Lakes Health and Rehabilitation Center for the time period indicated above reveals no enforcements.

A review of the operations of Scott Lake Health and Rehabilitation Center for the time period indicated above reveals no enforcements.

Missouri

Information provided by the State of Missouri for Abbey Woods during the time period indicated above revealed the following:

- Recertification survey 1/24/2019 continued noncompliance with uncorrected federal deficiency at 3/19/2019 revisit, continued noncompliance with new deficiencies at 4/1/2019 abbreviated survey. In compliance at 4/24/2019 second revisit.
- Recertification survey 3/20/2018 continued compliance with new deficiencies at 4/30/2018 abbreviated survey. In compliance at 6/13/2018 revisit.
- Abbreviated survey, continued noncompliance with new deficiencies at 12/18/2017 abbreviated survey, continued noncompliance with new federal deficiencies, and uncorrected state violation at 2/8/2018 revisit. State uncorrected Class II Notice of Noncompliance issued. In compliance at 3/7/2018 second revisit. Federal DPNA (denial of payment for new admissions.) removed.
- A Federal CMP was paid for surveillance findings on 7/18/2017. Findings were related to tag 684 Quality of Care cited at a G level (actual harm that is not immediate jeopardy). A revisit survey was completed on 8/23/2017, and the facility was found to be in compliance.

Conclusion

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §3606(2).

- The applicant plans to improve occupancy by effectively marketing the facility to prospective residents and implementing the following:
 - The applicant intends to leverage its relationship with area staffing agencies, professional associations, job training programs, and health fairs to locate and hire additional staff.
 - Strengthen relationships with area doctors, hospital discharge planners, and residents' family members regarding improvements being made at the facility;
 - Updating and beautifying resident rooms and dining rooms

Utilization by the payor for the first and third years after the change in ownership is summarized below:

Payor	Current Year		Year One		Year Three	
	Days	%	Days	%	Days	%
Medicaid FFS	21,898	70.75%	35,036	70.75%	36,088	70.75%
Medicaid MC	4,405	14.23%	7,048	14.23%	7,259	14.23%
Medicare FFS	1,740	5.62%	2,784	5.62%	2,868	5.62%
Medicare MC	580	1.87%	928	1.87%	956	1.87%
Private Pay	<u>2,331</u>	<u>7.53%</u>	<u>3,730</u>	<u>7.53%</u>	<u>3,841</u>	<u>7.53%</u>
Total	30,954	100%	49,526	100%	51,012	100%

- The facility's Medicaid admissions of 90.8% in 2020 and 65.0% in 2021 were above Sullivan County's 75% threshold rate of 28.9% for 2020 and 20.6% for 2021.
- The breakeven utilization is projected at 91.41% in the first year.

Facility Transition Agreement (FTA)

The applicant submitted an executed FTA to acquire the operations associated with the RHC and ADHP, which will become effective upon PHHPC approval. The terms are summarized below:

Date:	January 9, 2023
Seller:	County of Sullivan
Buyer:	Sunset SNF Operations, LLC
Asset Acquired:	Rights, title, and interest in the assets used in the operations. Includes furniture and equipment, inventory, computers, intellectual property, trade names, permits, personal property leases, assigned contracts, books, and records, patient and supplier data, plans, deposits (starting 10/1/21), accounts receivable, and cash
Excluded Assets:	Before 10/1/21, accounts receivable, retroactive adjustments, intercompany accounts, corporate records, tax refunds, domain names, email addresses, employee benefit plans, and accrued payroll taxes.
Assumption of Liabilities:	Expenses from the operations on and after October 1, 2021 (the Consulting Date) accrue by the Consulting Agreement dated January 9, 2023.
Excluded Liabilities:	Any liability before the closing date
Purchase Price:	Assumption of Certain Liabilities estimated at \$1 million
Payment of the Purchase Price:	Liabilities will be paid off during the ordinary course of business.

BFA Attachment A presents the net worth summary for Sunset SNF Operations, LLC members, which reveals sufficient resources to cover the assumed liabilities. The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement, or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and surcharges, assessments or fees due from the transferor under Article 28 of the Public Health Law concerning the period before the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. As of May 19, 2023, the facility had no outstanding Medicaid liabilities.

BFA Attachment D presents the proposed members' ownership interest in the affiliated RHCfs and their financial summaries. Based on the certified financial statements from 2019 through 2021, the facilities had average positive working capital of \$2,331,000, average net assets of \$3,714,500, and an average net income of \$1,412,500.

Conclusion

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Attachments	
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LTCOP Attachment A	Long Term Care Ombudsman Program Recommendation
BHFP Attachment	Map
BFA Attachment A	Members' Net Worth of Sunset SNF Operations LLC
BFA Attachment B	Pro Forma Balance Sheet, Sunset SNF Operations LLC
BFA Attachment C	Financial Summary Sullivan County Adult Care Center 2019-2021 and their 2021 Certified Financial Statement
BFA Attachment D	Proposed Members' Ownership Interest in the Affiliated RHCfs and Financial Summary

Glens Falls

CON 231044-Sullivan County Adult Care Center

Albany

Ithaca

Oneonta

Mountainside Care

Binghamton

Roscoe Rehabilitation and Nursing Center

10 miles

Sullivan County Adult Care Center

Achieve Rehab and Nursing Facility

Poughkeepsie

Middletown Park

St Joseph's Place

Highland Rehab

Financial Summary

Sullivan County Adult Care Center

FISCAL PERIOD ENDED	<u>12/31/2021</u>	<u>12/31/2020</u>	<u>12/31/19</u>
ASSETS - CURRENT	\$7,376,671	\$4,223,122	\$5,903,355
ASSETS - FIXED AND OTHER	\$15,927,761	\$10,280,987	\$4,669,839
LIABILITIES - CURRENT	\$18,211,458	\$11,730,273	\$9,054,656
LIABILITIES - LONG-TERM	<u>\$40,157,374</u>	<u>\$33,249,644</u>	<u>\$23,269,305</u>
EQUITY	-\$35,064,400	-\$30,475,808	-\$21,750,767
<hr/>			
INCOME	\$10,036,379	\$8,304,766	\$9,903,623
EXPENSE	<u>\$17,541,436</u>	<u>\$20,548,864</u>	<u>\$18,920,719</u>
NET INCOME	-\$7,505,057	-\$12,244,098	-\$9,017,096
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NUMBER OF BEDS	146	146	146
PERCENT OF OCCUPANCY (DAYS)	58.09%	66.43%	80.76%
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PERCENT OCCUPANCY (DAYS):			
MEDICAID	85.00%	83.10%	81.40%
MEDICARE	7.50%	10.00%	8.00%
PRIVATE/OTHER	7.50%	6.90%	10.60%

Sullivan County Adult Care Center
(An Enterprise Fund of the County of Sullivan, New York)

Statements of Revenues and Expenses and Changes in Net Position (Deficit)

	Year Ended December 31,	
	<u>2021</u>	<u>2020</u>
OPERATING REVENUES		
Net patient service revenues		
Skilled nursing facility	\$ 9,870,950	\$ 8,100,885
Adult day care	-	17,129
Total Net Patient Service Revenues	<u>9,870,950</u>	<u>8,118,014</u>
Other operating revenues	<u>165,429</u>	<u>186,752</u>
Total Operating Revenues	<u>10,036,379</u>	<u>8,304,766</u>
OPERATING EXPENSES		
Professional care of residents	5,434,424	6,428,347
General services	4,204,880	4,555,840
Administrative services	1,759,707	1,693,817
Employee benefits	5,640,073	7,017,635
New York State cash assessment	421,170	457,259
Depreciation	61,866	371,841
Interest expense	<u>19,316</u>	<u>24,125</u>
Total Operating Expenses	<u>17,541,436</u>	<u>20,548,864</u>
Loss from Operations	<u>(7,505,057)</u>	<u>(12,244,098)</u>
NON-OPERATING REVENUES (EXPENSES)		
Inter-governmental transfers	2,285,023	4,111,021
Provider Relief Funds - CARES Act	631,184	754,166
Interest income	258	1,286
Loss on disposal of capital assets	<u>-</u>	<u>(5,025)</u>
Total Non-Operating Revenues (Expenses)	<u>2,916,465</u>	<u>4,861,448</u>
Transfer of capital assets	<u>-</u>	<u>(1,342,391)</u>
Change in Net Position (Deficit)	<u>(4,588,592)</u>	<u>(8,725,041)</u>
NET POSITION (DEFICIT)		
Beginning of year	<u>(30,475,808)</u>	<u>(21,750,767)</u>
End of year	<u>\$ (35,064,400)</u>	<u>\$ (30,475,808)</u>

See notes to financial statements

Affiliated Nursing Homes (Page 1)

		Beds			
		County			
	<u>Ten Broeck Center for Rehab & Nursing</u>	<u>258</u>	<u>12/31/2021</u>	<u>12/31/2020</u>	<u>12/31/2019</u>
<u>Kingston NH Holding, LLC</u>		<u>Ulster</u>			
Current Assets			\$11,329,790	\$11,710,161	\$7,646,295
Fixed Assets			\$4,571,896	\$3,521,819	\$3,185,840
Total Assets			\$15,901,686	\$15,231,980	\$10,832,135
Current Liabilities			\$5,809,394	\$8,878,776	\$5,799,419
Long Term Liabilities			\$2,705,585	\$886,477	\$2,665,938
Total Liabilities			\$8,514,979	\$9,765,253	\$8,465,357
Net Assets			\$7,386,707	\$5,466,727	\$2,366,778
Working Capital Position			\$5,520,396	\$2,831,385	\$1,846,876
Revenue			\$33,495,564	\$31,912,648	\$29,026,726
Expenses			\$30,695,064	\$27,981,149	\$27,986,634
Net Income			\$2,800,500	\$3,931,499	\$1,040,092
		<u>180</u>	<u>12/31/2021</u>	<u>12/31/2020</u>	<u>12/31/2019</u>
<u>East End Health Care, Inc.</u>	<u>Westhampton Care Center</u>	<u>Suffolk</u>			
Current Assets			\$10,391,362	\$12,132,745	\$5,472,356
Fixed Assets			\$1,910,926	\$1,419,998	\$1,338,837
Total Assets			\$12,302,288	\$13,552,743	\$6,811,193
Current Liabilities			\$7,714,795	\$8,716,647	\$6,527,535
Long Term Liabilities			\$120,705	\$2,479,535	\$39,802
Total Liabilities			\$7,835,500	\$11,196,182	\$6,567,337
Net Assets			\$4,466,788	\$2,356,561	\$243,856
Working Capital Position			\$2,676,567	\$3,416,098	-\$1,055,179
Revenue			\$35,589,890	\$29,896,638	\$28,965,090
Expenses			\$27,216,690	\$26,583,933	\$28,345,889
Net Income			\$8,373,200	\$3,312,705	\$619,201