

STAFF SUMMARY FOR DETERMINATION OF NEED  
BY THE PUBLIC HEALTH COUNCIL  
August 23, 2016

APPLICANT: Curahealth Boston, LLC.

PROGRAM ANALYST: Lynn Conover

LOCATION: 1515 Commonwealth Avenue  
Boston, MA 02135

REGION: HSA IV

PROJECT NUMBER: 4-3C49

DATE OF APPLICATION: April 25, 2016

PROJECT DESCRIPTION: Transfer of ownership of Kindred Hospital-Boston to Curahealth Boston.

ESTIMATED MAXIMUM CAPITAL EXPENDITURE: Not applicable

ESTIMATED FIRST YEAR INCREMENTAL OPERATING COSTS: Not applicable

LEGAL STATUS: A unique application for a Determination of Need filed pursuant to M.G.L. c.111, § 51 and the regulations adopted thereunder.

ENVIRONMENTAL STATUS: No environmental notification form or environmental impact report is required to be submitted for this project since it is exempt under 301 Code of Massachusetts Regulations 10.32 (3) promulgated by the Executive Office of Environmental Affairs pursuant to Massachusetts General Laws, Chapter 20, §§ 61-62H. As a result of this exemption, the project has, therefore, been determined to cause no significant damage to the environment.

OTHER PENDING APPLICATIONS: Curahealth Boston North Shore, LLC  
Curahealth Stoughton, LLC

COMPARABLE APPLICANT(S): None

COMMENTS BY CENTER FOR HEALTH INFORMATION AND ANALYSIS: None submitted

COMMENTS BY EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES (“EOHHS”): None

COMMENTS BY INTERESTED PARTIES: Staff notes that a public hearing was held July 19 with 8 attendees, 1 of who testified.

RECOMMENDATION: Approval with conditions.

## I. BACKGROUND AND PROJECT DESCRIPTION

This Determination is for the transfer of ownership of Kindred Hospital-Boston to Curahealth Boston, LLC (“the Applicant” or “Curahealth”). Curahealth is a Delaware Limited Liability Company formed on March 16, 2016. It is a new venture led by clinicians who have over 40 years combined experience in post-acute care. Upon the change of ownership and closing of the transaction described herein, the applicant and its affiliates will own and manage 12 long-term care hospitals in a number of states including three in Massachusetts.

Kindred Hospital –Boston is a 59-bed licensed acute care hospital operating as a long-term acute hospital, at 1515 Commonwealth Avenue, Brighton, MA 02135. The hospital provides a full-range of inpatient services for patients who have medically complex conditions requiring continued chronic care, and who need extended inpatient hospital care with an average length of stay of 25 days or more. Services include acute cardiac and pulmonary medicine, complex wound care, intensive or special care units, IV antibiotic therapy, rehabilitation services, dialysis, pain management and a lymphedema program. The Hospital is enrolled in Medicare to provide this extended care for reimbursement purposes.

The principal terms and conditions of the proposed transaction are set forth in an Agreement and management contract submitted with the application.

## II. STAFF ANALYSIS

Based upon a review of the application as submitted and clarification of issues by the Applicant, Staff finds that the application satisfies the requirements for the alternate process for change of ownership found in 105 CMR 100.600 *et seq.* Staff also finds that the Applicant, subject to conditions, satisfies the standards applied under 105 CMR 100.602 as follows:

### A. Individuals residing in the hospital's primary service area or health systems area comprise a majority of the individuals responsible for the following decisions:

- (1) Approval of borrowings in excess of \$500,000;
- (2) Additions or conversions which constitute substantial changes in service;
- (3) Approval of capital and operating budgets; and
- (4) Approval of the filing of an application for determination of need.

Based on information supplied by the Applicant, 3 members will form a local governing board 2/3 of who reside in the primary service area after the transfer, as seen in Attachment 1. They will be responsible for the above four decisions.

### B. Evidence that consultation has taken place with the Division of Medical Assistance, prior to submission of the application, regarding access problems of Medicaid recipients to medical services in the facility's primary service area

The Applicant is not currently Medicaid certified. The Applicant consulted with EOHHS through its MassHealth Office of Long Term Services, and its Acute Hospital Program, MassHealth Office of Providers and Plans concerning access to medical services for Medicaid patients.

Staff recommends the following as a condition of approval: the Applicant agrees to work with MassHealth to determine whether the facility is eligible to be certified as a Medicaid provider. If the Applicant is eligible for certification, the Applicant will seek certification to enroll as a MassHealth provider. If MassHealth requires the Applicant to change its licensure status with the Department in order to be eligible for Medicaid certification, the Applicant agrees to work with the Department's Health Facilities Licensure and Certification unit to change its licensed status to "non-acute hospital" and will then enroll as a MassHealth provider. The Applicant will report to the DoN program on its efforts to enroll as a MassHealth provider six months from the date of approval of this application. If the Applicant reports that it is eligible but has not yet enrolled in MassHealth, at the DoN program's discretion, DoN staff may request a second report six months after the first report, to confirm enrollment.

C. Neither the applicant nor any health care facility affiliates of the applicant have been found to have engaged in a pattern or practice of violating the provisions of M.G.L. c. 111, § 51(D). 105 CMR 100.602(C) requires that "[n]either the applicant nor any health care facility affiliates of the applicant have been found to have engaged in a pattern or practice of violating the provisions of M.G.L. c. 111, §51D."

Staff has searched the List of Excluded Individuals/Entities ("LEIE") of the Office of Inspector General of the U.S. Department of Health & Human Services. The LEIE provides information to the health care industry, patients and the public regarding individuals and entities currently excluded from participation in Medicare, Medicaid and all other federal health care programs. The LEIE lists individuals and entities excluded from participation in federally-funded programs as a result of their conviction for any of the following mandated offenses:

- (1) Medicare or Medicaid fraud, as well as any other offenses related to the delivery of items or services under Medicare, Medicaid, SCHIP, or other State health care programs;
- (2) Patient abuse or neglect;
- (3) Felony convictions for other health care-related fraud, theft, or other financial misconduct; and
- (4) Felony convictions relating to unlawful manufacture, distribution, prescription, or dispensing of controlled substances.

Staff determined that neither the Applicant nor its affiliates nor individuals representing the Applicant have engaged in a pattern or practice in violation of the provisions of M.G.L. c.111, §51(D). Staff determined that this effectively meets the provisions of Section 100.602 (C) of the DoN regulation.

Staff also notes that the Division of Health Care Safety and Quality ("DHCSQ") performs a more extensive suitability review of this transaction as part of the licensure process, and must issue a notice of suitability before it can issue a new original license to Curahealth Boston following the change of ownership.

D. If the application is for a transfer of ownership of a hospital, then the applicant is a hospital licensed by the Department or is an affiliate of a hospital licensed by the Department.

The Applicant is not a hospital licensed by the Department and has signed a management agreement with Kindred Hospitals East, LLC, with the right of either party to terminate at will.

#### IV. Interpreter Services-

The Office of Health Equity (“OHE”) recently conducted a review of the interpreter and language access services available to limited- and non-English proficient patients at Kindred Hospital Boston. An Action Plan with 20 conditions and with periodic follow-up was developed by OHE, and has been included as Attachment 2 and is a condition of approval of this project.

V. Community Health Initiatives- This project being a change of ownership with no capital expenditure, does not involve any contribution to Community Health Initiatives.

#### VI. STAFF RECOMMENDATION

Based upon the above analysis, Staff recommends approval with conditions of Project Number 4-3C49 regarding the transfer of ownership of Kindred Hospital-Boston to Curahealth Boston. Failure of the Applicant to comply with the conditions of approval may result in Department sanctions, including possible fines and/or revocation of the DoN.

The conditions of approval are as follows:

1. The Applicant agrees to work with MassHealth to determine whether the facility is eligible to be certified as a Medicaid provider. If the Applicant is eligible for certification, the Applicant will seek certification to enroll as a MassHealth provider. If MassHealth requires the Applicant to change its licensure status with the Department in order to be eligible for Medicaid certification, the Applicant agrees to work with the Department's Health Facilities Licensure and Certification unit to change its licensed status to "non-acute hospital" and will then enroll as a MassHealth provider. The Applicant will report to the DoN program on its efforts to enroll as a MassHealth provider six months from the date of approval of this application. If the Applicant reports that it is eligible but has not yet enrolled in MassHealth, at the DoN program's discretion, DoN staff may request a second report six months after the first report, to confirm enrollment.
2. As a condition of approval the Applicant has agreed to an Action Plan with 20 conditions and with periodic follow-up as developed by OHE, outlined in Attachment 2.

The Applicant has agreed to these conditions of approval.

List of Attachments

1. Local governing board committee members
2. Comments by the Office of Health Equity

Attachment 1

The local governing board will consist of the following individuals. The first two individuals on the list reside in the Hospital's primary service area.

Susan Downey, Norfolk MA

Andrea Stanley, Bradford, MA

Kenneth McGee, Richardson, TX



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

MONICA BHAREL, MD, MPH  
Commissioner

Tel: 617-624-6000  
[www.mass.gov/dph](http://www.mass.gov/dph)

August 8, 2016

Susan Downey  
Chief Executive Officer  
Kindred Hospital-Boston  
1515 Commonwealth Avenue  
Boston, MA 02135

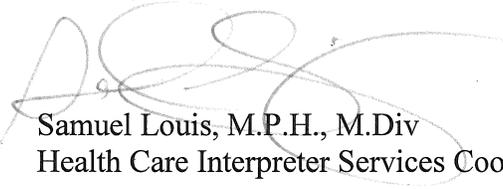
Dear Ms. Downey:

Pursuant to your recent Determination of Need Application for change of ownership, Samuel Louis met with Andrea L Stanley, Chief Clinical Officer, Jacqueline DaSilva, BSN, Director of Quality Management, and Cheryl Bacon, RN, CNN, on August 8, 2016, to assess provision of medical interpreter services as well as exchanging ideas and strategies for continued operations and improvement.

The following pages outline the conditions discussed at the meeting and placed on Kindred Hospital-Boston.

If you wish to discuss any of the conditions, or other areas covered at the visit, please contact me at (617) 624-5905 or at [samuel.louis@state.ma.us](mailto:samuel.louis@state.ma.us).

Sincerely,



Samuel Louis, M.P.H., M.Div  
Health Care Interpreter Services Coordinator

Cc: Jere Page, Determination of Need Analyst  
Andrea L Stanley, Chief Clinical Officer, Kindred Hospital-Boston  
Jacqueline DaSilva, BSN, Director of Quality Management, Kindred Hospital-Boston  
Cheryl Bacon, RN, CNN, Kindred Hospital-Boston  
Rodrigo Monterrey, Acting Director, Office of Health Equity

Enclosure

## KINDRED HOSPITAL-BOSTON

1. The Office of Health Equity has concluded that in order to meet the needs of limited English proficient patients, Kindred Hospital-Boston shall continue to enhance its capacity to ensure the availability of timely and competent interpreter services and have in place the following elements of a professional medical interpreter services:
2. Identify and describe the specific role and responsibilities of a Coordinator of Interpreter Services. Provide the Office of Health Equity with a job description
3. Monitor over the next 12 months the needs of Kindred Hospital-Boston related to Interpreter Services and implement specific activities in response thereof, including but not limited to, support to the identified Coordinator of Interpreter Services, increase in resources and equipment, participation in language services forums and entities, and appropriate training
4. Enhance its policies and procedures to include, but not limited to:
  - Direct, clear, succinct, and simple language for adherence by all users
  - Clear description of IS operations and availability of services, access, and informs staff and volunteers that such services are provided free of cost
  - Compliance with all state and federal mandates, i.e., prohibition of minors as interpreters, grievances procedures with internal and external contact information, etc....
  - Prohibition of the use of minors
  - Use of only medically trained interpreters
  - Determent of the use of family members/friends as interpreters
  - Availability of interpretation services 24/7
5. Develop translation procedures and guidelines for developing timely, accurate, competent, and culturally appropriate patient educational materials
6. Ensure that the revised Policies and Procedures are implemented throughout the hospital
7. Post signage at all points of contact and public points of entry informing patients of the availability of Interpreter Services at no charge
8. Ensure competent Interpreter Services during all interpretation encounters throughout clinical procedures
9. Continue to identify and arrange for competent medical interpreter services at the time of procedures
10. Develop a plan to assess the quality of Interpreter Services and monitor the competence of interpreters
11. Ensure that all contracted medical interpretation providers understand Kindred Hospital-Boston overall clinical procedures

12. Provide ongoing training for all hospital and clinic staff, new hires, and volunteers on the appropriate use of Interpreter Services and emerging issues
  13. Enhance its tracking mechanism to appropriately monitor, assess utilization and impacts, analyze demands, and look at its overall capacity to render timely and efficient interpretation services, including non-medical interpretation
  14. Obtain language patient prefers to discuss health related concerns and receive health related materials at referrals
  15. Include limited English proficient and non-English speaking patients in satisfaction surveys
  16. Obtain technical assistance from the Office of Health Equity Culturally and Linguistically Appropriate Services Initiative Project Manager to develop an implementation plan for the Language Access Services standards and follow recommended standards for Cultural Competent Care and Organizational Support for Cultural Competency. The plan must include specific goals and objectives, action steps, targeted staff/departments, evaluation, and outcomes
  17. Report on the implementation of the Culturally and Linguistically Appropriate Service Initiative (CLAS) standards
  18. Outreach to referral sources informing them of the availability of Interpreter Services
- 
19. Notify the Office of Health Equity of any substantial changes to its Interpreter Services Program
  20. Provide an Annual Progress Report to the Office of Health Equity within 45 days at the end of the Federal Fiscal Year

An implementation plan that addresses the aforementioned conditions and includes anticipated outcomes, evaluation, and **periodic submission of progress reports**, is to be submitted within 30 days of DoN's approval to:

Preferred:

[samuel.louis@state.ma.us](mailto:samuel.louis@state.ma.us)

Or

Samuel Louis, M.P.H., M.Div  
Massachusetts Department of Public Health  
Office of Health Equity  
250 Washington Street, 5<sup>th</sup> Floor  
Boston, MA 02108

It is imperative that Kindred Hospital-Boston communicates with the Office of Health Equity to assure adequate monitoring, compliance, satisfactory implementation and progress to the implementation plan.

---