

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

APPLICANT: Curahealth Boston North
Shore, LLC

PROGRAM ANALYST: Lynn Conover

LOCATION: 15 King Street
Peabody, MA 01960

REGION: HSA VI

DATE OF APPLICATION: April 25, 2016

PROJECT NUMBER: 6-3C50

PROJECT DESCRIPTION: Transfer of ownership of Kindred Hospital-Boston North Shore to Curahealth Boston North Shore, LLC.

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, 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, 2016, 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 North Shore to Curahealth Boston North Shore, LLC ("the Applicant" or "Curahealth"). Curahealth is a Delaware Limited Liability Company formed on April 12, 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 North Shore is a 50-bed licensed acute care hospital operating as a long-term care hospital, at 15 King Street, Peabody, 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 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).

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.

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 also notes that the Division of Health Care Safety and Quality ("DHCSQ") is performing 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 North Shore, LLC 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 J.B. Thomas Hospital, Inc. (also known as: Kindred Hospital-Boston North Shore), with the right of either party to terminate at will.

IV. Interpreter Services-

The Applicant has agreed to the condition number 1 below.

V. STAFF RECOMMENDATION

Based upon the above analysis, Staff recommends approval with conditions of Project Number 6-3C50 regarding the transfer of ownership of Kindred Hospital-Boston North Shore to Curahealth Boston North Shore, LLC. 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 two conditions of approval are as follows:

1. The Applicant has agreed to:
 - Schedule a site visit of the Office of Health Equity to review interpreter services within the first month of ownership;
 - Enter into agreement with the Office of Health Equity to provide language access services consistent with the recommendations of the Office of Health Equity within one month following receipt of the survey report by the Office of Health Equity; and,
 - Submit an operational plan for the provision of timely and competent interpreter services to the Office of Health Equity.

2. 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.

The Applicant has agreed to these conditions of approval.

List of Attachments

1. Local governing board committee members

EXHIBIT K

LOCAL ADVISORY BOARD

A majority of the members of the Applicant's local governing board will live in the primary service area of the Hospital, and will be responsible for the approval of:

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

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

| <u>Name</u> | <u>Residence</u> |
|--------------------|---------------------------|
| Amber Hester-Tatum | Marblehead, Massachusetts |
| Kevin Flint | Waban, Massachusetts |
| Ken McGee | Richardson, Texas |