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FINAL DECISION

IN THE MATTER OF:

Docket Number 12-717

341 Jordan Lane Operating Company II, LLC d/b/a Wethersfield Health Care Center

In accordance with Conn. Gen. Stat. §§ 17b-352 through 17b-355, the following is the decision of the Department of Social Services (“DSS or Department”) regarding 341 Jordan Lane Operating Company II, LLC d/b/a Wethersfield Health Care Center (“WHCC” or “Applicant”) Certificate of Need (“CON”) request for the termination of 210 licensed Chronic and Convalescent Nursing Home (“CCNH”) beds and all nursing home services at 341 Jordan Lane in Wethersfield.

PROCEDURAL BACKGROUND, APPLICABLE LAW AND FINDINGS OF FACT

1. The Applicant is an existing Medicare and Medicaid certified nursing facility located at 341 Jordan Lane in Wethersfield and is currently licensed for 210 CCNH beds by the Department of Public Health.
2. WHCC is operated by Healthbridge Management, LLC (“Healthbridge”) which also operates eight (8) other nursing facilities in Connecticut.
3. On November 3, 2011 the Applicant filed a CON application with DSS to terminate 210 CCNH beds and associated services at the facility. The Applicant’s CON states the facility has experienced a reduction in census, is not financially viable, and requires significant capital improvements. The Applicant also indicates potential buyers declined acquisition of the facility.
4. Connecticut General Statutes § 17b-352 requires that any nursing facility that requests CON approval to terminate services must, at that same time as filing a letter of intent with the department, notify residents, guardians, or conservators, if any, or legally liable relatives or other responsible parties and the Office of the Long-Term Care Ombudsman of its intent to seek approval to close.
5. Per § 17b-352 (d), the notice to residents and applicable parties must include the following: (A) The projected date the facility will be submitting its certificate of need

application, (B) that only the department has the authority to either grant, modify or deny the application, (C) that the department has up to ninety days to grant modify or deny the certificate of need application, (D) a brief description of the reason or reasons for submitting a request for permission, (E) that no patient shall be involuntarily transferred or discharged within or from a facility pursuant to state and federal law because of the filing of a certificate of need application, (F) that all patients have a right to appeal any proposed transfer or discharge, (G) the name, mailing address and telephone number of the Office of the Long-Term Care Ombudsman and local legal aid office.

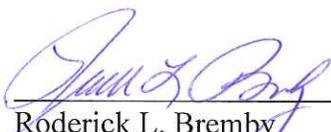
6. On October 19, 2011, in compliance with § 17b-352, the facility provided the required notification of its intent to submit a CON application to terminate services at the facility.
7. Per § 17b-353(d) of the Connecticut General Statutes provides “No facility shall be allowed to close or decrease substantially its total bed capacity until such time as a public hearing has been held in accordance with the provisions of this subsection and the Commissioner of Social Services has approved the facility's request unless such decrease is associated with a census reduction.”
8. A public hearing was held at the facility on November 10, 2011. Elected officials, clergy, family members, volunteers, and staff offered written and public testimony against closing the nursing home. The Department has fully considered the written and public testimony offered at the public hearing.
9. On December 15, 2011 the DSS Hearing Officer sent a request for additional information to the Applicant. Though the Applicant partially responded to this request on December 28, 2011, audited financial statements for 341 Jordan Lane Operating Company II, LLC, THCI Holding Company, LLC, Wethersfield THCI holding Company, LLC, The Crosstone Realty Company, and Care Realty, LLC, which were requested, were not provided by the Applicant.
10. On January 6, 2012, the Commissioner again requested the Applicant provide audited financial statements for related party entities of WHCC: 341 Jordan Lane Operating Company II, LLC, THCI Holding Company, LLC, Wethersfield THCI holding Company, LLC, The Crosstone Realty Company, and Care Realty, LLC. This correspondence informs the Applicant that the requested information is deemed relevant and necessary to evaluating the CON request.
11. Healthbridge provided an undated response to the Commissioner objecting to the need to provide audited financial statements stating such statements are private and confidential.
12. On January 20, 2012 the Commissioner narrowed his request for additional information to audited financial statements for Care Realty, LLC which is 100% owner of THCI Holding Company LLC which is 100% owner of 341 Jordan lane Operating Company II, LLC, the company that holds the Medicare and Medicaid certification for Wethersfield Health Care Center.

13. Connecticut General Statutes § 17b-352 (e) requires the Commissioner of DSS to grant, modify or deny a CON request within ninety days of receipt and provides that the review period may be extended by the Director of the Office of Certificate of Need and Rate Setting for up to an additional thirty days if the applicant has not filed information deemed necessary by DSS.
14. On February 2, 2012, the Director of the Office of CON and Rate Setting extended for 30 days, the CON review period as provided in § 17b-352 (e) of the Connecticut General Statutes to allow WHCC and Healthbridge additional time to provide the audited financial statements requested by the Commissioner.
15. On February 2, 2012, the Applicant offered to make the financial statements for Care Realty, LLC available to DSS to review for 4 hours on the condition that the financial statements are not included as part of the CON application and the DSS does not retain a copy of the financial statements.
16. On February 9, 2012, the Commissioner of DSS indicated that the CON documentary record is the foundation for a decision and DSS cannot rely on documents not in the CON record.
17. As of March 5, 2012, the Applicant had not provided DSS with audited financial statements or any financial statements for Care Realty, LLC which is 100% owner of THCI Holding Company LLC which is 100% owner of 341 Jordan lane Operating Company II, LLC as requested in the Hearing Officer's December 15, 2011 and the Commissioner's January 6, 2012 and January 20, 2012 correspondence.
18. On March 5, 2012, the Commissioner of DSS issued Docket Number 11-717 which denied the Applicants request to close WHCC based on the Applicant's failure to file a complete CON application.
19. In accordance with Section 17b-352 and Section 4-177 of the Connecticut General Statutes, WHCC requested a hearing contesting the decision of the Commissioner to deny the CON .
20. On April 20, 2012 WHCC and DSS stipulated to the terms by which financial information for Care Realty, LLC would be included with the CON and on April 24, 2012 the Appeal Hearing Officer ordered the terms of the Stipulated Agreement.
21. On May 9, 2012 the Applicant submitted an Affidavit per the terms of the Stipulated Agreement and on May 11, 2012 the Appeal Hearing Officer remanded the CON Application to DSS for a determination and Order.
22. The Affidavit stated that Care Realty LLC has incurred over \$15 million in outstanding debt related to WHCC operations since acquiring the facility in 2003. Net Losses at WHCC for the period from January 1 to March 31, 2012 were \$1,992,875. WHCC is not financially viable without the significant financial support of Care Realty, LLC.

23. Census at WHCC was 72 residents on May 22, 2012. A May 2012 survey of nursing homes in towns within a 15 mile of Wethersfield reveals there are 8,974 nursing facility beds with 814 vacant beds resulting in 90.9% occupancy utilization exclusive of WHCC. Section 17b-355 of the Connecticut General Statutes defines bed need as 97.5% occupancy for nursing facilities in a 15 mile radius of Wethersfield. There are sufficient licensed beds in the Wethersfield area to accommodate current WHCC residents.
24. The relationship to the state health plan is not applicable to this request as the latest Public Health report ("Looking Forward to 2000 - An Assessment of Health Status and Health Services") was published in 1999 and did not fully anticipate that home care services, adult day services, continuing care communities and assisted living facilities would greatly reduce the need for licensed beds.
25. Pursuant to §17b-352 (e) of the Connecticut General Statutes, DSS shall review, to the extent it deems necessary, requests to terminate a service or decrease total bed capacity.
26. The Commissioner of DSS has considered this CON request in accordance with the factors set forth in §§ 17b-352 through 17b-355 of the Connecticut General Statutes.

ORDER

DSS hereby grants the Applicant's request to terminate 210 licensed CCNH beds and all services at 341 Jordan Lane in Wethersfield. The effective date of service termination shall be the date of discharge of the last resident. The facility shall provide notice to the appropriate Federal and state agencies having oversight of matters relating to nursing facility closure.



Roderick L. Bremby
Commissioner, Department of Social Services

6/11/2012

Date