

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

APPLICANT: Curahealth Stoughton, LLC

PROGRAM ANALYST: Lynn Conover

LOCATION: 909 Sumner Street  
Stoughton, MA 02072

REGION: HSA V

DATE OF APPLICATION: April 25, 2016

PROJECT NUMBER: 5-3C51

PROJECT DESCRIPTION: Transfer of ownership of Kindred Hospital Northeast-Stoughton to Curahealth Stoughton, 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 Boston North Shore, 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, 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 Northeast-Stoughton to Curahealth Stoughton, 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 Northeast-Stoughton is a licensed non-acute care hospital, which operates 47 chronic care beds and 41 inpatient psychiatric beds at 909 Sumner Street, Stoughton, MA 02072. The hospital provides a full-range of inpatient services for patients who have medically complex conditions requiring continued 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 consulted with EOHHS through its MassHealth's Office of Long Term Services & Supports concerning the ability of Medicaid patients to access medical services. This change of ownership does not involve any change regarding access to the Hospital's services because the facility will have the same status with MassHealth after the change in ownership.

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 Stoughton, 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 Kindred Braintree Hospital, LLC, with the right of either party to terminate at will.

#### IV. Interpreter Services

The Applicant has agreed to the condition below.

#### V. STAFF RECOMMENDATION

Based upon the above analysis, Staff recommends approval with conditions of Project Number 6-3C51 regarding the transfer of ownership of Kindred Hospital - Northeast to Curahealth Stoughton, 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 shall timely submit a completed MassHealth application in order to obtain Medicaid certification for the facility, including those beds that are licensed by both the Department of Public Health and the Department of Mental Health, to be effective as of the change of ownership, in accordance with MassHealth policy. The applicant's current intent is to continue to provide substantially the same services as currently provided, and shall make reasonable efforts to continue to provide these services so long as there is need for the services in the primary service area.

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>
Robert Gundersen	Sandwich, Massachusetts
Deborah Byrne	Mashpee, Massachusetts
Ken McGee	Richardson, Texas

--