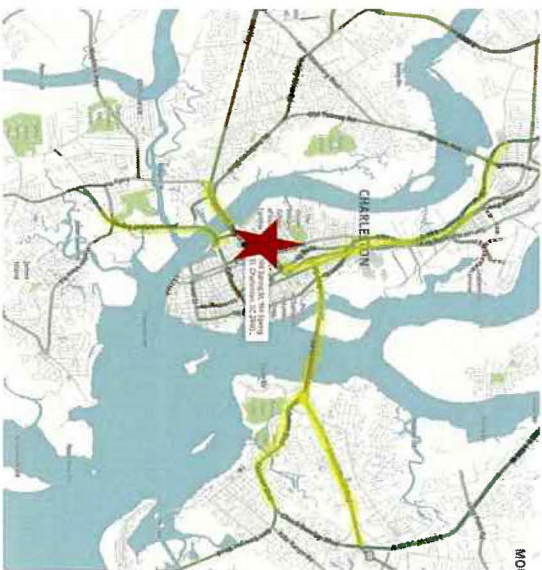


Failure to Document Need

- The target population per Spring Street CON is the County Of Charleston
- Charleston County is 1358 square miles-(916 square miles of land and 442 square miles of water
- The largest county in South Carolina
- Spring Street is located on the peninsula on an extremely busy thoroughfare
 - The only access to the thoroughfare is via the interstate or bridges
 - The area is highly congested
 - The area is prone to extensive flooding
- This location is not easily accessible by the vast majority of the residents of Charleston County
- Spring Street does not address parking for staff, residents, families, visitors or vendors, etc. (this area of Charleston has an inadequate supply of parking) and zoning requirements in Charleston mandate parking by use. While Spring Street is properly zoned for use, there is no mention of its meeting the parking requirements or having an exemption.
- The target population is not clearly identified as to size, location, distribution and socioeconomic status and does not provide evidence that services support this target population**



Failure to Document Need

- Spring Street will not be serving the residents of Charleston County living the closest to the facility. The population in the zip code (29403) of the proposed Spring Street skilled facility represents 58% of the residents over the age of 65 with an annual income below \$50,000 (Exhibit 13 attached)*
- Can someone with an income of \$50K actually afford to be at facility?**

Distribution (Accessibility)

SECTION 802. CRITERIA FOR PROJECT REVIEW (3.)

Community Need—Duplication of Services

- Decline in Nursing Facility occupancy is an industry wide problem.
 - Life expectancy in the United States dropped during the first half of 2020 and as data is compiled for remaining months of 2020 it has the potential drop further. This is the largest drop since the 1940's (Exhibit 6 attached)
- According to the NIC Skilled Nursing Monthly Report data through November 2020 states that total occupancy fell to a new low of 74.2% (Exhibit 7 attached)
 - South Carolina fell to an average of 74.9% in 2020 (Exhibit 8 attached)
 - Charleston County fell to an average of 76.4% in Q4 2020
- Industry trends for average length of stay is steadily decreasing. The National SNF average length of stay (ALOS) is trending down as evidenced by Medicare cost reports.

Community Need-Duplication of Services

- Managed Medicare plans utilization is increasing while private pay and traditional Medicare is decreasing. Revenue per patient day (RPPD) under Managed Medicare Plans is significantly less than private pay and traditional Medicare
 - NIC Skilled Nursing Monthly Report includes graphs to support these trends (Exhibit 11 attached).
- Demand for Nursing Facilities is now shifting to Home Health and Home Care services as demonstrated in Exhibit 9 and Exhibit 10 (attached).
 - During 2020 Home Health Agencies has significant growth in census
 - Home Care Services have been developed to offer similar services as Nursing Facilities in a home setting
 - Developing technologies are supporting ability for patients to recover and live in the home setting without the need for an intervening stay at a nursing home.



Community Need-Duplication of Services

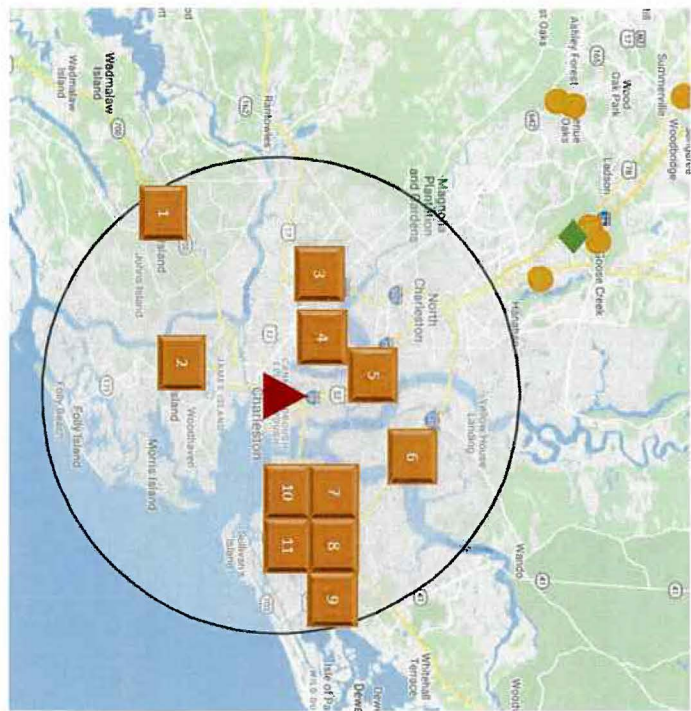
- This chart (Exhibit 12 attached) uses current data and demonstrates sufficient beds to cover needs in Charleston County for Medicare and Private Pay
- The conservative estimate (Column A) puts current excess capacity at 1,120 beds and scenarios based on current trends project excess capacity to be as great as 4,569 beds (Column E)
- Data compiled utilizing Medicare cost reports

	A	B	C	D	E
Occupancy	0%	90%	80%	75%	ALOS
Total Medicare licensed beds	1483				1483
Calendar days	365				365
total patient days	541,295				541,295
Medicare payer mix	19.80%				19.80%
Medicare days	107,176				107,176
Medicare Average length of stay	29				15
Annual Medicare Capacity	3,696				7,145
Average beds in use	-	1,335	1,186	1,112	-
Beds available		148	297	371	
Total 2019 Charleston County discharges to SNF	2,576				2,576
Excess bed capacity	1,120				4,569

*****Spring Street will only serve Medicare residents and Private Pay
 ***** Spring Street will not serve Medicaid patients
 ***** National trend for Occupancy to decrease---Home Health to increase
 *****Industry trend is for average length of stay to decrease

Community Need-Duplication of Services

- There are currently 11 established nursing facilities within a 10 mile radius of the Spring Street project
 - The current providers represent 1184 beds and are geographically dispersed to serve the population
 - Each of these facilities has excess capacity to serve the surrounding population
-  Represents current nursing facilities in a 10-mile radius of proposed site
 -  Represents proposed site at 194 Spring Street



This Clearly demonstrates duplication of Services

Community Need

Adverse Effects on other Facilities

Section 802 (23) (a) The impact on the current and projected occupancy rates or use rates of existing facilities and services should be weighed against the increased accessibility offered by the proposed services

The Spring Street project would adversely effect the existing facilities in Charleston and as discussed further below and offers NO increased accessibility

Failure to Demonstrate Provisions for *Access/Indigent Care*

SECTION 802 CRITERIA FOR PROJECT REVIEW 31

Indigent Care Support

Spring Street failed to provide historical performance from other facilities in Spring Street's consolidated group for evidence of adequate provisions for access/indigent care.

The indigent care plan outlined in the application would most likely provide care for less than 5 residents a year:

- Budgeted charity care of \$11,756 year 1, \$20,064 year 2 and \$20,775 year 3 is depicted in the CON application. The net revenue per patient day is \$348 year 1, \$351 year 2, and \$358 year 3. This equates to a total of 33 indigent care days year 1, 57 days year 2 and 56 days year 3.
- The estimated population of Charleston County age 65 and with an income level below \$50,000 is **20,610** in 2020.
- With the forecasted population growth depicted in Spring Street's application of 17.89% by the year 2025, it should be assumed that the population of the income level \$50,000 and below in Charleston County will increase to **24,300** residents..

Spring Street does not demonstrate commitment to support indigent and low-income residents of the Charleston community as required. (802- 3 (f/g)) (31)

Lack of Evidence of Community Support Acceptability

SECTION 802. CRITERIA FOR PROJECT REVIEW 4.

Community Support

- Corporate headquarters of Spring Street Health Center are located in Florida and it is a Delaware LLC.
- The majority of their other facilities are outside the state of SC.
- 40% of the facilities Spring Street states (pg. 12 of the CON application) will transfer patients to the Spring Street location have a skilled nursing facility attached to their Assisted Living and Memory Care facilities and most likely will not discharge to Spring Street.
- The Medical University of South Carolina transfer agreement support letter states “we will *consider* entering into a transfer agreement...”
- The two letters from local physicians and the mayor state a 25 bed facility---this is a 21 room facility with two double occupancy rooms, totaling 23 beds-NOT 25



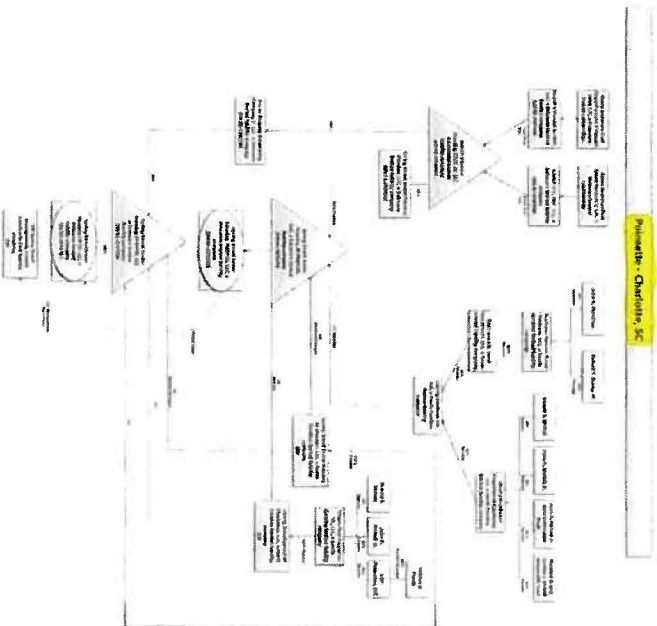
Community Support

The organizational chart provided in the Spring Street Senior Housing OPCO, LLC CON application is labeled

- POINSETTE – CHARLOTTE SC

Spring Street did not include an appropriate organizational chart

The regulations' require a list of names, addresses, % of ownership, person responsible and attorneys' representing the proposal---this information is not depicted clearly on the organizational chart PART A, ¶ 7.



Staff Resources

Staffing Resources

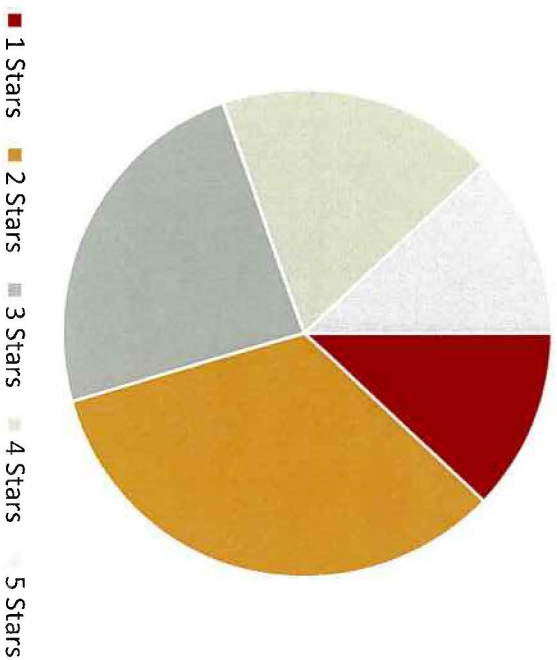
- Liberty will need experienced, qualified staff for care of the targeted population
 - Potential to adversely impacting existing care providers as Spring Street's recruitment will draw highly qualified staff from existing care providers
- Charleston Regional Business Journal* (June 26th) details significant challenges currently facing the region for recruitment of cooks, wait staff, and utility/dishwashers and qualified medical staff (Exhibit 1 attached)
- Charleston Region historical and forecasted occupational cluster employment trends depicts medical (nurses and nurse aides) as the third highest growth in job needs by 2023. (Exhibit 2 attached)
- South Carolina is experiencing a critical shortage of nurses and it ranked fourth in the United States with greatest forecasted deficit (Exhibit 3 attached)

Staffing Resources

- It is possible that Liberty's reputation will result in Challenges recruiting the experienced, qualified staffing needed
- Currently Liberty operates 15 facilities that are 1 or 2 Stars as rated by CMS

Average Rating	Count
1 Stars	4
2 Stars	11
3 Stars	8
4 Stars	6
5 Stars	4

Liberty Star Rating Distribution



Staffing Resources

- The 2021 Skilled Nursing Outlook Report (Exhibit 4 attached) states staffing challenges as the top non-Covid challenge to nursing facilities in 2021. A direct quote from this reports states “Pre-pandemic, post-pandemic, it makes no difference; Staffing remains a top challenge for the skilled nursing industry heading into 2021.”
- The Spring Street Project forecasts annual salary increases of just 2% per year. According to the living wage MIT study (exhibit 5) the living wage for Charleston County increased to \$16.23 as of February 2021. This is approximately a 30% increase since the 2020 study. This living wage far outpaces projected staffing costs/salaries for this project.
- Staffing compensation does not appear to be in a competitive range in the service area.

Manpower Budget

- Upon review of the manpower budget, the administrator is not clearly identified.
- Staffing plan-the manpower budget appears to be for all of the business operations included in the building and does not break out the staffing for the skilled beds from the other licensed beds in the facility
 - Staff working in a SNF should have a different clinical skill set and most likely will cost more.
- The CON does not clearly demonstrate proper staffing for 23 skilled nursing beds

Manpower Budget

- Spring Street does not provide evidence of on-going clinical training
- Spring Street does not provide support for working with the local high school, tech schools or colleges to attract and provide on-going training

Due to the nursing shortage in Charleston County—how does Spring Street plan to comply with Section 802 (23) Adverse Effects on Other Facilities

“the staffing of the proposed service should be provided without unnecessarily depleting the staff of existing facilities or services creating an excessive rise in staffing costs due to increased competition”

Financial

SECTION 802. CRITERIA FOR PROJECT REVIEW 5,6,7,8,9,15,20,23

Financial

- Spring Street is using a rate of \$542.00/day for rehab and a blended rate of \$420.00/day for private pay. **These appear to be unrealistic projections**
- According to the NIC Map data through November 2020, (Exhibit 11 attached) Medicare (rate per patient day) RPPD spiked in 2020 to a high of approximately \$560.
- Many industry experts believe this rate will decrease in the near future as CMS studies the impact of the new PDPM rates on the overall reimbursement.
- The Medicare RPPD fluctuated between \$530 and \$540 between years 2012 and 2019.
- The Spring Street project indicates 70% of annual revenue from Medicare which is contrary to trends of increasing Medicare Replacement plans. This is an aggressive patient mix and is not comparable to other facilities in the surrounding area

Financial

- Spring Street is projecting a stabilized occupancy of 91%--(55% in year 1)
- This is contrary to occupancy trends within Charleston County and within the greater industry
- Page 138 of the Certificate of Need application confirms that “*Charleston County is a highly competitive Senior Living market*” (This also applies to staffing)
 - This statement is confirmed by current occupancy trends in Charleston County and current excess bed capacity for surrounding nursing facilities
- Overstated revenue and higher than market occupancy rates support that the actual revenue may be less than the forecasted revenues. Spring Street does not indicate any other sources of revenues except Medicare and private pay.
- As required (6) Spring Street does not provide a contingency plan if revenue or occupancy does not meet forecasted targets.

Financial

- The following expenses are omitted in the operating costs:
 - FMV Rent—
 - A related entity owns the Land, Building and Furniture, Equipment (FEE) which is rented to Spring Street
 - The lease is \$28.23 per square foot for skilled nursing space—the average doctor office space in Charleston is greater without FFE included
 - The lease with extensions is for only 15 years—Is this operation expected to only operate 15 years?
 - The lease is a net lease (lessee pays a portion of taxes, insurance fees, maintenance)
- The CON states a FMV rent will be paid in years 6-15 (pg 53/5.7)—does this imply the rent paid in years 1-5 are not a FMV rent?**

Financial

- Salaries and benefits represent the majority of operating costs. An inflationary increase (page 150 of the application) of 2% will likely not be enough to retain a workforce and provide quality care to the residents of the facility in the Charleston County market.
- Low wages promote high employee turnover. High turnover in a medical setting does not promote quality healthcare
- Higher turnover rates increase operational costs for training and recruiting that may not be reflected in projected costs
- Overstated revenue and understated expenses result in a forecast depicting a greater net income each year of the forecast. Corrections to revenue mix, occupancy declines and increases in wages, benefits and employee turnover would likely result in a decrease to net income and possibly create a net loss.
- The certificate of need application (page 144) states a management fee of 6% of total revenue will be paid. The owners of Spring Street are not located in Charleston County or South Carolina, thus this fee will not boost the local or state economy

Other Financial Questions

- Spring Street allocates the Project Budget based on the square footage of each level of care —
 - A SNF requires higher building codes/cost than AL beds. A higher cost per square foot should be allocated to the SNF
- Spring Street states a larger facility provides construction costs that are more economical —
 - Our past building experience does not support this theory
- Insurance Costs (liability, property and casualty, automobile, wind and hail, and flood) are not included in the operating costs
- Spring Street does not identify what expenses the Management fee covers (if any)---
 - Without this knowledge, it cannot be determined if it is priced as an arm's length transaction
- IF THE ABOVE EXPENSES ARE OMITTED OR ARE LESS THAN FMV-the operating costs are understated**

Other Financial Questions

- It is difficult to obtain a complete schedule of operating costs because of the lease agreement between the owner of the building, Spring Street Senior Housing PROPCO, LLC, a Delaware limited liability company and Spring Street Senior Housing OPCO, LLC, a Delaware limited liability company and determine if costs are understated.
- A consolidated schedule of operating costs would properly show operating costs in accordance with section 802 (7)
- Spring Street has not demonstrated that related party transactions are recorded at (FMV) arms' length-GAAP requires FMV of related party transactions or disclosure

Other Financial Questions

- The following normal operating expenses are not clearly identified:
 - Malpractice Insurance
 - Cable/Internet
 - Technology Expense
 - Security
 - Advertising
 - Clinical Training/Education
 - Marketing
 - Licensure Fees
 - Electric
 - Appropriate Depreciation
 - Water/Sewer
- Spring Street states it will provide transportation services, but it does not address purchasing of vehicles, lease payments of vehicles, maintenance, insurance, property taxes, depreciation, or any transportation expenses.

Other Comments

- The lease states that Assisted Living and Memory Care are the only business operations that can be conducted in the Spring Street facility without the express written consent of the landlord (which can be withheld for any reason, in its sole discretion) –how can the tenant operate the skilled beds without violating the lease?

- The Landlord of the facility has the right to review ALL records. There is no exception for medical records---what about HIPAA violations?

Conclusion

- In summary, DHEC should deny the CON application because Liberty failed to do the following:
 - Properly document and demonstrate need
 - Meet required financial and staff related criteria
 - Develop relationships and support throughout the community
 - Meet numerous regulations and review criteria
- The application does not comply with the State Health Plan, including the project review criteria identified in the Plan and the deemed complete letter


Exhibits

Exhibit 1

Health care industry warns of labor crisis



Patrick Hoff

 @PatHoffCRBJ

 phoff@schbiznews.com

"The workforce shortage ... is mostly focused on front-line clinicians like nurses and physicians," said Schipp Ames, executive director of communications and marketing for the S.C. Hospital Association. "So it's really these front-line, bedside clinicians where you're seeing projected workforce shortages."

"You can make a much better living in a clinical setting than you can as faculty," he said. "So there's not as much available medical faculty to keep up with the amount of physicians and nurses we need."

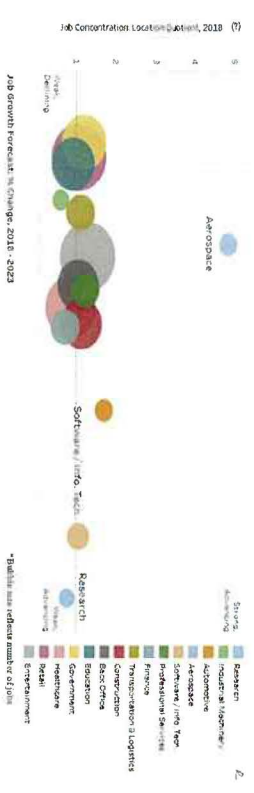
"You're going to see a large number of clinicians retiring over the next several years," he said. "A huge portion of the physician and nurse population is age 55 to 75."

Franklin said just not enough people are gravitating to health care jobs.

"The crisis is already there, and it just seems like it's going to accelerate," she said.

[HTTPS://CHARLESTONBUSINESS.COM/NEWS/HEALTH/73093](https://charlestonbusiness.com/news/health/73093)

Exhibit 2



Job Growth Forecasts % Change 2018 - 2023

Cluster	Jobs 2018	% Growth 2018-2023	New Jobs 2018-2023	Location Quotient 2018
Entertainment	49,875	+6.4%	4,670	1.29
Healthcare	47,145	+4.4%	1,667	1.06
Government	39,637	+1.2%	85	0.92
Education	31,419	+3.6%	1,118	1.10
Bank/Finance	29,244	+4.7%	1,862	1.05
Construction	26,513	+2.8%	2,510	1.13
Transportation & Logistics	19,243	+7.2%	3,374	1.10
Finance	18,874	+1.8%	1,471	0.72
Professional Services	11,601	+11.1%	1,387	1.22
Software/HW/Tech	7,800	+23.8%	1,819	1.08
Aerospace	5,704	+3.5%	501	1.69
Automotive	5,403	+1.7%	944	0.61
Industrial/Machinery	4,886	+6.5%	300	1.08
Research	3,979	+20.7%	1,062	0.78

Source: Avalara Consulting Cluster calculations on data from ESIS

Exhibit 3

Registered Nurse Shortages by State, Projected Difference between supply and demand expected by 2030

Most

Rank	State	Demand (2030)	Supply (2030)	Difference
1	California	387,900	343,400	-44,500
2	Texas	269,300	253,400	-15,900
3	New Jersey	102,200	90,800	-11,400
4	South Carolina	62,500	52,100	-10,400
5	Alaska	23,800	18,400	-5,400
6	Georgia	101,000	98,800	-2,200
7	South Dakota	13,600	11,700	-1,900
8	Montana	12,100	12,300	200
9	North Dakota	9,200	9,900	700
10	New Hampshire	20,200	21,300	1,100
11	Delaware	12,800	14,000	1,200
12	Arizona	98,700	99,900	1,200
13	Massachusetts	89,300	91,300	2,000
14	Louisiana	49,700	52,000	2,300
15	Vermont	6,800	9,300	2,500

Least

Rank	State	Demand (2030)	Supply (2030)	Difference
1	Florida	240,000	293,700	53,700
2	Ohio	132,800	181,900	49,100
3	Virginia	86,500	109,200	22,700
4	New York	195,200	213,400	18,200
5	Missouri	73,200	89,900	16,700
6	North Carolina	118,600	135,100	16,500
7	Indiana	75,300	89,300	14,000
8	Kansas	34,900	47,500	12,600
9	Maryland	73,900	86,000	12,100
10	Kentucky	53,700	64,200	10,500
11	Iowa	35,300	45,400	10,100
12	Arkansas	32,300	42,100	9,800
13	New Mexico	21,600	31,300	9,700
14	Colorado	63,200	72,500	9,300
15	Tennessee	82,200	90,600	8,400



Bureau of Health Workforce

Exhibit 4

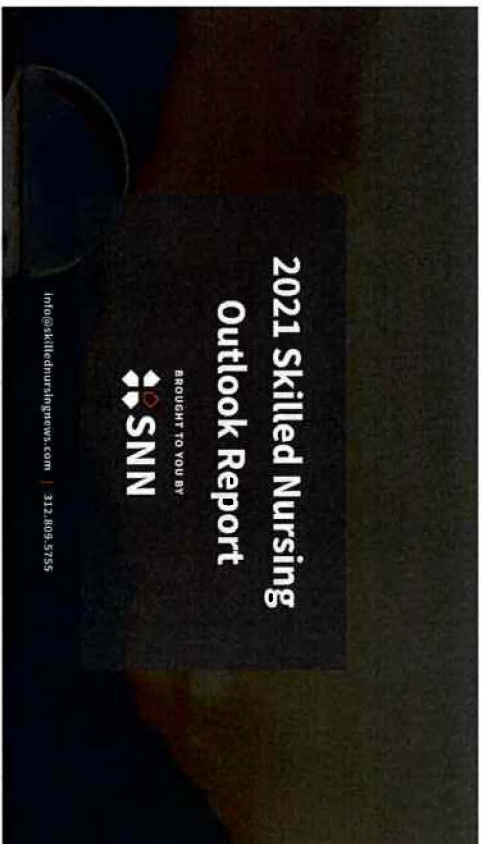
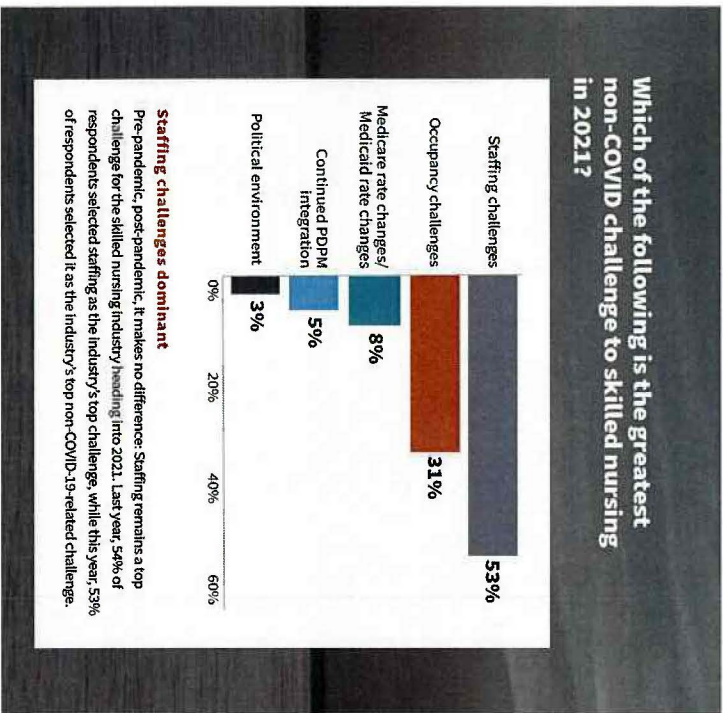


Exhibit 5

Living Wage Calculation for Charleston County, South Carolina

	1 ADULT			
	0 Children	1 Child	2 Children	3 Children
Living Wage	\$16.43	\$32.29	\$38.25	\$47.96
Poverty Wage	\$6.13	\$8.29	\$10.44	\$12.60
Minimum Wage	\$7.25	\$7.25	\$7.25	\$7.25

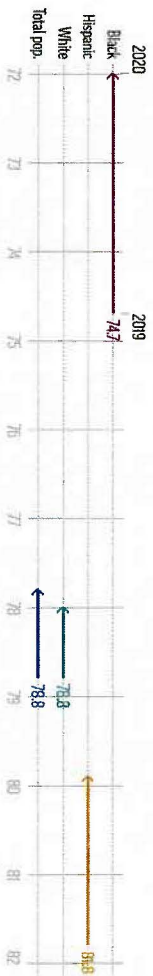
<https://livingwage.mit.edu/counties/45019>

Exhibit 6

US life expectancy drops a year in pandemic, most since WWII

By MARILYNN MARCHIONE February 17, 2021

Life expectancy at birth drops in US



Life expectancies for 2019 are not final estimates. Estimates are based on provisional data from Jan. 2020 - June 2020. Source: Centers for Disease Control and Prevention / Graphic: Phil Klein

AP

“What is really quite striking in these numbers is that they only reflect the first half of the year ... I would expect that these numbers would only get worse,” said Dr. Kirsten Bibbins-Domingo, a health equity researcher and dean at the University of California, San Francisco.

[HTTPS://APNEWS.COM/ARTICLE/US-LIFE-EXPECTANCY-HUGE-DECLINE-F4CAAF4555563D09E927F1798136A869#:~:1=EXT=LIFE%20EXPECTANCY%20IN%20THE%20UNITED,DEATHS%2C%20HEALTH%20OFFICIALS%20ARE%20REPORTING](https://apnews.com/article/us-life-expectancy-huge-decline-f4caaf4555563d09e927f1798136a869#:~:1=EXT=LIFE%20EXPECTANCY%20IN%20THE%20UNITED,DEATHS%2C%20HEALTH%20OFFICIALS%20ARE%20REPORTING).

Exhibit 7



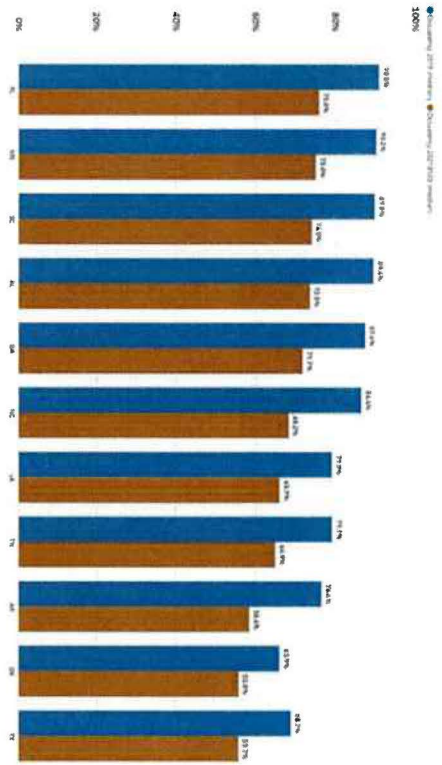
Data Through November 2020

Key Takeaways

Occupancy continues to be challenged for skilled nursing properties, with the November 2020 occupancy rate falling to a new low of 74.2%. It was down 69 basis points from October (74.9%) and 11.2 percentage points from pre-pandemic levels in February 2020 (85.4%) and 10.7 percentage points from year-earlier levels. Since February, COVID-19 has significantly impacted skilled nursing operations across the country due to high acuity levels of residents, pandemic-related deaths as well as fewer elective surgeries at hospitals which have resulted in less need for rehab services often provided by nursing care properties. As the country and the skilled nursing sector navigate through the Winter months and vaccine distributions, it is likely that occupancy will continue to face pressure.

Exhibit 8

**Southern States Occupancy
(Pre-COVID to January 3, 2021)**



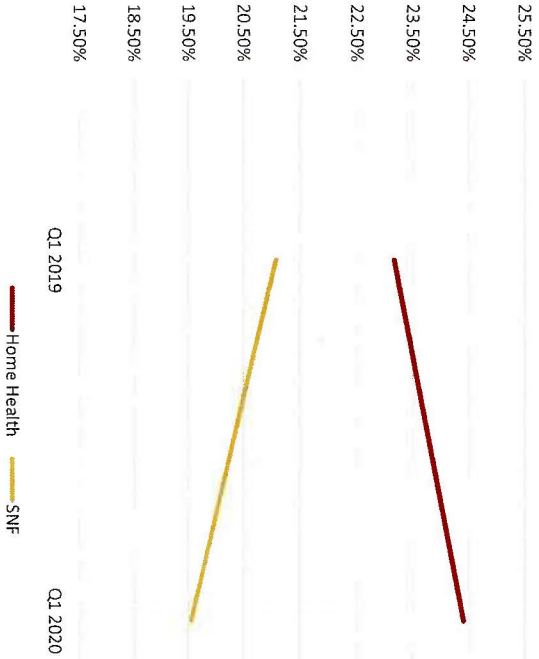
Source: CIA

The states covered in the chart, from left to right, are Florida, Mississippi, South Carolina, Alabama, Georgia, North Carolina, Louisiana, Tennessee, Arkansas, Oklahoma, and Texas.

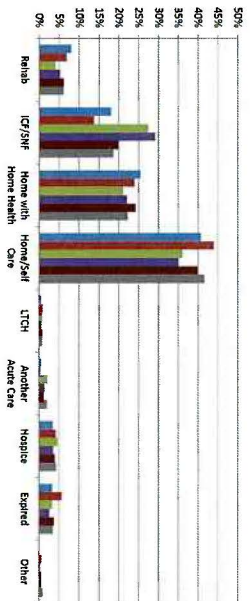
https://skillednursingnews.com/2021/01/48-states-saw-nursing-home-occupancy-of-80-or-worse-as-2021-dawned-with-census-as-low-as-56/?utm_source=Skilled+Nursing+News&utm_campaign=1643ea1bf4-EMAIL_CAMPAIGN_2021_01_25_10_28&utm_medium=email&utm_term=0_0ee5a402c-1643ea1bf4-227189

Exhibit 9

Discharge Disposition Q1 '19 vs Q1 '20



PSA Bishop Gadsden: YE 2019Q1 Discharge Status Conversion Rate Compared to Market and State, Ages 65+



PSA Bishop Gadsden: YE 2020Q1 Discharge Status Conversion Rate Compared to Market and State, Ages 65+

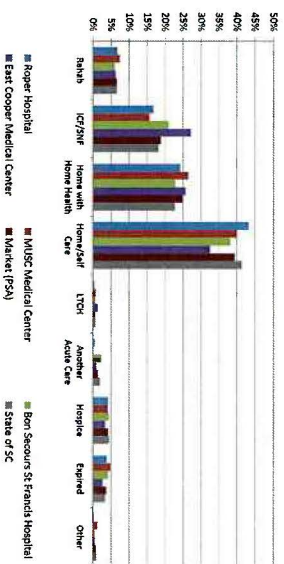


Exhibit 10

www.ziegler.com

ZIEGLER INVESTMENT BANKING SENIOR LIVING FINANCE Z-NEWS

Page 1 | Week of January 11, 2021

Technology: Technology has quickly become our saving grace across many levels. Providers have learned that stakeholders are willing to adopt technologies and that there are successful, innovative solutions to some of our most pressing issues. In 2021, rather than focusing on the speed of deployment as was seen in 2020, we will see greater focus on refinement and meaningful integration of technology solutions. Technology is here to stay.

Skilled Nursing: It is likely that this will be the one area continuing to experience instability in the year ahead. With dramatic drops in occupancy and shifts to intensive home health and home care services, occupancy will not likely rebound quickly. Providers will be assessing their unit

Exhibit 11

Skilled Nursing Monthly Report

Data through November 2020

<http://www.nic.org/nic-map> | 410-267-0504
National Investment Center for Seniors Housing & Care (NIC)

Revenue Per Patient Day

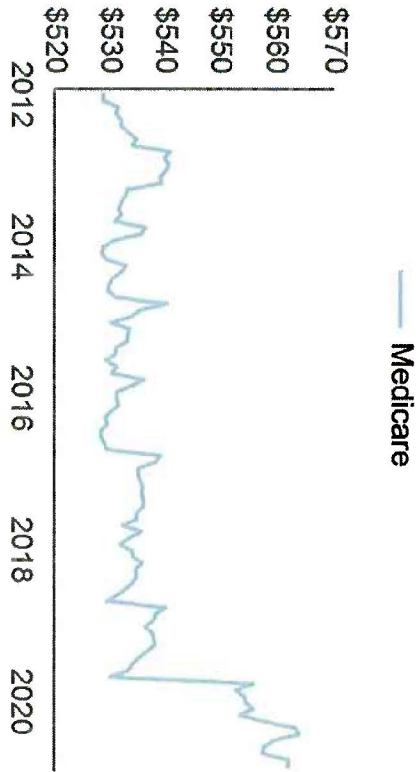


Exhibit 12

	A	B	C	D	E
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Total Medicare licensed beds	1483				1483
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Medicare days	107,176				107,176
Medicare Average length of stay	29				15
Annual Medicare Capacity	3,696				7,145
Average beds in use	-	1,335	1,186	1,112	-
Beds available		148	297	371	
Total 2019 Charleston County discharges to SNF	2,576				2,576
Excess bed capacity	1,120				4,569

*****Spring Street will only serve Medicare residents and Private Pay
 ***** Spring Street will not serve Medicaid patients
 ***** National trend for Occupancy to decrease-----Home Health to increase
 *****Industry trend is for average length of stay to decrease

Exhibit 13

Charleston County, SC AIQ Households

	Age				Total
	Under 64 ⁽¹⁾	65-74	75-84	85 and Over	
29403					
Less than \$50,000	1,231	754	503	221	2,709
\$50,000 - \$100,000	513	396	165	50	1,124
\$100,000 - \$200,000	306	215	71	15	607
Greater than \$200,000	383	116	20	6	525



LIBERTY Senior Living

2334 S. 41st Street • Wilmington, NC 28403
(910) 815-3122 • FAX: (910) 815-3111

March 24, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
Jennifer Hyman
Project Coordinator, Certificate of Need Program
S.C. Department of Health and Environmental Control
Mailing address:
2600 Bull Street
Columbia, SC 29201

SUBJECT: Project #2827, Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center

Dear Mr. Eubank and Ms. Hyman:

On behalf of Spring Street Senior Housing OPCO, LLC (the “the Applicant”), I am submitting additional information in support of our application in accordance to Regulation 61-15, Section 304. The Department has determined the relative importance of the project review criteria and ranked according to their relative importance as follows:

1. Community Need Documentation;
2. Distribution (Accessibility);
3. Staff Resources; and
4. Record of the Applicant.

The Applicant’s responses to the relative importance criteria follow the same correspondence as in Regulation 61-15, Section 802.

Community Need Documentation

The Applicant displayed the Community Need Documentation in detail throughout the submitted Application, but specifically on pages 11-15. In accordance to Regulation 61-15, Section 802 regarding the Community Need Documentation:

- a. The Target Population was defined on page 12 as the residents of Charleston County
- b. The projections of anticipated population changes can be found on pages 13-15. The Applicant utilized Spotlight population facts by Environics Analytics in conjunction with the 2020 South Carolina Health Plan bed methodology to identify the counties bed need for 2020 and 2025 within Charleston County.
- c. The identified (documented) need of the target population can be found on Page 121 of the 2020 South Carolina Health Plan as well as page 14 of the Application. In addition to

the projection population changes, the 2020 South Carolina Health Plan shows a long-term care bed deficit of 836 beds for Charleston County. Our project would help meet part of this identified (documented) need for Charleston County.

- d. This proposed project does not include a reduction, relocation, or elimination of a facility or service.
- e. The projected utilization can be found on page 15 of the Application. The Applicant used its extensive experience operating affiliated existing nursing homes in conjunction with the major demand displayed in the Application as well as the 2020 South Carolina Health Plan.

Distribution (Accessibility)

The Applicant displayed the Distribution (Accessibility) in detail throughout the submitted Application. In accordance to Regulation 61-15, Section 802 regarding the Distribution (Accessibility):

- a. The Applicant displayed in the CON application, and the 2020 SC Health Plan currently shows, the severe need for additional nursing home beds and that our project would not duplicate existing entities.
- b. The skilled nursing center will be Medicare certified, but will not participate in the state Medicaid program. Exhibit 16 of the Application includes the Indigent Care Plan, which includes information regarding service of medically underserved populations.
- c. The site is geographically accessible and expands the diversity of healthcare options available to county residents. The location of the site allows for the delivery of necessary support services in an acceptable period of time and at a reasonable cost.
- d. Admission to Spring Street Health Center's nursing home will be under orders of a physician duly licensed in the State of South Carolina, which can be found on Page 12 as well as in Exhibit 16.
- e. Spring Street Health Center will accept referrals of patients needing nursing home services without regard to race, sex, creed, color or national origin. The Applicant listed all Assisted Living centers in the area as well as Hospitals in Charleston County as potential referral sources for this community.
- f. Exhibit 16 of the Application includes the Indigent Care Plan, which includes information regarding the extent to which all residents of the area, and in particular low income persons, racial and ethnic minorities, women, the elderly, handicapped persons, and other medically underserved groups, are likely to have access to those services being proposed.
- g. Exhibit 16 of the Application includes the Indigent Care Plan, which includes provisions to insure that individuals in need of treatment as determined by a physician have access to the appropriate service, regardless of ability to pay.
- h. The Applicants do not foresee any potential negative impact of the proposed project upon the ability and/or resources of existing providers to serve medically underserved groups. The 2020 South Carolina Health Plan shows a long-term care bed deficit of 836 beds for Charleston County and the Applicant has displayed the Indigent Care Plan in Exhibit 16 of the Application.

Staff Resources

The Applicant displayed the Staff Resources in detail throughout the submitted Application. In accordance to Regulation 61-15, Section 802 regarding the Staff Resources:

- a. As the Applicant displayed on page 19 of the CON application, the Liberty organization (affiliated entities of the Applicant) includes thirty-five nursing homes, eight assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, and a home health and hospice company with twenty-nine locations serving various urban and rural counties in North Carolina, South Carolina, and Virginia and employing in excess of 5,000 people. The corporate office includes an in-house recruiting department that will assure Spring Street is properly staffed. Spring Street will offer competitive pay and attractive benefits to recruit qualified staff including health insurance, life insurance, short and long-term disability insurance, 401(k) plan, and paid time off. Our in-house Human Resources staff periodically conducts salary surveys and adjusts to market demands as necessary. The facility will be active in the local community and interact consistently with area clinical training programs.

In addition, the Liberty organization has developed a number of strategies to enhance recruitment and retention of personnel, including:

- Flexible work schedules.
- Opportunities for advancement.
- Catch-a-Liberty Star recognition program
- Employee mentoring program
- Employee Years of Service recognition program
- Education / Tuition Assistance Program
- Annual staff satisfaction surveys
- Seminars, workshops, and other educational programs and encourage staff to stay abreast of the latest in geriatric nursing
- Recognition pins, employee bonuses, employee cookouts and parties, raffles, CNA Day and Nurses' Week
- Involvement of direct care staff in the quality assurance process
- Regular staff meetings to encourage employees to suggest improvements in all aspects of facility operations.

The Applicant does not anticipate any difficulties in recruiting the staff required for this proposed project. Liberty is also well versed in the Charleston market, having operated Shem Creek Health Center at South Bay at Mt. Pleasant (a 40-bed nursing home facility).

- b. Letters of support from physicians who support this project are presented in Exhibit 14 of the Application. Please also find attached to this letter an additional support letter from Dr. Christopher McLain, Senior Vice President and Chief Physician Officer of Roper St. Francis Healthcare.
- c. The Applicant does not currently hold any facility licenses or CON's. However, the Liberty organization (affiliate of the Applicant) includes: thirty-five nursing homes, eight

assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, and a home health and hospice company with twenty-nine locations servicing various urban and rural counties in North Carolina, South Carolina, and Virginia. As you can see, the Applicant has extensive health care experience, especially in the proposed health care field (skilled nursing). Exhibit 7 of the Application presents a listing of the 35 nursing homes and other healthcare services.

- d. In addition to the 23-bed nursing home, the building is expected to include 77 assisted living (adult care) beds (including 21 memory care units). The Applicant believes this to be a benefit as it relates to staffing as many employees can be dually used for the complete building.

Record of the Applicant

The Applicant displayed the Record of the Applicant in detail throughout the submitted Application. In accordance to Regulation 61-15, Section 802 regarding the Record of the Applicant:

- a. The Applicant does not currently hold any facility licenses or CON's. However, the Liberty organization (affiliate of the Applicant) includes: thirty-five nursing homes, eight assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, and a home health and hospice company with twenty-nine locations servicing various urban and rural counties in North Carolina, South Carolina, and Virginia. As you can see, the Applicant has extensive health care experience, especially in the proposed health care field (skilled nursing). Exhibit 7 presents a listing of the 35 nursing homes and other healthcare services.
- b. Street Senior Housing PROPCO, LLC, the owner of the building, has already secured a construction loan agreement with South State Bank to fund 70% of the project. Please see Exhibit 11, which is a copy of the construction loan agreement.
- c. The Applicant has prior experience.
- d. The Applicant recognizes the applicant's record or representative record of cooperation and compliance with State and Federal regulatory programs will be considered.

Thank you for your attention to this matter.

Best Regards,



Timothy Walsh
Senior Financial Analyst
Liberty Senior Living
TWalsh@libertyseniorliving.com
(910) 332-1982

ATTACHMENT 1

Dr. Christopher McLain Letter of Support

March 9, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

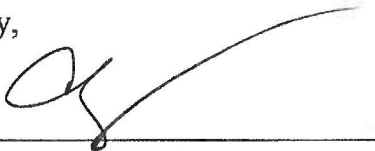
Dear Mr. Eubank:

I am a physician practicing in Charleston County and serve as the Chief Physician Officer for Roper St Francis Healthcare. I am writing this letter in support for the Certificate of Need application submitted by Spring Street Senior Housing OPCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services.

I encourage your approval of this CON application for 23 public nursing home beds and as appropriate, I will refer patients to the nursing home in Charleston. If I can provide any other information, please let me know.

Sincerely,



Christopher McLain MD, FACP
Senior Vice President, Chief Physician Officer
Roper St Francis Healthcare
125 Doughty Street, Suite 760
Charleston, SC 29403
(843)724-2070



Spring Street Health Center - Project 2827 - Relative Importance Criteria Additional Information

Timothy J. Walsh <TWalsh@libertyseniorliving.com>

Wed 3/24/2021 9:50 AM

To: Coninfo, Coninfo <Coninfo@dhec.sc.gov>; Hyman, Jennifer J. <HYMANJJ@dhec.sc.gov>

📎 1 attachments (382 KB)

Spring Street_Health Center_Relative Importance Criteria (FINAL).pdf;

***** Caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. *****

Good morning Ms. Hyman:

On behalf of Spring Street Senior Housing OPCO, LLC (the “the Applicant”), I am submitting additional information in support of our application in accordance to Regulation 61-15, Section 304. The Department has determined the relative importance of the project review criteria and ranked according to their relative importance. The Applicant’s responses to the relative importance criteria follow the same correspondence as in Regulation 61-15, Section 802.

I also wanted to confirm if any more opposition letters or public hearing requests were received by the CON Program?

Thanks so much!

Regards,

Timothy J. Walsh

Senior Financial Analyst

Liberty Senior Living

Office: 910-332-1982

Mobile: 910-512-9191

TWalsh@libertyseniorliving.com

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Visit our website at www.LibertySeniorLiving.com



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March 26, 2021



Via Electronic Mail and U.S. Mail

Ms. Margaret P. Murdock
Certificate of Need Program
South Carolina Department of Health
and Environmental Control
2600 Bull Street
Columbia, SC 29201

RE: Nursing Home Certificate of Need Application #2827 Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Care for the construction and establishment of a 23-bed skilled nursing facility in Charleston County - Affected Person Opposition Letter: NHC HealthCare/Charleston, LLC d/b/a NHC HealthCare, Charleston

Dear Ms. Murdock,

I am writing on behalf of NHC HealthCare/Charleston, LLC ("NHC") to notify the Department that NHC is an Affected Person, as defined in S.C. Code Ann. § 44-7-130(1) and S.C. Regs. 61-15, § 103.1, with respect to the above-referenced Certificate of Need Application. As an Affected Person, NHC requests that the Department copy it on all significant correspondence, submissions, and information related to the application referenced above.

National HealthCare Corporation (NYSE American: NHC), is the nation's oldest publicly traded senior and post-acute health care company. NHC has been delivering the highest quality post-acute care to the citizens of South Carolina for almost fifty (50) years. NHC is South Carolina's largest post-acute care provider offering nursing home care, home health care, hospice care, and assisted living. NHC operates 13 nursing homes in the State of South Carolina with a total of 2,185 beds.

As an existing nursing home provider in Charleston for 13 years, NHC HealthCare, Charleston is a CMS 5 Star rated facility and has received recognition as one of the best nursing homes in South Carolina by *U.S. News and World Reports*. NHC HealthCare, Charleston is considered one of the quality healthcare providers in Charleston County and is in a preferred provider agreement with MUSC's ACO. NHC is a 132 bed Medicare, Managed Care and Private Pay facility and have firsthand knowledge that Charleston area nursing home care needs can be met by NHC and other licensed facilities in Charleston County at this time. **We believe the referenced application, and the approval of said application would not only duplicate existing services for both private pay and Medicare nursing home patients, but also adversely impact the existing long term care delivery system in Charleston County. The criteria of economic consideration are particularly relevant as the facility is proposing to not participate in the State Medicaid program. Therefore, I am writing this letter in opposition to said project as an affected person pursuant to DHEC Regulation No. 61-15, Chapter 1, Section 103.**

While the proposed project appears to be consistent with the projected numeric need in Charleston County, a more thorough review of the facts will demonstrate that sufficient need does not exist at this location to make the project consistent with the State's project review criteria. Consequently, the project would be an unnecessary duplication of health care facilities and

services and will adversely impact other existing providers if approved. Lastly, we question the project's financial feasibility. The project fails to meet the review criteria and standards required for CON approval.

The addition of another nursing home will not only duplicate and drive up the cost for services already provided, but it will also adversely deplete the existing nursing pool of trained nursing professionals. A redistribution of patients to the proposed center that is not needed and seeks to disproportionately distribute nursing home beds in Charleston County, would further dilute the patient pool, the staffing pool and consequently not promote the orderly development of health care.

The shortage of licensed nurses and nursing assistants has been a growing issue for years. The pandemic has exacerbated this shortage to levels that present a clear and present threat to the current nursing homes operating in South Carolina and elsewhere. While most providers have done whatever they deemed necessary to retain vital staff, adding duplicative services into the market will create further instability in the job market and thus will threaten the stability of all the providers in the service area. NHC HealthCare, Charleston has strong partnerships with the nursing programs at ECPI University and Trident Technical College, with PATCH Career Institute for CNA certification, and with Charleston Southern University to start its nursing program. Even with these relationships, NHC still experiences hiring challenges.

As we are still in the midst of a global pandemic that has fractured the long term care facilities across South Carolina, census has decreased to below 80% state-wide among all South Carolina nursing homes. Since May of last year, long term care facilities across the country are to report weekly capacity to the CDC's National Healthcare Safety Network (NHSN) system COVID-19 Long Term Care Facility Module. As of the week of 3/7/21, Charleston County nursing home occupancy is at 75%. Currently, NHC HealthCare, Charleston's occupancy, based on 132 licensed beds, is 66%. The applicant states "existing nursing homes in Charleston County do not have unused capacity"; however, NHC is aware of one existing nursing home that has an entire unit closed due to a declining census and others operating at less than 70% capacity. There are several existing providers offering both traditional Medicare for post-acute care, as well as providers that have been awarded Medicare Managed Care Contracts and have not declined admissions due to capacity issues.

With that said, NHC has the following comments regarding the referenced CON application:

- No detail breakdown for other ancillary costs – Pharmacy, inhalation therapy, lab, x ray, medical supplies, etc.
- Private Pay revenue of \$441 per day with 6+ patients. NHC HealthCare, Charleston's average private pay rate for 2020 is \$293.68 and private pay census has been steadily declining. Charleston County is having a difficult time affording \$300+ per day private pay room and board cost.
- Applicant inflated private revenue 5% - this seems high. NHC's history in past few years has seen an increase of 2-3%.
- Applicant inflated Medicare revenue 3%. This seems aggressive. In past several years, Medicare rates have averaged increases of 1-2% and in some cases NHC has experienced negative rate increases due to wage index declines.
- Applicant projected wage inflation of only 2%. This is not reasonable. NHC wage increases have averaged at least 3% and in some markets the rate of increase is 5% or more.
- Applicant did not project any Medicare Advantage or Managed Care Census.
- Applicant did not project any bad debt.
- The applicant projects Year 3 Net Operating Income (NOI) of \$81.55 ppd. NHC HealthCare, Charleston is the only Medicare/ Private Pay location in South Carolina. NHC HealthCare, Charleston's NOI in 2019 was (4.76).

- NHC's highest NOI in the State of State Carolina was 50.64 in 2019. The average NOI for the 13 SNF locations was \$22.78 ppd.
- Staffing is unclear and unknown for the proposed 23 bed nursing facility. The applicant states the manpower budget for the entire community (AL and SNF) is provided, as many employees will be cross-utilized. Since it is unclear how nursing salaries are being allocated to the SNF, this questions the operating costs and financial feasibility of the applicant.
- The applicant is proposing to locate the SNF beds within a larger healthcare building on the 5th floor in downtown Charleston on the peninsula. Evacuating down 4-5 stories would be difficult and present possible poor outcomes for the residents. In addition, the hospitals in this area are sometimes on diversion due to flooding, which complicates transfer of residents.
- The applicants lack of support from the medical community and the community at large brings into question the need for this project.

The financial feasibility of the applicant appears to be in serious question. Based upon overstatement of private pay revenue, not projecting Medicare Advantage or Managed Care census, and not including other ancillary costs, the applicant is not feasible in any year. The applicant operates one additional skilled nursing facility in South Carolina, which is also in Charleston County and is currently operating at approximately 50% occupancy. The applicant's projection of 91% occupancy in Year 2 is unrealistic.

Placement of Medicaid eligible patients remains a challenge due to the limited number of beds available to fund through the State's Medicaid, but Medicare and commercial patients do not result in the same placement challenge. The bed need is for Medicaid beds, not rehab beds. Beyond its simple request for nursing home beds from the projected bed need found in the State Health Plan, this applicant has not demonstrated, in any way, compliance with Certificate of Need criteria and/or the State Health Plan, and the purposes of the CON Act. In particular, the application does not comply with CON criteria 2, 3, 6, 15, 16, 20, 22, or 23.

In summary, we are opposed to this CON and ask that it not be approved and we request a project review meeting regarding this CON application. There is adequate provision of nursing home beds delivering high quality nursing home care to populations of all race and payment source in the Charleston, Charleston County. If you need any additional information, please do not hesitate to call me at (615) 890-2020.

Sincerely,

National HealthCare Corporation



Dere R. Brown
Director of Health Planning and Licensure/Certification
Authorized Representative

Project Review

5/24/21 2827 Spring Street Health Ctr.

Name	Organization
Vito Wicovic	DHEC OGC
Sarah Tipton	Bishop Cadsden
Lynne Kerrison	" "
Aaron Roop	" "
Michael Burchstead	Burr BE
Liz Crum	" "
Denise Dickerson	(Lutheran Homes) Frank of Seaside
Ashley Hyman	Shumaker
Laura Evans	Johns / Samuel Post date
Craig Bilde	NHC
Dere Brown	NHC
Tyler Bartlett	NHC - Nelson Mullins
Don Westbrooks	Spring Street
Wade Mullins	Spring Street
Tim Walsh	" "
Andrew Bakacrah	LHA
David Leiff	DHEC CON
Jennifer Hyman	DHEC CON
Maggie Murdock	



SPRING STREET HEALTH CENTER

STAFF PROJECT REVIEW



LIBERTY BACKGROUND

- The Liberty organization (affiliate of the Applicant) is a family-owned company that has been helping people manage their healthcare and residential needs for more than 145 years. This currently includes management and support to thirty-five nursing homes, eight assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, and a home health and hospice company with twenty-nine locations servicing various urban and rural counties in North Carolina, South Carolina, and Virginia.
- Liberty's vision is simple: to provide cost effective quality short-term rehabilitation care and long term skilled nursing care with dignity and respect to residents who have entrusted us with this responsibility, while employing and developing competent, caring and professional employees.

SPRING STREET PROJECT

- Liberty is planning to develop Spring Street, an 85,000 square foot building consisting of 71 assisted living and memory care units and 21 skilled nursing units (23 beds). The proposed community will cater to the thriving elderly population in and near Downtown Charleston.
- The community will be developed in the highly desirable Downtown Charleston, on Charleston's West Side of the Peninsula. The site is situated adjacent to the Medical District of Charleston to the south and the mixed-use high growth waterfront area to the west. Liberty is planning to bring an independent feel to this community. Some amenities that will be available to residents include a roof terrace courtyard with a dining area, library, fitness center, and lounge area.
- The current South Carolina Health Plan ("SCHP") identifies a supply of 1,483 nursing home beds in Charleston County and a need for an additional 836 beds. The continued growth in the county, its attractiveness to retirees, and the aging of the population will likely increase the need for nursing home beds beyond this severe shortage.

SC DHEC RELATIVE IMPORTANCE CRITERIA

- The Department has determined the relative importance of the project review criteria, pursuant to Regulation 61-15, Section 304, which will be used to review the application. The specific criteria is as follows:
 1. Community Need Documentation (2);
 2. Distribution (Accessibility) (3);
 3. Staff Resources (20); and
 4. Record of the Applicant (13)

COMMUNITY NEED DOCUMENTATION SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- a. Target Population

Spring Street's target population for this application includes all of the residents of Charleston County. There are currently no skilled nursing facilities on the West Side Peninsula of Downtown Charleston, and given the lack of vacant land, high land cost, and stringent zoning/entitlement policies, it is unlikely there will be any new nursing facilities developed on the Peninsula for the foreseeable future. The site is located adjacent to the Medical District of Charleston, which includes the Medical University of South Carolina, Roper Medical Center, and the VA.

The adjacent location to the Medical District is significantly beneficial, as hospital discharge patients will not have to travel far for direct nursing home care.

COMMUNITY NEED DOCUMENTATION SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- b. Population Statistics

The Applicant detailed the population and growth among Charleston County residents by utilizing Spotlight population facts by Environics Analytics. Using the 2020 SCHP bed methodology in conjunction with the population data found through Spotlight, the applicant has identified the county's bed need for 2020 and 2025 within Charleston County. (CON pg. 13)

Region IV	2020 Pop 65-74 (000)	Bed Need (Pop x 10)	2020 Pop 75+ (000)	Bed Need (Pop x 58)	Existing Beds	Total # Beds to be Added
Charleston	44.59	445	26.11	1,514	1,483	476
Region IV	2025 Pop 65-74 (000)	Bed Need (Pop x 10)	2025 Pop 75+ (000)	Bed Need (Pop x 58)	Existing Beds	Total # Beds to be Added
Charleston	55.04	550	30.69	1,780	1,483	847

COMMUNITY NEED DOCUMENTATION SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- c. Identified (documented) need of Target Population

The 2020 SCHP currently shows Charleston County has a need for 836 additional long-term care beds (CON Page 14 & SCHP Page 121). The basic assumptions of the method are:

- A ratio of 10 beds/1,000 population age 65-74 and a ratio of 58 beds/1,000 population aged 75 and over.
- For each county, these needs are calculated separately. The individual age-group needs are then added together, and the existing bed count subtracted from that total to determine the deficit or (surplus) of beds.

The table below provides projected bed utilization data for Charleston County based on the 2020 SCHP bed need methodology.

Region IV	2022 Pop 65-74 (000)	Bed Need (Pop x 10)	2022 Pop 75+ (000)	Bed Need (Pop x 58)	Existing Beds	Total # Beds to be Added
Charleston	48.06	481	31.70	1,839	1,483	836

COMMUNITY NEED DOCUMENTATION SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- d. Reduction, relocation, or elimination of facility or service

Spring Street's proposal does not reduce, relocate, or eliminate a facility or service and therefore criterion d is not applicable to the review.

COMMUNITY NEED DOCUMENTATION SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- e. Projected Utilization

The following patient days, average daily census (ADC), and percent occupancy (of the 23 beds) are projected (CON Pg. 15):

	Year 1	Year 2	Year 3
Patient Days	4,625	7,665	7,665
Average Daily Census	13	21	21
Percent Occupancy	55%	91%	91%

The patient day projections are based on the experience of the applicant in the start-up and operation of its extensive experience in existing nursing homes through affiliated communities. The average daily census (ADC) was determined by dividing the patient days by the total number of days in the year and the percent occupancy was determined by dividing the ADC by the number of beds.

COMMUNITY NEED OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden obtained a CON in 2019 to construct a new health care facility that will offer a 100 bed health care center, which includes an additional 50 skilled nursing beds (BG CON SC-19-23). Bishop Gadsden stated in its Application “the South Carolina State Health Plan for 2018-2019 shows a need for an additional 1,412 LTC beds in Charleston County, with a total need of 5,130 LTC beds in the entire low country region. With 65% of the bed need being Medicaid certified, that will leave over 495 non-Medicaid beds, with Bishop Gadsden only seeking 50 of these beds.” (BG CON Pg. 9)

In addition to the projected population growth in our area, the South Carolina State Health Plan for 2018-2019 shows a need for an additional 1,412 LTC beds in Charleston County, with a total need of 5,130 LTC beds in the entire lowcountry region. With 65% of the bed need being Medicaid certified, that will leave over 495 non-Medicaid beds, with Bishop Gadsden only seeking 50 of these beds. The addition of new beds at BG will serve this population of patients in the area who lack access to high-quality skilled nursing and post-acute rehabilitative care. This proposed change will meet the needs of the community by providing greater access while continuing to serve the residents of the Bishop Gadsden community who need high levels of skilled care.

COMMUNITY NEED OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden states in their opposition PowerPoint that Spring Street failed to document need, stating “it appears that Spring Street has not used data to develop a credible need...”. The 2020 SCHP shows a long-term care bed deficit of 836 beds for Charleston County and was a major proponent in the Applicant’s decision to apply for 23 NF beds. Moreover, Spring Street completed its own need analysis using independent population data. Our project would help meet part of this identified (documented) need for Charleston County.
- It appears Bishop Gadsden embraces the SCHP need analysis when it suits them and declares it not credible when opposing a new service.

COMMUNITY NEED OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden comments on Spring Street’s location in their opposition PowerPoint.
- However, Spring Street’s location adjacent to the Medical District would seem to be a welcome attraction, according to their previously submitted CON. We are both in agreeance that a location in close access to area hospitals (in our case, right across the street) is beneficial to patient discharges. (BG CON Pg. 9)
- In the site selection process for our project, we took the proximity to the local hospitals very serious. Being located across the street, rather than miles away, from both MUSC and Roper hospitals will benefit our residents and their families immensely. With the population density growth in Charleston driving increased traffic in the area, we believe there will continue to be increasing demand for skilled nursing services without residents needing to travel off of the peninsula.

Furthermore, as referenced in Exhibit F, Bishop Gadsden is approximately 4.9 miles from MUSC, 4.6 miles from Roper Hospital, and 6.5 miles from St. Francis Hospital. Our location will be beneficial for patient discharges from the hospitals since patients will not be transported great distances.

COMMUNITY NEED OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden state's that any plans of other facilities to provide additional long-term services would be a welcome complement to their proposal. Spring Street has reviewed the difference in the 2018/2019 SCHP and the 2020 SCHP as it relates the Long-Term Care Inventory for Charleston County (BG CON Pg. 14). The only difference found was the 50 additional beds Bishop Gadsden was approved for as well Vibra Hospital of Charleston –TCU appearing to relinquish their Long Term Care inventory. Overall, that is only a net gain of 15 beds between the two Health Plans.
- It would seem erroneous that 50 additional skilled nursing beds would be needed at Bishop Gadsden, but 23 skilled nursing beds at Spring Street will now "unnecessarily duplicate" existing entities and services. Bishop Gadsden's admission in their own Application that long-term services would be a welcome complement to meet the current shortage is a direct reflection that the opposition does not believe the Spring Street will create unnecessary duplication of services. It only further confirms that there is still a high demand for nursing services in Charleston County.

Bishop Gadsden aims to alleviate the unmet need for skilled nursing and rehabilitative beds in Charleston County. With the current shortage, any plans of other entities to provide and finance additional long-term care services would be a welcome complement to our proposal.

DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- a. Justified duplication and modernization of services

The Applicant detailed the population and growth among Charleston County residents by utilizing Spotlight population facts by Environics Analytics. Using the 2020 SCHP bed methodology in conjunction with the population data found through Spotlight, the applicant has identified the county's bed need for 2020 and 2025 within Charleston County (CON Pg. 13).

Charleston County has a need for 836 additional long-term care beds (CON Page 14 & SCHP Page 121).

DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- b. Located so that it may serve medically underserved areas and should not unnecessarily duplicate existing services

Spring Street will be Medicare certified, but will not participate in the state Medicaid program. Spring Street will not restrict its admissions because of gender, race, creed, national origin, or ability to pay. Spring Street will provide a reasonable amount of charity or indigent care.

There are currently no skilled nursing facilities on the West Side Peninsula of Downtown Charleston, and it is unlikely there will be any new nursing home communities developed on the Peninsula for the foreseeable future given the lack of vacant land, high land cost, and stringent zoning/entitlement policies.

DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- c. Location should allow for delivery of necessary support services

The site is located adjacent to the Medical District of Charleston, which includes the Medical University of South Carolina, Roper Medical Center, and the VA. The location will allow for the delivery of any necessary support services in an acceptable period of time and at a reasonable cost.



DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- d. No restriction on admissions & e. Means by which a person will have access to its services

Admission to Spring Street Health Center's nursing home will be under orders of a physician duly licensed in the State of South Carolina. Spring Street will accept referrals of patients needing nursing home services without regard to race, sex, creed, or national origin. (CON Pg. 12 & Exhibit 16)

DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- f. Extent to which all residents, and in particular the medically underserved, are likely to have access to the services

Admission to Spring Street Health Center's nursing home will be under orders of a physician duly licensed in the State of South Carolina. Spring Street will accept referrals of patients needing nursing home services without regard to race, sex, creed, or national origin. Spring Street had budgeted for charity or indigent care to make sure the medically underserved are served. (CON Pg. 12 & Exhibit 16)

DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- g. Establish provisions to insure individuals in need of treatment have access to appropriate service

Patients unable to pay for services will be accepted on a non-discriminatory basis pursuant to the indigent care policy.

The contract with residents will address specific financial resources and the obligations of Spring Street if the resident exhausts those resources. If this occurs, it is recognized that the resident would likely qualify for Medicaid, but Spring Street will not be a Medicaid provider. In this event, the resident will be referred to nursing home facilities that can accept Medicaid patients to insure treatment is given.

DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- h. Potential negative impact upon ability and/or resources of existing providers to serve medically underserved groups

Spring Street does not foresee any potential negative impact of the proposed project upon the ability and/or resources of existing providers to serve medically underserved groups.

The need is established in the SCHP and the need analysis performed by the Applicant supports that.

DISTRIBUTION (ACCESSIBILITY) OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden presents in their opposition PowerPoint that November skilled nursing occupancy has fallen to a new low of 74.2%. Unfortunately, Senior Housing occupancy has dropped nationwide, but for no other reason than due to the COVID pandemic. The Exhibit they have presented even confirms this fact, as it states "COVID-19 has significantly impacted skilled nursing operations across the country...".
- All factors that drove occupancy down in the Exhibit (pandemic-related deaths, elective surgeries) are going away, which has started and will continue to positively impact census.

DISTRIBUTION (ACCESSIBILITY) OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden states in their opposition PowerPoint that conservative estimates put current excess capacity for Medicare beds in Charleston County at 1,120. However, in the previously mentioned Bishop Gadsden CON application, they confirm "...that will leave over 495 non-Medicaid beds, with Bishop Gadsden only seeking 50 of these beds." Therefore, by their own account and interpretation, Charleston County is still under bedded by 445 non-Medicaid beds. (BG CON Pg. 9)

STAFF RESOURCES

SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- a. Reasonable plan for the provision of all required staff

The corporate office includes an in-house recruiting department that will assure Spring Street is properly staffed.

Spring Street will offer competitive pay and attractive benefits to recruit qualified staff including health insurance, life insurance, short and long-term disability insurance, 401(k) plan, and paid time off. Our in-house Human Resources staff periodically conducts salary surveys and adjusts to market demands as necessary. The facility will be active in the local community and interact consistently with area clinical training programs.

In addition, the Liberty organization has developed a number of strategies to enhance recruitment and retention of personnel, including:

- Flexible work schedules.
- Opportunities for advancement.
- Catch-a-Liberty Star recognition program
- Employee mentoring program
- Employee Years of Service recognition program
- Education / Tuition Assistance Program
- Annual staff satisfaction surveys
- Seminars, workshops, and other educational programs and encourage staff to stay abreast of the latest in geriatric nursing
- Recognition pins, employee bonuses, employee cookouts and parties, raffles, CNA Day and Nurses' Week
- Involvement of direct care staff in the quality assurance process
- Regular staff meetings to encourage employees to suggest improvements in all aspects of facility operations.

The Applicant does not anticipate any difficulties in recruiting the staff required for this proposed project. Liberty is also well versed in the Charleston market, having operated Shem Creek Health Center at South Bay at Mt. Pleasant (a 40-bed nursing home facility).

STAFF RESOURCES

SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- a. Reasonable plan for the provision of all required staff (continued)

The Liberty Organization is a large Southeastern regional operator. On top of attracting local staff, our network, along with the prestigious location of Spring Street, will allow the opportunity to attract staff from outside the area who are looking to relocate to a prime location like Charleston, SC.

STAFF RESOURCES

SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- b. Demonstrate sufficient physicians are available to insure proper implementation

Letters of support from physicians who support this project are presented in the Application (Exhibit 14). Please also find attached (Attachment 1) an additional support letter from Dr. Christopher McLain, Senior Vice President and Chief Physician Officer of Roper St. Frances Healthcare.

Bishop Gadsden has an on-site clinic affiliated with Roper St. Frances, so this support is important to note considering Bishop Gadsden has opposed the Spring Street application on Community Support.

STAFF RESOURCES

SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- c. Presently owns existing facilities or services

The Applicant does not currently hold any facility licenses or CON's. However, the Liberty organization (affiliate of the Applicant) includes: thirty-five nursing homes, eight assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, and a home health and hospice company with twenty-nine locations servicing various urban and rural counties in North Carolina, South Carolina, and Virginia. Our facilities are fully staffed and proud of the success of attracting and maintaining quality staff that provide high quality of care.

STAFF RESOURCES SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- d. Alternative uses of resources for the provision of other health services should be identified and considered

In addition to the 23-bed nursing home, the building is expected to include 77 assisted living (adult care) beds (including 21 memory care units). The Applicant believes this to be a benefit as it relates to staffing as many employees can be dually used for the complete building.

STAFF RESOURCES OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden references in their PowerPoint "Charleston Regional Business Journal (June 26th) details significant challenges currently facing the region for recruitment of cooks, wait staff, and utility/dishwashers and qualified medical staff (Exhibit 1 attached)." However, this article was written in October of 2017, incidentally prior to Bishop Gadsden submitting their own Certificate of Need Application for 50 additional nursing beds.

Health care industry warns of labor crisis



Patrick Hoff

@PatHoffCRBJ

phoff@scbiznews.com

OCT 09, 2017

STAFF RESOURCES OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden references that Liberty's reputation may result in challenges recruiting staffing needs. However, Liberty's Shem Creek Health Center at South Bay at Mt. Pleasant (a 40-bed nursing home facility operated in Charleston County) currently has a 5-star ("Much above average") Overall Rating in the CMS Five-Star Quality Rating System, which takes into account Health Inspections, Staffing, and Quality Measures. Liberty has been able to successfully recruit and operate Shem Creek and will do the same with Spring Street.

STAFF RESOURCES OPPOSITION FROM BISHOP GADSDEN

- CMS Staffing data shows Shem Creek averaging the same or greater staffing in almost all metrics when compared with Bishop Gadsden. While both facilities have excellent ratings and metrics across the board, we only point this out due to Bishop Gadsden questioning our ability to adequately staff nursing beds in Charleston County, which we have proven is an inaccurate assumption.

Staffing	Shem Creek	Bishop Gadsden
Total number of licensed nurse staff hours per resident per day	2 hours and 10 minutes	1 hour and 17 minutes
Registered Nurse hours per resident per day	1 hour and 17 minutes	1 hour and 17 minutes
LPN/LVN hours per resident per day	53 minutes	1 hour and 17 minutes
Nurse aide hours per resident per day	14 minutes	2 hours and 48 minutes
Physical therapist staff hours per resident per day	14 minutes	

Source: <https://www.medicare.gov/care-comparisons/compare-provider?type=NursingHome&providerId=425417425411&body=MD2020assess&state=SC>

STAFF RESOURCES OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden comments that Spring Street forecasts an annual salary increase “of just 2% per year.” They also state that “an inflationary increase of 2% will not be enough to retain a workforce and provide quality care.” However, a 2% salary increase is the same percentage increase submitted in their CON application. Spring Street is familiar with the market and believe we offer competitive salaries.

YEAR 2022			Rate	Contract
Occupancy	units	Occupancy	increase	Adj
IL	268	95%	4%	
AL	69	95%	4%	
MC	32	90%	4%	
SNF	68	90%	3%	5%
Medicare Rehab	32	83%	*****	*****
****Life care rate			4%	
*****SNF rate will be private pay under contract type				
***** Medicare rehab rate is calculated using current facility and surrounding area industry standards inflated consistently				
***** Medicare rehab revenue includes co-insurance, part B, and other rehabilitation revenue sources				
Increase in staffing payroll rates			2%	
Increase in other expenses			1% (or actual)	
FTE count			25%	

RECORD OF THE APPLICANT SECTION 802, CRITERIA FOR PROJECT REVIEW (13)

- a. Record should be one of successful operation with adequate management experience

Liberty purchased its first nursing home in 1990 and has worked tirelessly ever since to expand the company and provide nursing residents with high quality levels of care throughout the entire healthcare spectrum. Over the last three decades, Liberty has expanded its operations from a single nursing home to a fully integrated post-acute healthcare provider incorporating a family of companies to provide a full spectrum of care. Today, Liberty owns, operates, or manages thirty-five nursing homes, eight assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, a home health and hospice company with twenty-nine locations, two pharmacies, a medical equipment and IV therapy company, a healthcare management company, and an HMO I-SNP health plan company.

As a nursing care provider, we are dedicated to the promotion of health and the advancement of growth for residents admitted to each facility, the personnel on our staff, and for all of the people in our community directly and indirectly. We believe in the dignity of the human person, recognizing that each person has physical, mental, emotional, and spiritual needs and rights and that these rights must be respected. This respect is reflected in the tireless efforts of each facility to serve and preserve life, and to prepare for its termination when death is inevitable through spiritual support, understanding, and empathy.

RECORD OF THE APPLICANT SECTION 802, CRITERIA FOR PROJECT REVIEW (13)

- b. Demonstrated ability to obtain necessary capital financing

Spring Street Senior Housing PROPCO, LLC, the owner of the building, has already secured a construction loan agreement with South State Bank.

RECORD OF THE APPLICANT SECTION 802, CRITERIA FOR PROJECT REVIEW (13)

- c. If no prior experience, sources of assistance should be specified

The Liberty organization includes extensive managerial and operational experience of nursing homes.

RECORD OF THE APPLICANT SECTION 802, CRITERIA FOR PROJECT REVIEW (13)

- d. record of cooperation and compliance with State and Federal regulatory programs

The Liberty Organization has and will continue to cooperate and comply with State and Federal regulatory programs as it relates to nursing homes.

OTHER BISHOP GADSDEN OPPOSITION (COMMUNITY SUPPORT)

- Bishop Gadsden commented that Spring Street did not gain sufficient support through the community. As a part of the Application, Spring Street submitted support letters from the following individuals:
 - Medical University of South Carolina – Dr. Terrertce Steyer, Professor, Department of Family Medicine
 - Medical University of South Carolina – Dr. Natalie Christian, Professor, Department of Family Medicine
 - City of Charleston – Mayor John Tecklenburg
 - South Carolina Senate – Senator Marlon Kimpson (42nd District)
 - South Carolina Senate – Senator George “Chip” Campsen (43rd District)

OTHER BISHOP GADSDEN OPPOSITION (COMMUNITY SUPPORT)

- Spring Street is happy to share the additional support it has received from the following individuals:
 - Charleston Southern University – Dr. Dondi Costin, President, Charleston Southern University
 - Roper St. Francis Healthcare – Dr. Christopher McLain, Senior Vice President, Chief Physician Officer, Roper St. Francis Healthcare
 - Bishop Gadsden has an on-site clinic affiliated with Roper St. Frances, so this support is important to note considering Bishop Gadsden has opposed the Spring Street application on Community Support.
 - Town of Mount Pleasant – Mayor Will Haynie
 - City of Charleston City Council – Jason Sakran, District Three Councilmember
 - Charleston County Council – Teddie Pryor, Chairman
- Please see Attachments 1, 2, and 3 regarding the additional letters of support received.

OTHER BISHOP GADSDEN OPPOSITION (FINANCIAL)

- Bishop Gadsden states the rates proposed are unrealistic projections. However, Spring Street’s proposed blended rate is less than that was proposed by Bishop Gadsden in their CON Application. Bishop Gadsden proposed a blended rate of \$429 for Year 1, \$442 for Year 2, and \$455 for Year 3 (BG CON Exhibit J). Liberty is comfortable with the revenue projections and payor sources used.

2021	Location	Private (Per Day \$)	Semi-Private (Per Day \$)
Skilled Nursing Facilities BISHOP GADSDEN EPISCOPAL RETIREMENT COMMUNITY	Charleston, SC	\$432.00	\$358.00
2022	Location	Private (Per Day \$)	Semi-Private (Per Day \$)
Skilled Nursing Facilities BISHOP GADSDEN EPISCOPAL RETIREMENT COMMUNITY	Charleston, SC	\$445.00	\$378.25
2023	Location	Private (Per Day \$)	Semi-Private (Per Day \$)
Skilled Nursing Facilities BISHOP GADSDEN EPISCOPAL RETIREMENT COMMUNITY	Charleston, SC	\$458.00	\$386.50

OTHER BISHOP GADSDEN OPPOSITION (FINANCIAL)

- Bishop Gadsden states Spring Street's stabilized occupancy of 91% in Year 2 (55% in year 1) is contrary to occupancy trends within Charleston County. However, Bishop Gadsden proposed an occupancy of 88% in Year 2 of their CON application, which includes 50 additional SNF beds whereas Spring Street is only proposing 23. Additionally, there are no known factors which would jeopardize the stability of the revenue projections.

YEAR 2022			Rate	Contract
Occupancy	units	Occupancy	Increase#	Adj
IL	268	85%	4%	
AL	60	95%	4%	
MC	32	90%	4%	
SNF	68	90%	3%	5%
Medicare Rehab	32	85%	*****	*****
***Lifecare rate			4%	
****SNF rate will be private pay under contract type				
***** Medicare rehab rate is calculated using current facility and surrounding area industry standards inflated consistently				
***** Medicare rehab revenue includes co-insurance, part B, and other rehabilitation revenue sources				
Increase in staffing payroll rates			2%	
Increase in other expenses			1% (or actual)	
FTE count			336	

OTHER BISHOP GADSDEN OPPOSITION (FINANCIAL)

- The proposed budget, revenues, and operating costs found in the Application adequately and accurately project the Spring Street project in its entirety. The projections are reasonable and based upon accepted accounting procedures.

BISHOP GADSDEN OPPOSITION

- Bishop Gadsden's opposition to Spring Street's CON appears to contradict almost all info they had submitted in their very own approved CON from 2019.
- Bishop Gadsden opposition specifically contradicts representation made on page 13-14 of their application "any plans of other entities to provide and finance additional long-term services would be a welcome complement to our proposal."

OPPOSITION FROM LUTHERAN HOMES OF SOUTH CAROLINA

- Lutheran Homes of South Carolina opposed our Spring Street Health Center CON for the following (summarized) reasons:
 - a. Duplication of effort in market
 - b. Unrealistic projections relative to availability of the labor force
 - c. Lack of local support including lack of support letters or agreement from referral communities
 - d. Lack of quality indicator and survey history data
 - e. Listing of Franke at Seaside as a referral source

OPPOSITION FROM LUTHERAN HOMES OF SOUTH CAROLINA

- a. Lutheran Homes utilized incorrect SCHP methodologies and hypothetical disparities in their opposition. Nonetheless, they still calculated a 449 bed need for Charleston County, confirming the severe need for additional nursing home beds and that our project would not duplicate existing entities.
- b. Spring Street has provided a detailed illustration as to the staffing and recruitment expected. On top of attracting local staff, our network along with the prestigious location of Spring Street will allow the opportunity to attract staff from outside the area who are looking to relocate
- c. Liberty included ample support in the CON Application and has only gained additional support (See Attachments 1-3).

OPPOSITION FROM LUTHERAN HOMES OF SOUTH CAROLINA

- d. Spring Street provided extensive information as well as the proposed Quality Assurance and Performance Improvement Plan in the Application.
- e. Spring Street listed all assisted living centers in the area as potential referral sources. If any assisted living center also has an affiliated nursing facility (such as Franke at Seaside) and were to fill up, we would hope they would seek the services of a brand new, state-of-the-art facility such as Spring Street Health Center that will be able to provide top-class care for the resident's needs.

OPPOSITION FROM NHC CHARLESTON

- NHC Charleston opposed our Spring Street Health Center CON for the following (summarized) reasons:
 - a. Duplication in the market
 - b. Staffing shortage
 - c. Current low-occupancy in Charleston County
 - d. Financial feasibility

OPPOSITION FROM NHC CHARLESTON

- a. By 2025, there is expected to be an additional 15,000+ residents aged 65 and older residing in Charleston County (CON pg. 13).

Population and Growth among Charleston County Residents 65+				
Spotlight pop-facts by Environics analytics, Charleston County				
Population by age	Population	% of Population	Additional People	Growth
2025 Estimated Total	444,165	100.00	29,330	6.60%
Age 65-74	55,404	12.47	10,816	19.52%
Age 75-84	22,692	5.11	3,730	16.44%
Age 85+	7,996	1.80	852	10.65%
Age 18+	353,362	79.56	21,910	6.20%
Age 21+	335,376	75.51	20,502	6.11%
Age 65+	86,094	19.38	15,398	17.89%

- a. Utilizing just the additional residents aged 65 and older along with the 2020 SCHP bed need methodology (SCHP Pg. 103), a 374 bed need exists.

Region IV	2025 Pop 65-74 (000)	Bed Need (Pop x 10)	2025 Pop 75+ (000)	Bed Need (Pop x 58)	Total # Beds to be Added
Charleston	10.816	108	4.582	266	374

OPPOSITION FROM NHC CHARLESTON

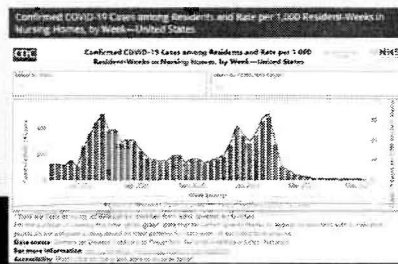
- a. Spring Street has exhaustively displayed the 2020 SCHP showing a long-term care bed deficit of 836 beds for Charleston County as well as our own need analysis using independent population data. Our project would help meet just a small part of this identified (documented) need for Charleston County.

OPPOSITION FROM NHC CHARLESTON

- b. Spring Street has provided a detailed illustration as to the staffing and recruitment expected. On top of attracting local staff, our network along with the location of Spring Street will allow the opportunity to attract staff from outside the area who are looking to relocate.

OPPOSITION FROM NHC CHARLESTON

- c. As discussed previously, Senior Housing occupancy has dropped nationwide due to the COVID pandemic. However, the success of the COVID-19 vaccine rollout is apparent, as COVID-19 cases among residents are the lowest they have been. This information is taken from the same system NHC Charleston references in their opposition letter (CDC's National Healthcare Safety Network (NHSN)). The success of the vaccine has initiated a positive increase in nursing home census.



OPPOSITION FROM NHC CHARLESTON

- c. Interestingly, NHC Charleston has stated their occupancy is 66% "based on 132 licensed beds." However, while licensed for 132 beds, they only advertise to have a 115-bed skilled nursing center. This would mean the assumed operational occupancy was 76%.

NHC HealthCare Charleston's private and spacious campus is home to a 115-bed post-acute 24-hour skilled nursing Health Care Center. We see many individuals who need skilled nursing care after a stroke, joint replacement surgery, a cardiac procedure or a serious illness.

OPPOSITION FROM NHC CHARLESTON

- c. NHC Charleston's letter was dated March 26th and references Spring Street's affiliated operation of South Bay "currently operating at approximately 50% capacity". However, this is an incorrect statement, as South Bay was operating at 60% capacity as of March 26th. Moreover, South Bay is currently (as of May 21st) operating at 88% capacity.
- We have seen similar occupancy increases in our other affiliated operated nursing homes.
- This provides further evidence of the bounce back we are seeing for nursing home occupancy.

OPPOSITION FROM NHC CHARLESTON

- d. Spring Street has already commented on the proposed rates as well as the familiarity with the market and offering of competitive salaries. Spring Street is confident in the rates and salaries proposed.
- Spring Street again wants to reiterate the proposed budget, revenues, and operating costs found in the Application adequately and accurately project the Spring Street project in its entirety. The projections are reasonable and based upon accepted accounting procedures.

DIFFERENCE FROM OTHER OFFERINGS

- Bishop Gadsden and Lutheran Homes are both non-profit, faith-based continuing care retirement communities (CCRC). It is a South Carolina requirement that the CCRC contract “provide board or lodging together with nursing, medical, or other health-related services”. In our experience of operating CCRC’s, most residents transition through the continuum of care (independent living – assisted living/memory support – nursing).
- NHC Charleston is strictly a nursing home and does not offer any additional healthcare options (i.e., memory care or assisted living).

DIFFERENCE FROM OTHER OFFERINGS

- Spring Street’s project is proposing to include memory care, assisted living, and skilled nursing. This project is different from Bishop Gadsden and Lutheran Homes since it does not include the independent living aspect. Our residents will be direct admits, whereas many CCRC residents are independent living transitioned residents.
- This project is different from NHC Charleston in that it offers additional levels of care in the form of assisted living and memory care.
- These distinctions are important, as our community may attract a different type of resident than to the services currently offered at these other communities.
- In fact, the only community in Charleston that would constitute an apples-to-apples contender would be Wellmore of Daniel Island. Spring Street will meet a need not currently provided.

CONCLUSION

- Spring Street has displayed in the CON Application as well as in this staff project review the compliance with the South Carolina Department of Health and Environmental Control Regulation No. 61-15, "Certificate of Need for Health Facilities and Services". This application fully satisfies the stipulated criteria for this type of project and is fully consistent with the 2020 South Carolina Health Plan.
- Bishop Gadsden, Lutheran Homes (Franke at Seaside), and NHC Charleston's opposition to Spring Street's CON feels like anticompetitive practices to minimize nursing care access. Spring Street's CON will help meet the large current need of nursing care in Charleston County.

ATTACHMENT I



March 9, 2021

Laura Roberts, RN, MS, APRN
Director of Certificate of Need Projects
S.C. Department of Health & Environmental Control
2000 Blvd. 3rd Floor
Columbia, SC 29202

RE: Spring Street Health Center - Nursing Home

Dear Ms. Roberts:

I am a physician practicing in Charleston County and as the Chief Physician Officer for Spring Street Health Center, I am writing this letter in support of the Certificate of Need application submitted by Spring Street Health Center (SSHC) for its existing 72 bed nursing home at 1300 Lakeside Charleston, Spring Street's certificate will create additional long-term resident services and enhance care.

With the need for growth in Charleston County and the overall aging of the population in the county of Charleston, SSCHC has identified a need for additional public nursing home beds in the county. Spring Street's certificate will create and enhance long-term care services and enhance care.

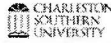
Please let your office or the CON application for 22 beds at Spring Street Health Center be approved. I will support you in any way I can in Charleston. If you have any other questions, please let me know.

Sincerely,

Dr. M. Franke
Chief Physician Officer
Spring Street Health Center
1300 Lakeside
Charleston, SC 29405
2021-03-09



ATTACHMENT 2



OFFICE OF THE PRESIDENT

April 14, 2021

Lisa Esham, MD, MPH
Director, Certificate of Need Program
111 Department of Health & Environmental Control
2000 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

Dear Ms. Esham:

With this letter, I am expressing my support for the Certificate of Need application submitted by Spring Street Health Services, LLC for addition of 25 beds during Phase 2 of the renovation of Charleston Spring Street - a community-wide health services project who serves our most vulnerable residents.

With the long-term growth in Charleston County and the overall aging of the population in the county, it is vital that we have additional public nursing home beds in the county. Spring Street is a well-established and highly respected provider of long-term care services. Additionally, Spring Street Health Center has the experience to provide unique medical and behavioral health services with a strong commitment to the aging population.

I encourage your approval of the COC application for 25 public nursing home beds. If you have any other information, please let me know.

Sincerely,

David J. Conkin, A/E
President
Charleston Southern University

Charleston Southern University
1000 Charleston College Lane, Columbia, SC 29201
803.732.2000 | www.charleston.edu

ATTACHMENT 3



April 14, 2021

Lisa Esham, MD, MPH
Director, Certificate of Need Program
111 Department of Health & Environmental Control
2000 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

Dear Ms. Esham:

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I encourage your approval of the COC application for 25 public nursing home beds. If you have any other information, please let me know.

Sincerely,

David J. Conkin, A/E
President
Charleston Southern University

April 14, 2021

Lisa Esham, MD, MPH
Director, Certificate of Need Program
111 Department of Health & Environmental Control
2000 Bull Street
Columbia, SC 29201

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I encourage your approval of the COC application for 25 public nursing home beds. If you have any other information, please let me know.

Sincerely,

David J. Conkin, A/E
President
Charleston Southern University

cc: [Redacted]

Date: [Redacted]



Department of Health & Environmental Control
111 Department of Health & Environmental Control
2000 Bull Street
Columbia, SC 29201
803.732.2000 | www.dhec.sc.gov

April 14, 2021

Lisa Esham, MD, MPH
Director, Certificate of Need Program
111 Department of Health & Environmental Control
2000 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

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I encourage your approval of the COC application for 25 public nursing home beds. If you have any other information, please let me know.

Sincerely,

David J. Conkin, A/E
President
Charleston Southern University

cc: [Redacted]

Date: [Redacted]

BISHOP GADSDEN

Project Review Meeting
Spring Street Health Center
(CON Application #2827)
May 24, 2021

Opposition Overview

Bishop Gadsden opposes Spring Street Senior Housing OPCO, LLC's (Spring Street) (A/K/A Liberty Health) Certificate of Need (CON) application to construct a nursing facility in Charleston.

➤ Bishop Gadsden is a 100-bed nursing facility located just five miles from the proposed Spring Street Health Center.

DHEC should deny the CON application because Spring Street failed to completely and sufficiently address the Project Review Criteria (PRC) of **Reg. 61-15 Certification of Need for Health Facilities**.

- Spring Street did not:
 - Properly document and demonstrate need;
 - Respond to the current 2020 SHP CON Projections and Standards for Nursing Facilities;
 - Meet required financial and staffing-related criteria;
 - Develop relationships and support throughout the community;
 - Produce complete CON application; and
 - Meet numerous regulations and review criteria.

Project Review Criteria

- The Deemed Complete letter, dated March 11, 2021, outlined the four most important project review criteria:
 - a. Community Need Documentation
 - b. Distribution (Accessibility)
 - c. Staff Resources
 - d. Record of the Applicant
- Spring Street failed to comply with all four of these review criteria.
- The proposed CON application for a 23-bed nursing facility should be denied.

Failure to Respond to Current CON
Projections & Standards
(2020 State Health Plan)



Failure to Respond to Current CON Projections & Standards: 2020 State Health Plan

- ❑ On pages 15-16 of the CON application, Spring Street provides brief responses to what it purports to be “Current SC Health Plan Standards for Nursing Home Services.”
 - However, the three standards listed by the applicant are not from the current 2020 State Health Plan.
 - They are the standards from the 2018-2019 State Health Plan.
- ❑ Failure to respond to the correct CON review standards from the 2020 State Health Plans renders the Spring Street application incomplete.
- ❑ Clearly, the applicant lacks knowledge of CON rules and review processes, as well as the local market which it proposes to serve.

Summary of Failure to Comply with SC 61-15

SECTION 802. CRITERIA FOR PROJECT REVIEW

SC 61-15

Criteria	Reasoning
Community Need Documentation	Failure to demonstrate need; Exclusion of essential information and documentation.
Distribution (Accessibility)	Failure to assess existing providers/services/capacity.
Acceptability	Failure to demonstrate support of affected persons; Exclusion of cooperative agreements.
Projected Revenues and Expenses	Question concerning accuracy/credibility of financials due to lack of need methodologies and market assessment; Questionable average charge per day; Low and omitted operating expenses.
Beginning Cash Flow	Lack of documentation regarding availability of resources/funding; Question concerning accuracy/credibility of financials.
Net Income	Question concerning accuracy/credibility of financials.

SC 61-15

Criteria	Reasoning
Record of Applicant/Ability to Complete	Failure to provide sufficient details about applicant to determine success of existing facilities; Failure to demonstrate history of quality of care.
Financial Feasibility	Question concerning accuracy/credibility of financials reduce feasibility.
Cost Containment	Failure to demonstrate alternative most feasible; No discussion of costs/charges/impact.
Efficiency	Failure to demonstrate that services not duplicated, shared services promoted and economies of scale/size fostered.
Staff Resources	Failure to provide a plan for recruitment of staff and physicians; Staffing shortages could result in potential adverse impact as staff members are recruited away from existing facilities.
Adverse Effects on Other Facilities	Staffing shortages could result in potential adverse impact as staff members are recruited away from existing facilities.
Medically Underserved Groups	Spring Street does not plan to serve low income patients in any meaningful capacity; the applicant projects very little indigent/charity care.

Failure to Document Community Need

SECTION 802. CRITERIA FOR PROJECT REVIEW (2.)

Failure to Document Need: General Need

- Spring Street failed to address points required *within Part B – Question 11*, relying only on the State Health Plan’s need and failing to:
 - Provide a detailed description of what the proposed project includes (types of services, etc.).
 - Document need within the target population (the county) per the Plan.
 - No data is included other than Charleston County population.
 - Discuss existing facilities and services within the service area.
 - Existing market providers, services offered and statistical data are essential to documentation of need.
 - It is impossible to determine whether or not the proposed project will unnecessarily duplicate existing entities and/or services.
 - Provide evidence that the project will not **unnecessarily duplicate** existing entities and services.
 - Exclusion of detailed project description, failure to document the specific target patient population, and lack of discussion of existing providers makes it impossible to determine whether or not the proposed project will unnecessarily duplicate existing entities and/or services in the service area.
 - Include sufficient detail or assumptions related to need methodologies and projected utilization.
 - Proper market assessment, including analysis of market data beyond population projections, must be conducted in order to develop credible need methodologies and reasonable utilization projections.

Failure to Document Need: Bed Need

- Spring Street does not provide any analysis related to the need for its proposed project, or the justification for its proposed 23 beds. Instead, Spring Street relies upon the projected bed need in the 2020 State Health Plan, which is not entirely applicable to the population Spring Street proposes to serve.
 - Specifically, the patient population Spring Street proposes to serve (primarily Medicare SNF patients) is sufficiently served in the market, with existing providers having available capacity.
- The mere existence of a calculated bed need in an area does not directly imply need for a specific project. The burden is on the applicant to show why its project is needed or how it will serve an unmet need in the target area.
- The lack of data or analysis included in the Spring Street application results in failure to develop a credible need argument that would satisfy the community need review criteria.

Failure to Document Need: Bed Need

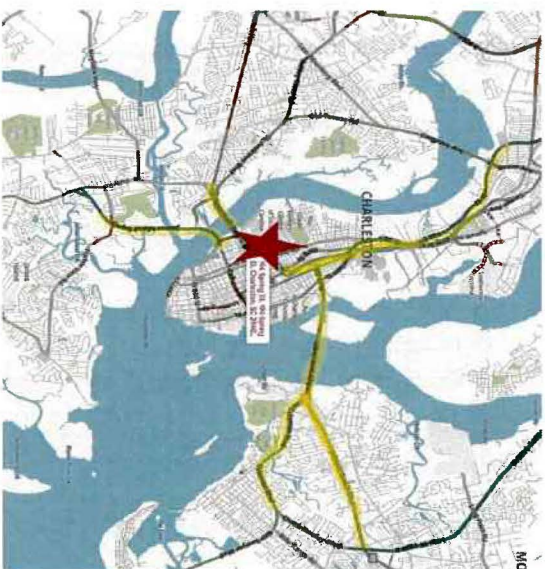
- Rather than attempt to show a need for the population it proposes to serve, Spring Street simply relies on the calculated bed need for Charleston County. However, this approach falls short of the requirements of B.11, which states:

“Demonstrate that the proposed project is needed or projected as necessary to meet an identified need of the public. This shall address at a minimum: identification of the target population; the degree of unmet need; projected utilization of the proposed facility or service; utilization of existing facilities and services; past utilization of existing similar services within the facility; and justification that the proposed project will not unnecessarily duplicate existing entities...” (Emphasis Added)

- Spring Street makes no mention of any of the 13 existing nursing facilities in Charleston County.

Failure to Document Need: Proximity to Population

- The target population per Spring Street CON is the County Of Charleston
- Charleston County is 1,358 square miles (916 square miles of land and 442 square miles of water)
- The largest county in South Carolina based on land area
- Spring Street is located on the peninsula on an extremely busy thoroughfare
 - The only access to the site is via the interstate or bridges
 - The area is highly congested
 - The area is prone to extensive flooding
- This location is not easily accessible for the vast majority of the residents of Charleston County, meaning that Spring Street's identification of all of Charleston County as its target population is unreasonable.
- Spring Street does not address parking for staff, residents, families, visitors or vendors, etc. (this area of Charleston has an inadequate supply of parking) and zoning requirements in Charleston mandate parking by use. While Spring Street is properly zoned for use, there is no mention of its meeting the parking requirements or having an exemption.
- The target population is not clearly identified as to size, location, distribution and socioeconomic status. Spring Street fails to provide detail associated with its proposed project and instead just relies on calculated bed need for Charleston County.**



Failure to Document Need: Utilization of Existing Providers

- There are 1,483 nursing facility beds in Charleston County.
 - A number of exiting facilities currently service the specific population targeted by the Spring Street CON.
- A number of providers have excess capacity to accommodate additional admissions as needed.
- In 2018 (most recent JAR data), there were at least 210 beds available within existing facilities that reported.
 - 4 facilities with 283 total beds did not report JARS in 2018.
- Specifically, Bishop Gadsden is approved to operate 100 nursing facility beds (approved expansion and new facility through SC-19-23 on April 10, 2019). Full project expected to be complete March 2022.
- Additionally, a number of existing providers have also expressed opposition to the proposed project, based on lack of need, unnecessary duplication of services and adverse impact.



Distribution (Accessibility)

SECTION 802. CRITERIA FOR PROJECT REVIEW (3.)

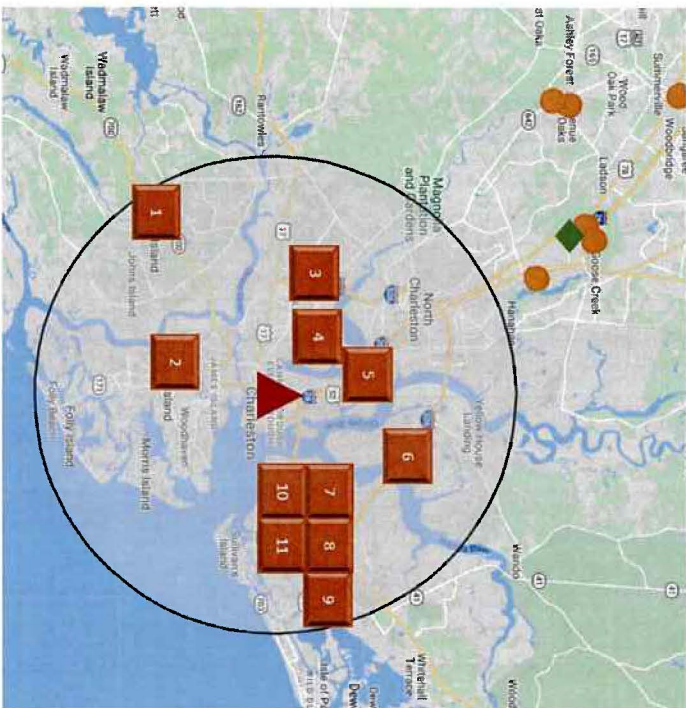
Distribution (Accessibility): Limited Patient Population

- Spring Street proposes to only serve private pay and Medicare patients and states explicitly that Medicaid patients will not be served.
 - Per the 2020 State Health Plan, “the Medicaid program pays for approximately 65% of all nursing facility residents.”
 - Since the majority of nursing home residents are covered by the Medicaid program, excluding this patient population notably limits the potential patient population Spring Street intends to serve.
- Spring Street does not even attempt to discuss distribution or accessibility of services, with the application containing no mention of the 13 existing nursing facilities in Charleston County or any information related to the types of patients served by these facilities.
- In the absence of a comprehensive need assessment, demonstration of community need or evidence that existing providers are not meeting the needs of the community, Spring Street fails to comply with a number of regulations and standards.

Distribution (Accessibility): Duplication of Services

- There are currently 11 established nursing facilities within a 10-mile radius of the Spring Street project
- The current providers represent 1,184 beds and are geographically dispersed to serve the population
- Many of these facilities has excess capacity to serve the surrounding population
-  Represents current nursing facilities in a 10-mile radius of proposed site
-  Represents proposed site at 194 Spring Street

The close proximity of numerous providers to the proposed site clearly demonstrates the Spring Street project is a duplication of services.



Distribution (Accessibility): Duplication of Services

□ There are an additional six existing facilities and one facility in advanced planning stages that represent 792 additional beds within a 20 mile radius of the Spring Street project.

➤ It would be premature to approve additional nursing facility capacity in the area.

■ Represents current nursing facilities in a 20-mile radius of proposed site

▲ Represents proposed site at 194 Spring Street

◆ Represents nursing facility currently in planning (North Charleston Post-Acute)

The close proximity of numerous providers that are not yet operational clearly demonstrates the Spring Street project is a duplication of services.



Staff Resources

Section 802. Criteria for Project Review (20.)

Staffing Resources

- The applicant will need experienced, qualified staff for care of the targeted population
 - Potential to adversely impact existing care providers as Spring Street’s recruitment will draw highly qualified staff from existing care providers.
- Charleston Regional Business Journal* (June 26th) details significant challenges currently facing the region for recruitment of cooks, wait staff, and utility/dishwashers and qualified medical staff.
- South Carolina is experiencing a critical shortage of nurses and it ranked fourth in the United States with greatest forecasted deficit of qualified nurses.
- The 2021 Skilled Nursing Outlook Report states staffing challenges as the top non-Covid challenge to nursing facilities in 2021. A direct quote from this reports states “Pre-pandemic, post-pandemic, it makes no difference; Staffing remains a top challenge for the skilled nursing industry heading into 2021.”

Manpower Budget

- The manpower budget appears to be for all of the business operations included in the building and does not break out the staffing for the skilled beds from the other licensed beds in the facility.
 - Staff working in a SNF should have a different clinical skill set and most likely will cost more.
- The CON information is inadequate to demonstrate proper staffing for 23 skilled nursing beds.
 - Low numbers of licensed nursing staff.
- The Spring Street Project forecasts annual salary increases of just 2% per year. According to the living wage MIT study the living wage for Charleston County increased to \$16.23 as of February 2021. This is approximately a 30% increase since the 2020 study. This living wage far outpaces projected staffing costs/salaries for this project.
- Staffing compensation does not appear to be in a competitive range in the service area.
- Any omissions or increases in staff salaries and benefits from the financial projections would have a negative effect on net income and call into question the financial feasibility of the proposed project.

Manpower Budget

- Spring Street does not provide evidence of on-going clinical training.
- Spring Street does not provide evidence of intent to work with the local high school, tech schools or colleges to attract and provide on-going training.

Due to the nursing shortage in Charleston County, Spring Street will likely not comply with Section 802 (23) Adverse Effects on Other Facilities, which states:

“b. the staffing of the proposed service should be provided without unnecessarily depleting the staff of existing facilities or services creating an excessive rise in staffing costs due to increased competition.”

Record of the Applicant

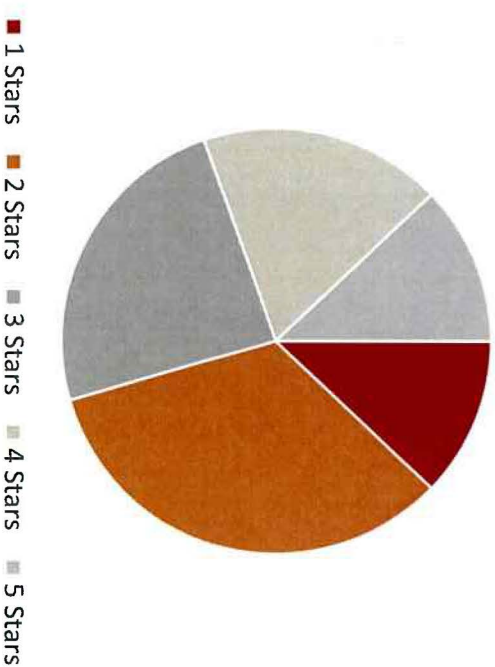
SECTION 802. CRITERIA FOR PROJECT REVIEW (13.)

Staffing Resources

- CMS provides quality ratings for nursing facilities as part of its Nursing Home Compare tool.
- Liberty Senior Living operates 15 facilities that are 1 or 2 Stars as rated by CMS

Average Rating	2.85
1 Stars	4
2 Stars	11
3 Stars	8
4 Stars	6
5 Stars	4

Liberty Senior Living Star Rating Distribution



Financial

SECTION 802. CRITERIA FOR PROJECT REVIEW 5,6,7,8,9,15,23

Financial

- Spring Street is using a rate of \$542.00/day for rehab and a blended rate of \$420.00/day for private pay. **These appear to be unrealistic projections.**
- The Spring Street project indicates 70% of annual revenue from Medicare which is contrary to trends of increasing Medicare Replacement plans. This is an aggressive patient mix and is not comparable to other facilities in the surrounding area.
 - The time delay associated with Medicare certification is not reflected in the pro forma.
- Spring Street is projecting a stabilized occupancy of 91%--(55% in year 1)
 - This is contrary to occupancy trends within Charleston County and within the greater industry, which are declining.
 - This level of utilization would make Spring Street one of the most highly utilized nursing facilities in Charleston County, which is unrealistic given the applicant's lack of experience of provision of this level of care in South Carolina.
- Overstated revenue and higher than market occupancy rates support that the actual revenue may be less than the forecasted revenues, thus calling into question the financial feasibility of the proposed project. Spring Street does not indicate any other sources of revenues except Medicare and private pay.

Financial

- Several omissions and questions regarding the financially projections render them unreliable.
 - Fair Market Value Rent is omitted in the operating costs
 - The lease is \$28.23 per square foot for skilled nursing space—the average doctor office space in Charleston is greater without FFE included.
 - The lease is a net lease (lessee pays a portion of taxes, insurance fees, maintenance).
- Spring Street allocates the Project Budget based on the square footage of each level of care.
 - A SNF requires higher building codes/cost than Assisted Living beds. A higher cost per square foot should be allocated to the SNF.
- Insurance Costs (liability, property and casualty, automobile, wind and hail, and flood) are not included in the operating costs.
- Spring Street does not identify what expenses the Management fee covers (if any).

Other Financial Questions

- The following normal operating expenses are not clearly identified:
 - Malpractice Insurance
 - Technology Expense
 - Advertising
 - Marketing
 - Electric
 - Water/Sewer
 - Cable/Internet
 - Security
 - Clinical Training/Education
 - Licensure Fees
 - Appropriate Depreciation
- Spring Street states it will provide transportation services, but it does not address purchasing of vehicles, lease payments of vehicles, maintenance, insurance, property taxes, depreciation, or any transportation expenses.

Failure to Demonstrate Provisions for Access/Indigent Care

SECTION 802 CRITERIA FOR PROJECT REVIEW (31.)

Indigent Care Support

Spring Street failed to provide historical performance from other facilities in Spring Street's consolidated group for evidence of adequate provision of indigent care.

The indigent care plan outlined in the application would most likely provide care for less than 5 residents a year:

- Budgeted charity care of \$11,756 year 1, \$20,064 year 2 and \$20,775 year 3 is depicted in the CON application. The net revenue per patient day is \$348 year 1, \$351 year 2, and \$358 year 3. This equates to a total of 33 indigent care days year 1, 57 days year 2 and 56 days year 3.
- The estimated population of Charleston County age 65 and with an income level below \$50,000 is **20,610** in 2020.
- With the forecasted population growth depicted in Spring Street's application of 17.89% by the year 2025, it should be assumed that the population of the income level \$50,000 and below in Charleston County will increase to **24,300** residents.

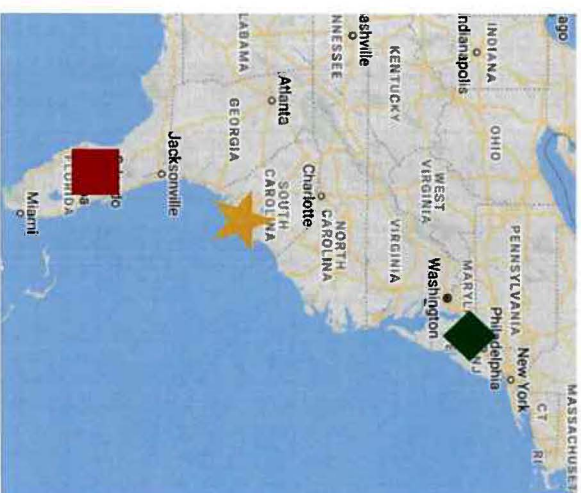
Spring Street does not demonstrate commitment to support indigent and low-income residents of the Charleston community as required.




Lack of Evidence of Community Support *Acceptability*

SECTION 802. CRITERIA FOR PROJECT REVIEW (4.)

Lack of Community Support/Acceptability

- Spring Street Health Center Corporate Headquarters is located in Florida and it is a Delaware LLC.
- The majority of Liberty's facilities are outside the state of SC.
- 40% of the facilities Spring Street states will transfer patients to the Spring Street location (pg. 12 of the CON application) have a skilled nursing facility attached to their Assisted Living and Memory Care facilities and most likely will not discharge to Spring Street.
 - Opponents have confirmed the fact that they will not refer to Spring Street.
- The Medical University of South Carolina transfer agreement letter states "we will *consider* entering into a transfer agreement..." and is not a support letter.
- The two letters from local physicians and the mayor state a 25 bed facility. However, this is a 21-room facility with two double occupancy rooms, totaling 23 beds.



-  Spring Street Site
-  Corporate Headquarters
-  LLC Registration State

Lack of Community Support/Acceptability

- Existing providers have expressed opposition to the proposed project, including:
 - Bishop Gadsden Episcopal Retirement Community (100 Beds)
 - NHC HealthCare Charleston (132 Beds)
 - Lutheran Homes of South Carolina (Franke Health Care Center – 44 Beds)
- Failure to address and document community relationships and support within the community:
 - Cooperative agreements – Extremely important for this patient population.
 - Access – Specific referral facilities/agencies were not included in letters of support.
 - Community endorsement – Documentation such as letters of support was excluded.
- Entire application based solely on existence of State Health Plan need.
- Lack of letters of support, as well as numerous opposition letters from existing providers confirms that there is no need for the project and it will result in an unnecessary duplication of services.

Conclusion

- ❑ In summary, DHEC should deny the CON application because Spring Street did not:
 - Properly document and demonstrate need;
 - Respond to the current 2020 SHP CON Projections and Standards for Nursing Facilities;
 - Meet required financial and staffing-related criteria;
 - Develop relationships and support throughout the community;
 - Produce complete CON application; and
 - Meet numerous regulations and review criteria.

NHC HealthCare, Charleston

Opposition to Project #2827

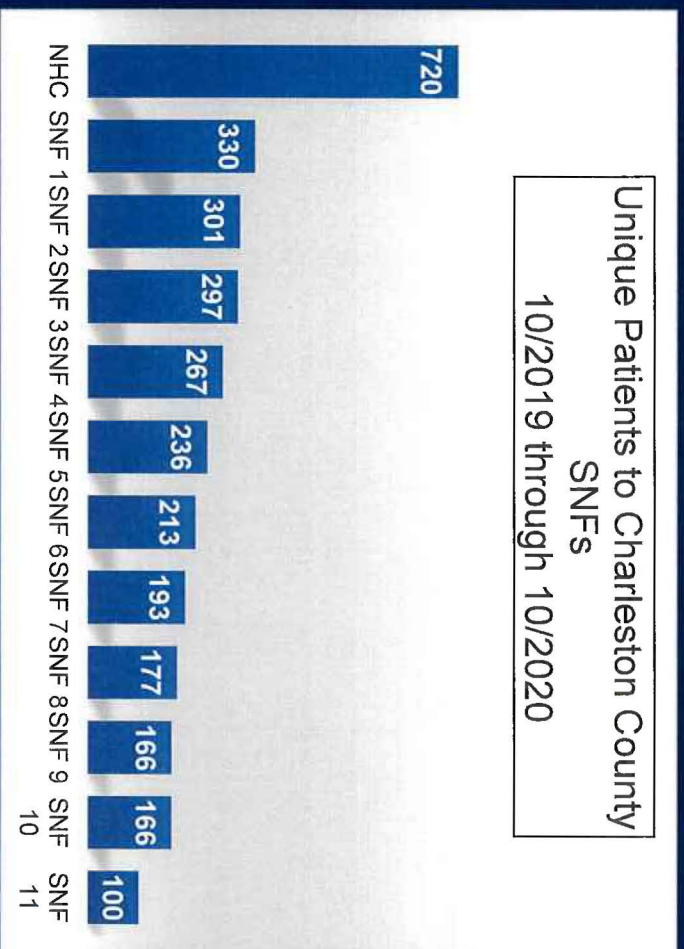
Spring Street Senior Housing OPCO, LLC d/b/a

Spring Street Health Center



NHC HealthCare, One of Charleston's Premier Skilled Nursing Facilities

- 132 Bed Medicare/Managed Care/Private Pay Skilled Nursing Facility located in the Heart of Charleston, SC
- Owned and Operated by National HealthCare Corp.
- CMS Five Star Rated
 - CMS Health Inspection 5 Stars
 - Numerous Zero Deficiency Surveys
 - Ranked 6th out of 186 centers in South Carolina
- "Best Short-Term Rehabilitation" by U.S. News & World Report 2020-2021
- MUSC Health Alliance Preferred SNF Provider – chosen based on NHC's quality and outcomes
- Charleston County's Preferred Provider



Community Need Documentation

- SC State Health Plan Need Projection vs Charleston Market
 - Health Plan Projected need vs Reality
 - LTC Medicaid versus Post-Acute SNF
 - No access to Medicaid Permit Days
- Current and/or projected utilization should be sufficient to justify the expansion or implementation of the proposed service.



Community Need Documentatio

- Increase in Home Health and Home and Community Based services
- No evidence of hospitals having difficulty finding placement for post-acute, Medicare and private-pay SNF patients



Accessibility

- Geographic Access
 - Flooding
 - Charleston-sc.gov - "During times of moderate to heavy rainfall that fall within a few hours of high tide, the Crosstown becomes impassable to vehicles, oftentimes for many hours, cutting off access to vital entities such as:
 - 2 Fire Stations, 3 Major Area Hospitals Including the VA Hospital and MUSC's Level 1 Trauma Center, 4 Area Schools, City of Charleston Police Station Headquarters, National Guard Center, U.S. Army Corps of Engineers Headquarters
 - Parking
 - Expensive and Limited
- Medically Underserved
- Indigent Care
 - NHC Charleston Indigent Care \$637,682 or 4.8%



Adverse Impact on Other Facilities

- Extreme Staffing Challenges
 - Charleston Indeed Job Ads – May 21, 2021
 - RN Positions: 500+
 - LPN Positions: 100+
 - CNA Positions: 200+
 - Numerous Charleston County SNFs utilizing agency staffing
 - 5 of 13 utilized agency nursing Q4 of 2020
- NHC Partnered with Charleston County Schools



Adverse Impact on Other Facilities

- Occupancy Rates
- Financial Impact
 - 1 less Medicare patient = -\$200,000 annually



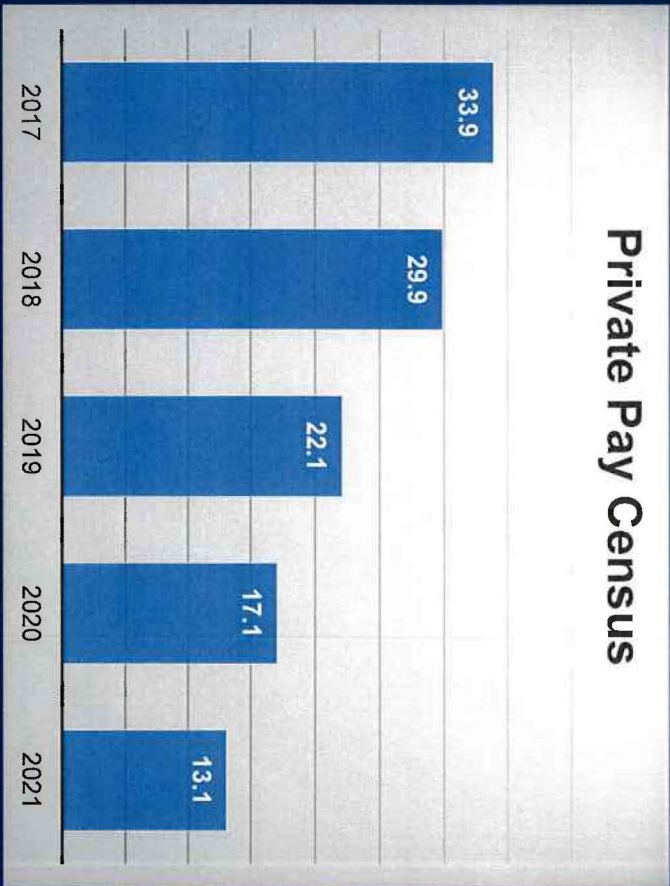
Financial Feasibility

- Inflated Revenue (Medicare and Private Pay)
- Wage Inflation 2% vs 3-5% in NHC market
- No Projections of Medicare Advantage or Managed Care
- NOI – Applicant projects \$81.55ppd.
 - NHC Charleston 2019: <\$4.76>
 - NHC Charleston 2020: <\$5.44> with CaresAct Funding
 - NHC Charleston 2020: <\$31.74> without CaresAct Funding

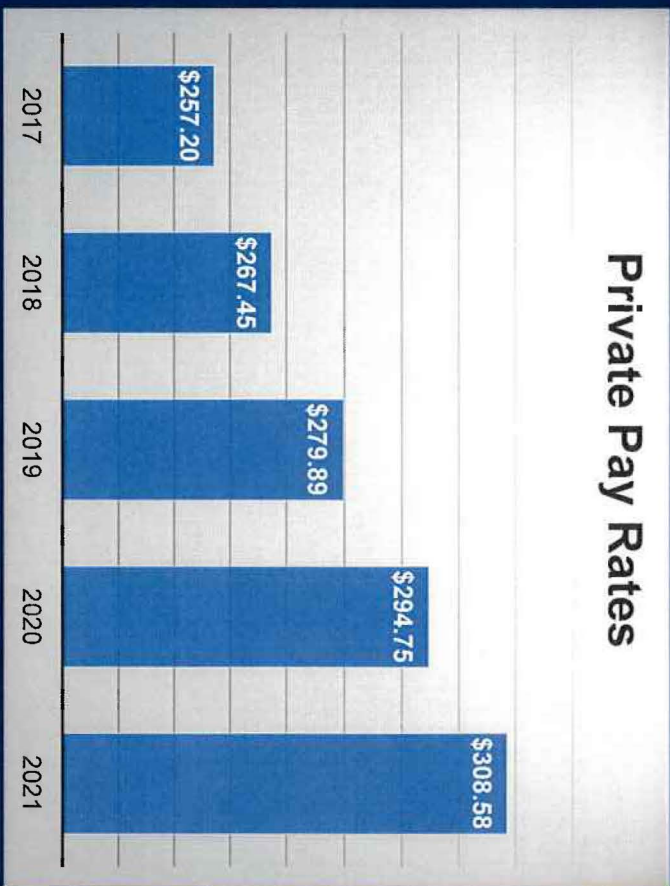


Financial Feasibility

Private Pay Census



Private Pay Rates



Charleston Market / Industry

- Nursing Homes operating at less than 75% occupancy
- Medically Underserved County
- Impact of COVID



Charleston County Has Supply

Nursing Facility	Licensed Beds	NHSN Reported Occupancy	Vacant Beds
NHC HealthCare, Charleston	132	72.7%	36
Bishop Gadsden	50	82.0%	9
Franke at Seaside	44	77.3%	10
Savannah Grace	48	47.9%	25
Shem Creek (owned by applicant)	40	55.0%	18
Total SNFs without Medicaid	314	68.8%	98
SNFs with Medicaid Beds	1184	76.3%	281
TOTAL	1498	74.7%	379

*Source = NHSN Weekly Data Reporting, 2021 Q1 Data



Spring Street Health Center DOES NOT Meet Project Review Criteria

Project Review Criteria	NOT MET
<ul style="list-style-type: none"> Community Need Documentation 	X
<ul style="list-style-type: none"> Distribution (Accessibility) 	X
<ul style="list-style-type: none"> Staff Resources 	X
<ul style="list-style-type: none"> Adverse Effects on Other Facilities 	X
<ul style="list-style-type: none"> Medically Underserved Groups 	X
<ul style="list-style-type: none"> Financial Feasibility 	X



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w: lutheranhomessc.org

Talking Points for the CON Rebuttal of CON application # 2827, Spring Street
Health Center Spring (May 24, 2021)

- Our organization is not anti-competitive, but there is a saturation of skilled nursing homes in South Carolina communities especially in the Charleston, Lowcountry Sector.
- The data notes that Medicare bed days continue to decline and with the new PDPM reimbursement system, we expect significant declines in federal reimbursement this year which has been publicly proclaimed by HHS and CMMS.
- Labor in the skilled nursing arena is at a premium and providers in the local market are struggling to meet current staffing needs as demonstrated by facilities and local hospitals offering aggressive sign on bonuses to try to recruit a diminishing workforce. Further; there is an extreme shortage of qualified applicants for skilled nursing positions and the pandemic has only exacerbated this trend that has been growing over the last three plus years. The applicant has not demonstrated a plan for the sufficient recruitment of qualified staff that is realistic given the shortage of supply of qualified staff in the Charleston market. Any recruitment plan will involve the potential solicitation and recruitment of staff from existing facilities and further dilute the existing labor pool to the detriment of patient care for existing providers in their target markets.
- With no new Medicaid Permit day availability, the applicant will have to rely on rehabilitation and private pay residents and as noted existing facilities have more than enough capacity to meet the current need for these services and the current pandemic has only exacerbated this situation with providers having excess capacity with no quick recovery in site.
- The pandemic of the past year has further eroded the skilled, rehabilitation census of long-term care in the State which has resulted in closures of nursing facilities such as those of the Five Star Senior Living Group in low country.

<https://skillednursingnews.com/2021/04/five-star-senior-living-to-close-or-transition-skilled-nursing-assets-in-industry-exit/>
- Finally, does it really make sense to place skilled nursing beds on the fifth floor of any building when these are those most vulnerable and immobile types of patients that need to be evacuated quickly in the case of an emergency? Common sense would say not.

It is for these reasons and those noted by our counterparts at this hearing that we feel denial of this application is in the best interests of the DHEC and people of the great State of South Carolina.

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BURR.COM

May 24, 2021

VIA EMAIL (murdocmp@dhec.sc.gov)

Margaret P. Murdock
Director, Certificate of Need Program
DHEC
301 Gervais Street
Columbia, SC 29201

Jennifer J. Hyman
Project Coordinator, CON Program
DHEC
301 Gervais St.
Columbia, S.C. 29201

Re: Spring Street Health Center CON application for 23 skilled nursing beds--DHEC No. 2827 (Project).

Dear Maggie and Jennifer:

On behalf of our client, Bishop Gadsden Retirement Center, I am raising the following legal issues for your consideration in reviewing the above referenced project. Spring Street Senior Housing OPCO, LLC (Spring Street) has filed a CON to operate a 23-bed non-institutional nursing home which is proposed to be a part of the Spring Street Health Center. As Spring Street describes the project, "[in] addition to the 23-bed nursing home, the building [that would house the nursing home] is expected to include 77 assisted living (adult care) beds (including 21 memory care units)."

As the Department is aware, a CON is a prerequisite to undertaking any health care project subject to the State Certificate of Need and Health Care Facility Licensure Act. S. C. Code Ann. § 44-7-120 (the CON Act requires the "issuance of a Certificate of Need before undertaking a project prescribed by this article") and S.C. Code Ann. Reg. 61-15 § 102 (CON Regs.). S.C. Code Ann. § 44-7-160(1) and Reg. 61-15 § 102.1.a require Spring Street to obtain a CON **prior** to beginning construction on a nursing home. CON Reg. 61-15 § 202.2.d requires Spring Street, as the applicant, to give the following assurances as part of the CON application:

(2) That approval by the department of the final drawings and specifications, which will be prepared by an architect and/or engineer legally registered under the laws of the State of South Carolina, will be obtained. ...

(8) That the Department or its authorized representatives may at any time during the course of construction and upon the completion of the project make an on-site inspection of the construction and equipment to check for compliance of the construction in accordance with the application for which the Certificate of Need was issued. ...

(10) That the applicant will notify the Department in writing that the contractual agreement has been completed. For a construction project, the letter shall indicate that a construction contract specifying the beginning and completion dates of the project, has been signed by both parties. For services projects, the letter must indicate that equipment purchase orders with estimated delivery dates have been properly negotiated. ...

(12) That the applicant will provide monthly progress reports and a final completion report which contain the information required by Section 607 of these regulations.

Spring Street gave each of these assurances. See Application, p. 25.

Section 44-7-230(C) provides, in pertinent part: "Prior to any construction authorized by a Certificate of Need, final drawings and specifications prepared by an architect or engineer legally registered under the laws of this State must be submitted to the department for approval." (Emphasis added). In other words, no construction can commence unless it is authorized by a CON and the final drawings and specifications are approved after the CON is issued.

The construction of a nursing home is prescribed by the CON Act and regulated by S.C. Code Ann. Reg. § 61-17. Spring Street does not have a CON and the construction of the nursing home is well under way. See Attachments A and B. This nursing home construction without a CON is a violation of §§ 44-7-120, 44-7-160(1) and Reg. 61-15 § 102.1.a.

S.C. Code Ann. § 44-7-320 provides, in pertinent part: "(A)(1) The Department may deny, suspend or revoke licenses or assess a monetary penalty or both, against a person of facility for: (a) violating a provision of this article or departmental regulations." Reg. 61-15 § 701 provides:

Margaret P. Murdock
Jennifer J. Hyman
May 24, 2021
Page 3

Undertaking any activity requiring certificate of need review, as defined in Section 102 of these regulations, without prior approval of the Department or failing to comply with any of the above stated regulations shall be grounds for the denial, suspension, or revocation of the Certificate of Need, or other penalties, under the provisions of Sections 44-7-320 through 44-7-340 of the Code of Laws of South Carolina, as amended. Any violation of this regulation is subject to provisions set forth in the statute.

On information and belief, Spring Street did not obtain prior approval to begin construction on the nursing home described in the Spring Street application.

In summary, Spring Street is in violation of the CON Act and regulations because it is not in compliance with §§ 44-7-120, 44-7-160(1) and 61-15 § 102.1.a or with Reg. 61-15 §§ 201.2.d (2), (8), (10) and (12) and 701 in that it has not:

- Gotten approval of the final drawings and specifications before it began construction;
- Notified the Division of Health Facilities Construction (DHFC) of the ongoing construction so that they may inspect;
- Notified the Department that the contractual agreement was completed, etc.;
- Provided the Department with monthly progress reports; and
- Obtained prior CON approval to begin construction on the nursing home project.

For this reason and the other reasons outlined in Bishop Gadsden's opposition, the Spring Street Project should be denied. Please do not hesitate to contact me if you have any questions. Thank you for your attention to this matter.

Very truly yours,



M. Elizabeth Crum
Counsel

Enclosures

Cc: Sarah Tipton
Lynne Kerrison

EXHIBIT A

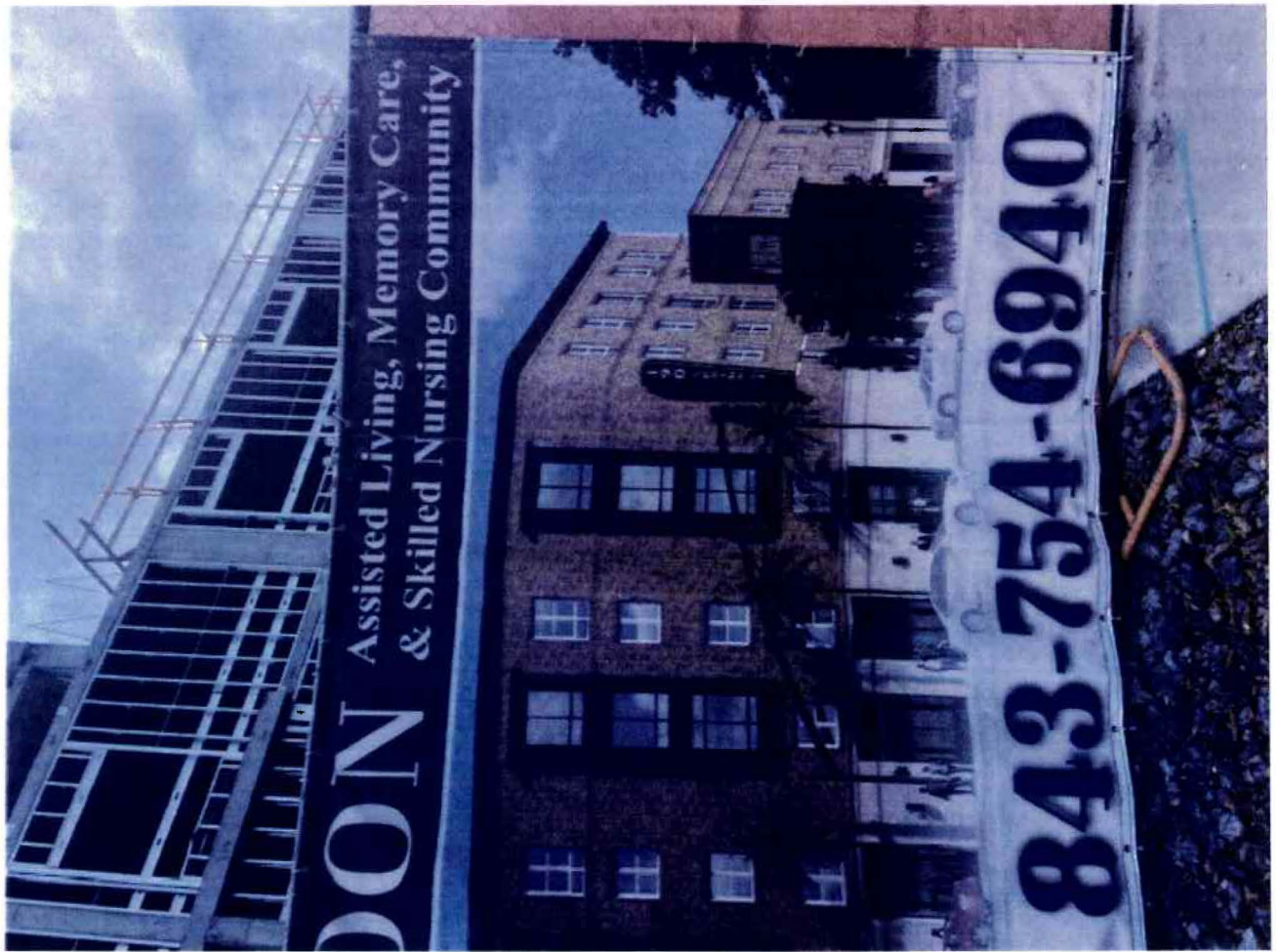






EXHIBIT B



May 27, 2021

VIA ELECTRONIC MAIL
Ms. Maggie P. Murdock
Ms. Jennifer Hyman
Certificate of Need Program
S.C. Dept. of Health & Environmental Control

RE: Spring Street Health Center CON Application; DHEC No. 2827

Dear Maggie and Jennifer:

As you know, affiliates of Providence Group currently operate four skilled nursing facilities in South Carolina, Johns Island Post Acute (Charleston County), Edisto Post Acute (Orangeburg County), Brushy Creek Post Acute (Greenville County), and Greenville Post Acute (Greenville County) (collectively "Providence"). As discussed during the May 24, 2021, staff review, in addition to the 132-bed Johns Island Post Acute, Providence is expected to take ownership and operation of Sandpiper Rehab & Nursing in Mt. Pleasant (176 beds) in 2021, subject to regulatory approval. Therefore, Providence is an affected party.

Providence has grave concern regarding the applicant's failure to follow the Certificate of Need Act and associated regulations. It is clear that project construction is well underway though it has not received CON approval or construction and design approval from the Division of Health Facilities Construction.

In addition to the many concerns discussed at the May 24, 2021 staff review, it is very difficult to understand how a 23 bed SNF is financially feasible in today's health care environment. To be profitable, staffing would need to be extremely lean. In fact, during the staff review, the Liberty representative stated that the applicant would "cross-staff" the skilled nursing and assisted living facilities. This is problematic as the two facilities require different staff, with different competencies. In addition, while the applicant touted its recruitment plan, facilities in the state have utilized all manner of creative and expensive recruiting strategies, but still find it extremely challenging to find qualified staff for the existing nursing homes in the area. Recruiting and staff retention were very difficult for many years leading up to the ongoing pandemic, which has only exacerbated the challenge, and it is unlikely that staffing availability will markedly improve in coming years.

In closing, Providence fully supports the opposition submitted in writing and verbally by Bishop Gadsden, NHC, and Lutheran Homes.

With kindest regards, I am

Sincerely yours,



Laura J. Evans

Cc: Elizabeth Crum, Esq.
Dan Westbrook, Esq.
Wade Mullins, Esq.

Sprint Street Project Review - Providence Ltr

Evans, Laura J. <levans@shumaker.com>

Thu 5/27/2021 2:08 PM

To: lcrum@burr.com <lcrum@burr.com>; Murdock, Margaret P. <murdocmp@dhec.sc.gov>; Hyman, Jennifer J. <HYMANJJ@dhec.sc.gov>; Wicevic, Vito <wicevilm@dhec.sc.gov>; dan.westbrook@nelsonmullins.com <dan.westbrook@nelsonmullins.com>; wmullins@brunerpowell.com <wmullins@brunerpowell.com>
Cc: Burchstead, Michael <mburchstead@burr.com>; Shuler, Ann <AShuler@burr.com>

📎 1 attachments (73 KB)

Providence Ltr Spring Street.pdf;

*** Caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

All- Please see attached.

Laura Johnson Evans, Esquire
Shumaker, Loop & Kendrick, LLP
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843-996-1900 (O)
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Laura J. Evans | Shumaker

Attorney at Law

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From: Crum, Liz [mailto:lcrum@burr.com]

Sent: Wednesday, May 26, 2021 11:16 AM

To: Margaret P. Murdock; Hyman, Jennifer J.; Vito Wicevic; Daniel J. Westbrook (dan.westbrook@nelsonmullins.com); Evans, Laura J.; Wade Mullins

Cc: Burchstead, Michael; Shuler, Ann

Subject: Doc#_45606938_v_1_2021.05.24 as hand delivered Letter to M. Murdock and J. Hyman (Bishop Gadsden)

Ladies and gentlemen, attached is the letter I hand delivered at the Liberty/Spring Street Project Review meeting Monday May 24, 2021. Best, Liz



AL • DE • FL • GA
MS • NC • SC • TN

M. Elizabeth "Liz" Crum • Counsel

1221 Main St., Suite 1800, Columbia, South Carolina 29201
main 803-799-9800 • fax 803-753-3278 • cell 803-331-1185
lcrum@burr.com • www.burr.com

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LIBERTY
Senior Living

2334 S. 41st Street • Wilmington, NC 28403
(910) 815-3122 • FAX: (910) 815-3111

June 1, 2021

Margaret P. Murdock
Director, Certificate of Need Program
Jennifer J. Hyman
Project Coordinator, Certificate of Need Program
S.C. Department of Health and Environmental Control
301 Gervais Street
Columbia, SC 29201

SUBJECT: Response Opposition Submissions at Project Review received by the Certificate of Need Program concerning CON #2827, Spring Street Health Center Application (the "Application")

Dear Ms. Murdock and Ms. Hyman:

On behalf of Spring Street Senior Housing OPCO, LLC (the "Applicant"), I am writing as a follow up and in response to the submissions made by the four existing providers at the May 24th project review meeting concerning our pending CON Application. The CON Program heard opposition from the following organizations:

1. Bishop Gadsden Episcopal Retirement Center
2. Lutheran Homes of South Carolina
3. National Healthcare Corporation - Charleston
4. Johns Island Post Acute

Bishop Gadsden Episcopal Retirement Center

Spring Street has already detailed rebuttals to most of the points raised in the Bishop Gadsden presentation. We would advise the CON program to review the Spring Street documents prepared and submitted previously. Additional comments Spring Street wanted to add include:

- A. Liberty formed a development partnership with Southern CSL Land Investment, LLC ("Southern") to build the Spring Street Health Center community. When Liberty joined, much of the building was already designed by Southern and a previous developer. The plans that were previously designed were institutionalized in nature and did not fit into Liberty's standard approach of bringing an independent feel to the community. Liberty helped revise the drawings, which included enlarging resident rooms and adding common space areas. The plans and floor breakdown were designed and approved with the first floor

having administrative offices and common space; the second and third floors as Assisted Living (AL); and the fourth and fifth as Memory Care (MC).

The Project Plans were submitted to the Department with the intent that the Facility would be operated as a Community Residential Care Facility ("CRCF"). The 5th floor was designed to be compliant with I-1, Condition 2 memory care or I-2, Condition 1 skilled nursing. The Project Plans were reviewed on this basis and granted final approval from Elie Macaron, Jr, Director of Administration for Division of Health Facilities Construction/Office of Fire and Life Safety. We received DHFC Project Plan Approval for a 5-story Community Residential Care Facility. Please find attached that plan approval. That is the basis upon which construction was begun on the Facility. Community Residential Care Facilities ("CRCF") do not require a Certificate of Need. The Applicants were open in our plans in our CON as well as with the Division of Health Facilities Construction ("DHFC"). The Project that is currently under construction is a CRCF facility. The 5th floor was designed in a way that would be compliant for a CRCF as well as skilled nursing. With the building designed to incorporate this potential conversion, there are not any material cost difference to construct to long-term care standards as opposed CRCF standards. In other words, what is currently being constructed is not dependent upon approval of the CON application for skilled nursing. As such, the Applicant is not in violation of the CON Act or any applicable regulations.

B. Bishop Gadsden states Spring Street lists standards not from the current 2020 South Carolina State Health Plan ("SCHP"). However, the standards listed by the applicant are indeed from the current 2020 SCHP. Spring has listed the following certificate of need projections and standards on pages 15-16 of the CON application:

1. *Bed need is calculated on a county basis. Additional beds may be approved in counties with a positive bed need up to the need indicated.*
2. *When a county shows excess beds, additional beds will not be approved, except to allow an individual nursing facility to add some additional beds in order to make more economical nursing units. These additions are envisioned as small increments in order to increase the efficiency of the nursing home. This exception for additional beds will not be approved if it results in a three bed ward. A nursing facility may add up to 16 additional beds per nursing unit to create either 44 or 60 bed nursing units, regardless of the projected bed need for the county. The nursing facility must document how these additional beds will make a more economical unit(s).*
3. *Some Institutional Nursing Facilities are dually licensed, with some beds restricted to residents of the retirement community and the remaining beds are available to the general public. The beds restricted to residents of the retirement community are not eligible to be certified for Medicare or Medicaid. Should such a facility have restricted beds that are inadvertently certified, the facility will be allowed to apply for a Certificate of Need to convert these beds to general nursing home beds, regardless of the projected bed need for that county.*

The Current 2020 South Carolina State Health Plan lists the following certificate of need projections and standards (pg. 103-104 of SCHP):

1. Based on observations of methodologies from other states operating a Certificate of Need regime, and recognizing that potential reliance on long-term skilled nursing services increases with age, bed need is calculated on a county basis using the following ratios:
 - a. 10 beds/1,000 population aged 65-74; and
 - b. 58 beds/1,000 population aged 75 and over
2. For each county, these needs are calculated separately. The individual age-group needs are then added together, and the existing bed count subtracted from that total to determine the deficit or (surplus) of beds.
3. When a county shows surplus beds, additional beds will not be approved, except to allow an individual nursing facility to add some additional beds in order to make more economical nursing units. These additions are envisioned as small increments in order to increase the efficiency of the nursing home. This exception for additional beds will not be approved if it results in a three bed ward. A nursing facility may add up to 16 additional beds per nursing unit to create either 44 or 60 bed nursing units, regardless of the projected bed need for the county. The nursing facility must document how these additional beds will make a more economical unit(s).
4. Some Institutional Nursing Facilities are dually licensed, with some beds restricted to residents of the retirement community and the remaining beds are available to the general public. The beds restricted to residents of the retirement community are not eligible to be certified for Medicare or Medicaid. Should such a facility have restricted beds that are inadvertently certified, the facility will be allowed to apply for a Certificate of Need to convert these beds to general nursing home beds, regardless of the projected bed need for that county.

Item 1 from Spring Street's CON (on page 15) is a summarized version of the items listed in Item 1 and 2 of the 2020 SCHP. Items 2 and 3 from Spring Street's CON (page 15-16) are verbatim listings of those found in item 3 and 4 of those listed in the 2020. There is no difference in the information provided. The analysis performed clearly reflects the Application was applying the Standards for in the 2020 SCHP.

- C. Bishop Gadsden verbally commented that the SCHP does not include the 50 additional beds approved at Bishop Gadsden or the 70 beds approved for North Charleston Post Acute. This was an incorrect statement, as both are included in the 1,483 existing bed inventory for Charleston County. The 2020 SCHP still displayed a bed need of 836 LTC beds.
- D. Spring Street presented the representation from Bishop Gadsden's 2019 CON Application that stated "Bishop Gadsden aims to alleviate the unmet need for skilled nursing and rehabilitative beds in Charleston County. With the current shortage, any plans of other

entities to provide and finance additional long-term care services would be a welcome complement to our proposal.” Bishop Gadsden later commented this additional long-term care service was met with the 70-bed community proposed by North Charleston Post Acute. However, North Charleston Post Acute was approved on December 21, 2017, before Bishop Gadsden even applied for their 50-bed expansion. There have not been any additional Charleston County nursing home CON’s applied for or approved since Bishop Gadsden’s 50-bed expansion. Therefore, Bishop Gadsden has again appeared to contradict themselves. By Bishop Gadsden’s own admission from their 2019 CON Application, Spring Street’s proposal “would be a welcome complement.”

- E. Bishop Gadsden questioned the impact of legislator support letters. However, pursuant to Part C(8) of the Application, “Endorsement from the community that the project is desirable. This may include but is not limited to members of the medical community, citizen's groups, governmental elected officials and other health and social service disciplines in the community.” Spring Street went above and beyond on getting endorsement from the community.

Lutheran Homes of South Carolina

Spring Street has already detailed rebuttals to most of the points raised in the Lutheran Homes presentation. We would advise the CON program to review the Spring Street documents prepared and submitted previously. Additional comments Spring Street wanted to add include:

- A. In a May 6th News & Press Release by The National Investment Center for Seniors Housing & Care (NIC), NIC MAP data powered by NIC MAP Vision show traditional Medicare revenue per patient day was steady at \$555, higher than the projected Medicare rate proposed by Spring Street. The link to this news release can be found in the NHC Charleston section below.

Furthermore, a review of all of Liberty’s skilled nursing managed facilities found an average April 2021 Medicare revenue per patient day of \$550.11, which is also higher than the projected Medicare rate proposed by Spring Street.

Liberty is confident with the revenue projections and payor sources used.

- B. Lutheran Homes has referenced Five Star Senior Living’s transition out of the skilled nursing spectrum as being caused by the pandemic. However, the article they reference confirms this transition was telegraphed back in the summer of 2018. The article details Five Star’s shift toward independent living and active adult properties. Furthermore, our affiliated Shem Creek location has already had active discussion with The Palms (Five Star’s Charleston SNF facility) and transitioned over their LTC SNF residents. We believe this speaks to the quality of care Liberty currently provides – Five Star chose to relocate their residents to our operating facility.

NHC Healthcare Charleston

Spring Street has already detailed rebuttals to most of the points raised in the NHC Charleston presentation. We would advise the CON program to review the Spring Street documents prepared and submitted previously. Additional comments Spring Street wanted to add include:

- A. Shem Creek has not had 18 beds open since late March. At that time utilization was still down throughout the long term care industry as COVID was still active and vaccine rollout was just beginning. We have already presented at Project Review that Shem Creek's occupancy had risen to 88%. We have also confirmed NHC Charleston is only operating as a 115-bed building (instead of the 132-bed capacity). Therefore, their operational occupancy is up to 84%. NHC chose to report the Q1 data instead of its most current up to date occupancy data. This reflects that there is a high likelihood they are seeing what we are seeing – now that the COVID-19 vaccine has been rolled out, nursing homes are seeing increased census to those seen before the pandemic.

Furthermore, in a May 6th News & Press Release by The National Investment Center for Seniors Housing & Care (NIC), the release states “more than four in five operators in senior housing and skilled nursing are reporting an increase in lead volume since the beginning of the year.” Additionally, Beth Burnham Mace (NIC's Chief Economist) is quoted saying “February's NIC MAP data underscores what some skilled nursing facility operators have been saying the past few months: they are starting to see occupancy stabilization.”

That news release can be found here: <https://www.nic.org/news-press/occupancy-at-u-s-skilled-nursing-facilities-shows-signs-of-stabilization/>

Johns Island Post Acute / Providence Group

Based on the comments from Johns Island Post Acute, it does not appear they have reviewed the Application. Spring Street is proposing to include skilled nursing along with assisted living and memory care all in one community. This will be a combination community, not separate facilities. Their statement of “...as the two facilities require different staff” is confusing and presents as if Johns Island Post Acute believes the project is two different facilities. Spring Street believes a combination facility to be a benefit as it relates to staffing as many employees can be cross-utilized for the complete building.

All Opposition – Need Projections

The existing providers have complained that the 2020 SCHP need methodology is inaccurate. However, the CON Act requires the Department to prepare a South Carolina Health Plan, with the advice of the Health Planning Committee, for use in the administration of the Certificate of Need Program. The Health Planning Committee reviews the South Carolina Health Plan and submits it to the Board of Health and Environmental Control for final revision and adoption. The SCHP has been approved by the Health Planning Committee and DHEC after vigorous review and is enforceable and must be followed by the Department.

The process of approval includes a Public Comment Period and the Health Planning Committee conducts Public Hearings across the State which is designed to provide existing providers ample opportunity to comment or raise any concerns regarding the Draft SCHP, including any need methodology or standards contained therein. Spring Street is informed and believes that none of

the existing providers who are opposing our Application and complaining of the bed need methodology contained in the SCHP raised any concern during review process for the current SCHP. Therefore, after careful review from the Health Planning Committee and DHEC to approve the 2020 SCHP, there is no reason to believe the methodology chosen by the State does not accurately depict the bed need in Charleston County.

All Opposition – Staffing Concerns

We have previously detailed that on top of attracting local available staff, our network, along with the prestigious location of Spring Street, will allow the opportunity to attract staff from outside the area who are looking to relocate to a prime location like Charleston, SC.

Additionally, through our affiliation of Shem Creek Health Center (at South Bay at Mount Pleasant), we will establish relationships with area colleges and community colleges to act as a clinical site for their nursing, nurse aide, activities and therapy programs as well as offer to reimburse training costs for staff to further their healthcare education through Liberty's education assistance program. We have already received support from Charleston Southern University and have been in discussion with Trident Technical College. We have previously detailed the support from MUSC.

Additionally, our Shem Creek site is currently pursuing to become a South Carolina Nurse Aide Training Program. We would pursue this Program at Spring Street as well, should the CON be approved. This program would allow Spring Street the opportunity to offer a Nurse Aide Training Program to anyone interested. Once an individual has passed the training program, we would assist them with finding employment. This would be a resource that supports all Charleston County nursing homes, not just Spring Street.

The Spring Street CON Application complies with all of the requirements set forth in the CON Act, the South Carolina Health Plan and the applicable review criteria set forth in SC Reg. 61-15. Therefore, Spring Street is requesting that the Department proceed with issuing a Staff Decision granting the subject CON Application.

Thank you for your attention to this matter.

Best Regards,



Timothy Walsh
Senior Financial Analyst
Liberty Senior Living
TWalsh@libertyseniorliving.com
(910) 332-1982

Plan Approval - DHFC

Facility Information		Audit Information	
Facility License Number:	CRC-2012	Audit Name:	DHFC Project Plan Approval 20140407
Facility Name:	POINSETTE SENIOR LIVING	Type:	L20 Construction Project
Facility Address 1:	194 SPRING ST	End Date:	25 Jun 2019
Permit Type:	HL- Community Residential Care Facility	DHFC Staff Name:	Elie Macaron
Facility City/State/Zip:	CHARLESTON, SC 29403 Charleston		
Phone 1:	843-838-0067		
Email:	GFREEMAN@ASTORIAPROPERTY.COM		

Health Regulation Memorandum

This office has completed a final check of the above referenced project; based on the applicable codes and minimum standards, the construction documents are approved. Elie Macaron, DHEC, Division of Health Facilities Construction (DHFC).

Notice PPA

Plan Approval Information	Plan Approval Data
Division of Health Facilities Construction 2600 Bull St Columbia SC 29201-1708	Report Notice

PROJECT PLAN APPROVAL: This office has completed a final check of the below referenced project; based on the applicable codes and minimum standards, the construction documents are approved.

The examination of the submitted documents does not relieve the Owner, Architect/Engineer, and Contractor, or their representatives from individual or collective responsibility to comply with the applicable codes and regulations. This review is not to be construed as a check of every item in the submitted documents and does not prevent authorities from hereafter requiring corrections of errors in plans or construction.

Please keep this office informed in writing of the start of construction, progress of construction (at each 10% completion point), and to any developments (e.g. addendums, change orders, etc.). Inspections are required for this project.

Please post the Construction Project Information Form(s) in a conspicuous location. If you have any questions concerning construction of your facility, please do not hesitate to contact me at (803) 545-4215.

Project Plan Approval

Plan Approval Information	Plan Approval Data
DHFC Project Number:	582625
Does the Client have their own unique Project Number?	NO

Design Professional (Name, Firm, Address, Contact Info):

mcmillan pazdan smith 121 calhoun st
charleston sc 29401 843 566 0771

Project Information:

New 100 beds with a max of 114
occupants Community Residential Care
Facility 61-84 (5 floors) also approved is
a 5th floor future conversion of crcf to
nursing home with 21 beds.

Record Retention

Plan Approval Information	Plan Approval Data
DHEC 0282 (05/2010) AUDIT - [Records Retention 16327]	Retention

March 9, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

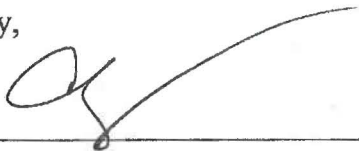
Dear Mr. Eubank:

I am a physician practicing in Charleston County and serve as the Chief Physician Officer for Roper St Francis Healthcare. I am writing this letter in support for the Certificate of Need application submitted by Spring Street Senior Housing OPCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services.

I encourage your approval of this CON application for 23 public nursing home beds and as appropriate, I will refer patients to the nursing home in Charleston. If I can provide any other information, please let me know.

Sincerely,



Christopher McLain MD, FACP
Senior Vice President, Chief Physician Officer
Roper St Francis Healthcare
125 Doughty Street, Suite 760
Charleston, SC 29403
(843)724-2070





Will Haynie
Mayor

April 16, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

Dear Mr. Eubank:

With this letter, I am expressing my support for the Certificate of Need application submitted by Spring Street Senior Housing OPCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services.

I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,

Will Haynie
Mayor
TOWN OF MOUNT PLEASANT

Teddie E. Pryor, Sr. – Chairman
Anna B. Johnson – Vice Chairwoman
Henry E. Darby
Jenny Costa Honeycutt
Kylon Jerome Middleton
C. Brantley Moody
Herbert R. Sass, III
Henry D. Schweers
Robert L. Wehrman



Kristen L. Salisbury, Clerk
(843) 958-4030
1-800-524-7832
FAX (843) 958-4035
E-mail: ksalisbury@charlestoncounty.org

CHARLESTON COUNTY COUNCIL
LONNIE HAMILTON, III PUBLIC SERVICES BUILDING
4045 BRIDGE VIEW DRIVE
CHARLESTON, SOUTH CAROLINA
29405-7464

April 21, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

Dear Mr. Eubank:

With this letter, I am expressing my support for the Certificate of Need application submitted by Spring Street Senior Housing OPCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services.

I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "TSP", is written over the word "Sincerely,".

Teddie L. Pryor, Sr.
Chairman
Charleston County Council
4045 Bridgeview Drive
North Charleston, SC 29405

4/14/2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

Dear Mr. Eubank:

With this letter, I am expressing my support for the Certificate of Need application submitted by Spring Street Senior Housing OPCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services.

I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,



Signature

JASON SAKRAN

Name (printed)

CITY OF CHARLESTON CITY COUNCIL

Organization

Address

City

State

Zip

April 14, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

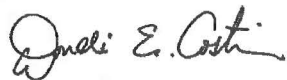
Dear Mr. Eubank:

With this letter, I am expressing my support for the Certificate of Need application submitted by Spring Street Senior Housing OPCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services. Additionally, Spring Street Health Center has the opportunity to provide nursing students at Charleston Southern University with clinical internships and jobs upon graduation.

I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,



Dondi E. Costin, Ph.D.
President
Charleston Southern University

Integrating Faith in Learning, Leading and Serving

EAST COOPER MEDICAL CENTER

Embracing your health. Embracing your life.

June 1, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center -

Dear Mr. Eubank:

With this letter, I am expressing my support for the Certificate of Need application submitted by Spring Street Senior Housing OPCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will also include assisted living and memory care units in addition to the nursing home beds.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services.

I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,



Patrick Downes
Chief Executive Officer

East Cooper Medical Center
2000 Hospital Drive
Mount Pleasant, SC 29464

Spring Street CON Application - Project Review Comments

Wade Mullins <wmullins@brunerpowell.com>

Tue 6/1/2021 2:06 PM

To: Hyman, Jennifer J. <HYMANJJ@dhec.sc.gov>; Murdock, Margaret P. <murdocmp@dhec.sc.gov>

Cc: lcrum@burr.com <lcrum@burr.com>; dan.westbrook@nelsonmullins.com <dan.westbrook@nelsonmullins.com>; Laura Evans <levans@shumaker.com>; fshepke@lhomes.com <fshepke@lhomes.com>

 2 attachments (3 MB)

Spring Street_Health Center_Response to Staff Review Opposition - FINAL with Attachments.pdf; Support letter East Cooper Medical Center (Patrick Downes, CEO).pdf;

***** Caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. *****

Maggie and Jennifer – Attached is Spring Street’s Comments in Response to Project Review Opposition. Also, attached to the Response are the Letters of Support referenced by Spring Street during the Project Review. We are also requesting that the attached Letter of Support from East Cooper Medical Center be added to Spring Street’s Project File. If you have any questions relating to the attached, please let me know. Thanks. Wade

E. Wade Mullins III

BRUNERPOWELL

BRUNER, POWELL, WALL & MULLINS, LLC

P.O. Box 61110 (29260-1110)

1735 St. Julian Place, Suite 200

Columbia, SC 29204

(office) 803-252-7693

(fax) 803-254-5719

www.brunerpowell.com

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June 8, 2021

Via Electronic Mail

Ms. Margaret P. Murdock
Ms. Jennifer J. Hyman
Certificate of Need Program
South Carolina Department of Health
and Environmental Control
2600 Bull Street
Columbia, SC 29201

RE: Nursing Home Certificate of Need Application #2827 Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Care for the construction and establishment of a 23-bed skilled nursing facility in Charleston County - Affected Person Opposition Letter: NHC HealthCare/Charleston, LLC d/b/a NHC HealthCare, Charleston

Dear Ms. Murdock and Ms. Hyman:

On behalf of NHC HealthCare, Charleston and National HealthCare Corporation, I would like to thank you both for your time and attention at the Project Review Meeting on May 24th. As stated in our March 26th letter and during our May 24th presentation, the CON application submitted by Spring Street Senior Housing OPCO, LLC does not meet the Certificate of Need Criteria and/or State Health Plan and the purposes of the CON Act and therefore should be denied.

NHC HealthCare, Charleston is a licensed 132 bed Medicare, Managed Care and Private Pay facility. The facility does not participate in Medicaid; however, in response to the local hospitals need during the COVID 19 pandemic for Medicaid COVID nursing home beds, NHC received a waiver from SC DHHS to admit Medicaid patients. NHC answered the need of the community for Medicaid Nursing Home beds.

In response to the applicant's June 1st letter regarding NHC's operational versus licensed beds, it is not uncommon for a nursing facility to operate at less than the licensed bed capacity. Operational beds can fluctuate day by day depending on patient census, staffing, etc. It is true, occupancy based on operational beds will be higher; however, that does not reflect the "real" capacity of existing facilities in the market. If NHC's 132 licensed bed facility operates 115 beds on any given day, then the facility still has capacity for additional patients. As of June 4, 2021, NHC HealthCare, Charleston has the capacity for 30 additional patients, as our occupancy is at 77%. Palmettos of Charleston, owned by an affiliate of NHC, is a licensed 60 bed community residential care facility with 15 memory care beds located in Charleston County and currently has an occupancy of 33%. There is enough capacity in the Charleston County market to absorb any additional nursing home or community residential care patients.

COVID-19 had a tremendous impact on the nursing home industry with the average occupancy in South Carolina falling below 80%. With the COVID-19 vaccine being available, the nursing home industry has seen a slight increase in occupancy; however, the overall impact has been very damaging. Existing facilities are struggling for staff. As indicated at the Project Review Meeting, there are currently over 800 job ads on Indeed for nursing personnel in the Charleston market. The applicant states "they will establish relationships with area colleges and community colleges...and have been in discussion with Trident Technical College". NHC has a strong relationship with the same local universities and technical colleges and offer the same incentives as the applicant to recruit staff. Although the relationships are established with these colleges, staffing is still an issue. It should be noted, NHC is currently working with Charleston

Southern University to initiate their nursing program and working on a contract to obtain nurses from the Philippines to help alleviate the nursing shortage.

The applicant also states their sister Charleston facility is currently pursuing to become a site for the South Carolina Nurse Aide Training Program and if approved the Spring Street location would also pursue this program. The applicant states "once an individual has passed the training program, they would assist with finding employment. This would be a resource that supports all Charleston County nursing homes". Although, NHC and others in the market would appreciate the assistance in staffing our facilities; that is unrealistic. The intent of offering the service, is to certify and have them work for their facility. It should be noted, NHC HealthCare, Charleston is working with DHEC for approval to be become a site for the South Carolina Nurse Aide Training Program as well. It is apparent, the nursing facilities in the market are trying to utilize all resources to obtain nursing staff.

Four existing Charleston County nursing home providers spoke at the project review meeting regarding their staffing issues. Some facilities in the market have agency staff and are unreliable, while others are competing for the same staff. The applicant states they are a large Southeastern Regional Operator, and their network will allow the opportunity to attract staff from outside the area who are looking to relocate. National HealthCare Corporation has been in operation for 50 years, is a large Southeastern Regional Operator and is one of the largest long-term care providers in the State of South Carolina. It is our experience, the staff willing to relocate to a new market is the leadership team, which consist of the nursing home administrator, Director of Nursing and/or Director of Rehabilitation. The CNAs, LPNs and RNs are not likely to relocate away from their family and staffing for this facility will be taken from the pool of nursing staff within Charleston County.

While the proposed project appears to be consistent with the projected numeric need in Charleston County, a more thorough review demonstrates the State projected bed need is not enough proof of need in Charleston County. Sufficient need does not exist at this location to make the project consistent with the State's project review criteria. Consequently, the project would be an unnecessary duplication of health care facilities and services and will adversely impact other existing providers if approved. The applicant submitted several letters of support referencing "DHEC has identified a need" for nursing home beds; however, there is NOT ONE letter from a hospital or physician that states they are having difficulty placing Medicare, Managed Care or a Private Pay patient in any of the existing facilities. There is NOT a need for the type beds the applicant is proposing. There is a need for Medicaid Long Term Care Beds as indicated above; however, the applicant will not be participating in the Medicaid program. The applicant has failed to document community need.

NHC questions why the applicant is proposing to locate the 23 bed SNF on the 5th floor. Would it not be more practical to have this service on the first floor? The first floor allows easier access for the ambulance personnel, physicians, and family members when they come to visit their loved ones. Also, with the site location on the peninsula, the facility WILL experience an evacuation. Evacuating down 4-5 stories would be difficult and present possible poor outcomes for the residents. In addition, the hospitals in this area are sometimes on diversion due to flooding, which complicates transfer of residents. Any evacuation is traumatic, especially to the elderly population within a nursing facility. The health and well-being of NHC's patients is of our utmost concern, and NHC strives to construct a one and/or two- level facility for our nursing home patients.

NHC HealthCare, Charleston Indigent Care in 2020 was over \$630,000. The applicant projects \$11,756 in Year One and \$20,064 in Year Two. NHC HealthCare, Charleston is committed to the elderly population in the Charleston Market and their nursing home care. NHC provides over half a million in indigent care by working with patients to write off co-insurance. Since NHC is not in the Medicaid program, NHC is unable to get any reimbursement for coinsurance. NHC often provides care to Charleston citizens that are discharged from area SNFs on day 21 when Medicare coinsurance begins. NHC is committed to serving the needs of community and doing what's right for its patients. What will the applicant do with the Medicare patient on day 21 when the Medicare payor source has been exhausted? The applicant does not demonstrate commitment to the indigent.

The financial feasibility of the applicant appears to be in serious question. Based upon overstatement of private pay revenue, not projecting Medicare Advantage or Managed Care census, and not including other ancillary costs, the applicant is not feasible in any year. The following bullet points were addressed in our March 26, 2021; however, we feel they should be referenced again regarding the applicant's CON and their financial feasibility.

- No detail breakdown for other ancillary costs – Pharmacy, inhalation therapy, lab, x ray, medical supplies, etc.
- Private Pay revenue of \$441 per day with 6+ patients. NHC HealthCare, Charleston's average private pay rate for 2020 is \$293.68 and private pay census has been steadily declining. Charleston County is having a difficult time affording \$300+ per day private pay room and board cost.
- Applicant inflated private revenue 5% - this seems high. NHC's history in past few years has seen an increase of 2-3%.
- Applicant inflated Medicare revenue 3%. This seems aggressive. In past several years, Medicare rates have averaged increases of 1-2% and in some cases NHC has experienced negative rate increases due to wage index declines.
- Applicant projected wage inflation of only 2%. This is not reasonable. NHC wage increases have averaged at least 3% and in some markets the rate of increase is 5% or more.
- Applicant did not project any Medicare Advantage or Managed Care Census.
- Applicant did not project any bad debt.
- The applicant projects Year 3 Net Operating Income (NOI) of \$81.55 ppd. NHC HealthCare, Charleston is NHC's only Medicare/ Private Pay location in South Carolina. NHC HealthCare, Charleston's NOI in 2019 was (\$4.76), 2020 (\$5.44) with CaresAct Funding and (\$31.74) without CaresAct Funding.
- NHC's highest NOI in the State of State Carolina was \$50.64 in 2019. The average NOI for the 13 SNF locations was \$22.78 ppd.
- Staffing is unclear and unknown for the proposed 23 bed nursing facility. The applicant states the manpower budget for the entire community (AL and SNF) is provided, as many employees will be cross utilized. Since it is unclear how nursing salaries are being allocated to the SNF, this questions the operating costs and financial feasibility of the applicant.
- Financial Impact on National HealthCare, Charleston. 1 less Medicare Patient = (\$200,000) annually

Based on the above reasonings and the reasonings addressed by the other providers in the market, NHC respectfully requests the denial of the Spring Street's CON. There are adequate provision of nursing home beds delivering high quality nursing home care to populations of all race and payment source as proposed by the applicant in Charleston County.

If you need any additional information, please do not hesitate to call me at (615) 890-2020.

Sincerely,

National HealthCare Corporation



Dere R. Brown
Director of Health Planning and Licensure/Certification
Authorized Representative

Spring Street application

Dan Westbrook <dan.westbrook@nelsonmullins.com>

Tue 6/8/2021 11:15 AM

To: Murdock, Margaret P. <murdocmp@dhec.sc.gov>; Hyman, Jennifer J. <HYMANJJ@dhec.sc.gov>

Cc: wmullins@brunerpowell.com <wmullins@brunerpowell.com>; lcrum@burr.com <lcrum@burr.com>; Evans, Laura J. <levans@shumaker.com>; fshepke@lhomes.com <fshepke@lhomes.com>

 1 attachments (1 MB)

202106080912.pdf;

***** Caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. *****

Maggie and Jennifer, attached is a letter from Dere Brown setting forth NHC's response to the June 1 letter from Timothy Walsh of Liberty Senior Living. Thanks, Dan

Confidentiality Notice

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June 8, 2021

Margaret "Maggie" Murdock
Director, Certificate of Need (C.O.N.) Program
South Carolina Dept. of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

Re: Spring Street Health Center (CON Application #2827)

Dear Ms. Murdock:

Bishop Gadsden Episcopal Retirement Community is submitting this follow up letter of opposition in response to Spring Street Health Center's Certificate of Need Application #2827 for a new 23-bed non-institutional nursing home to be located at 194 Spring Street, Charleston, South Carolina 29403.

Bishop Gadsden, established in the city of Charleston in 1850 and at its present site on James Island since 1987, is a well-respected long-term care provider in the Charleston area with a long history of excellent quality and commitment to service in the community. The facility is located within 5 miles of the proposed site of this applicant.

Bishop Gadsden filed an affected party notice and detailed opposition letter on March 17, 2021. The applicant, Bishop Gadsden and three other opposing parties presented comments at a Project Review meeting held May 24, 2021. The applicant submitted additional comments on June 1, 2021. This letter is responsive to the applicant's complete failure to meet applicable review standards and regulations set forth in the CON Act and State Health Plan.

Spring Street's Application Remains Deficient and is Not Approvable

In its Project Review presentation and subsequent comments, Spring Street attempted to address deficiencies within the CON application. However, the applicant has not provided any additional information or data to supplement the Application, which is still deficient and should be denied. Specifically:

- Spring Street has not demonstrated community need for its proposed project:
 - Calculated need in the State Health Plan is not meant for short-term rehab care such as what is being proposed by the applicant. The calculated need is meant for true long-term nursing home care. Spring Street is using the calculated need to overstate numerical need for its proposed short-term project.
 - The applicant has not identified where those patients will come from and why they are not being treated now.
 - The applicant has not identified any specific referral sources. In fact, its only letters of support are from non-clinical sources and elected officials and do not speak to actual need for a project such as what Spring Street proposes.
 - The applicant has not provided any information (anecdotal or quantified) that states that existing providers (including 120 approved but not yet operational beds in the area) aren't meeting the needs of this patient population. In fact:
 - Several other area providers offer this level of short-term skilled nursing care.
 - 2019 Medicare Cost report data shows average percentage of Medicare patients for Charleston providers is 18.7%. Far lower than the 70% projected by the applicant.
 - Existing providers have available and accessible capacity.
 - For those providers that reported 2019 utilization (JARS), the average occupancy was 86%
 - Covid effects are still being felt in terms of decreased utilization, not reflected in the 2019 numbers.
 - Other levels of care are being utilized, including home care for short-term rehabilitation purposes.
 - The vast majority of the letters of support are not from referral sources or clinicians.

Architectural Design: SNF and ALF Design are Not Interchangeable

Spring Street contends that it has received "DHFC Project Plan Approval for a 5-story Community Residential Care Facility..." and that "The 5th floor was designed in a way that would be compliant for a CRCF as well as skilled nursing." (June 1, 2021 letter). However:

- If design was approved for an ALF, DHFC conducts inspections for that level and not for specific SNF standards. As such, Spring Street will not be able to inspect for SNF compliance if construction is completed prior to CON approval.
- DHEC should review plans and quarterly progress reports to determine what Spring Street is actually building.
- Other providers have not been allowed to begin construction for ALF/SNF facilities until SNF CON is approved. Recent projects include Sprenger Beaufort and Sprenger Bluffton.
- Liberty Senior Living (the applicant's parent company) has, on information and belief, a history of ignoring CON regulations by developing an ALF with a SNF component before SNF CON is approved. On information and belief, this was the case in Shem Creek.

As the Department is aware, a CON is a prerequisite to undertaking any health care project subject to the State Certificate of Need and Health Care Facility Licensure Act. S. C. Code Ann. § 44-7-120 (the CON Act requires the "issuance of a Certificate of Need before undertaking a project prescribed by this article") and S.C. Code Ann. Reg. 61-15 § 102 (CON Regs.). S.C. Code Ann. § 44-7-160(1) and Reg. 61-15 § 102.1.a require Spring Street to obtain a CON **prior** to beginning construction on a nursing home. The construction of a nursing home is prescribed by the CON Act and regulated by S.C. Code Ann. Reg. § 61-17. Spring Street does not have a CON and the construction of the nursing home is well under way. This nursing home construction without a CON is a violation of §§ 44-7-120, 44-7-160(1) and Reg. 61-15 § 102.1.a.

Spring Street Failed to Satisfy or Even Address Many Additional Deficiencies

- Failure to satisfy staff resources review criteria:
 - Spring Street did not show project-specific SNF staffing separately from the other components of its project. Without SNF staff separately identified, the Department has no way to determine whether the proposed project meets the license staffing requirements.

- Spring Street did not even attempt to address the significant staffing shortages in Charleston.
- Spring Street did not demonstrate that it will not negatively impact the ability of existing providers to recruit and retain qualified staff.
- Failure to satisfy numerous financial review criteria:
 - Spring Street did not respond to any opposing parties' criticisms regarding financial deficiencies in its CON application.
 - Spring Street's project indicates 70% of annual revenue from Medicare which is contrary to trends of increasing Medicare Replacement plans. This is an aggressive patient mix and is not comparable to other facilities in the surrounding area. Additionally, the time delay associated with Medicare certification and attendant reduction in reimbursement is not reflected in the pro forma.
 - Spring Street is projecting a significant high occupancy of 91% by Year 3 (55% in year 1). This is contrary to occupancy trends within Charleston County and within the greater industry, which are declining. This level of utilization would make Spring Street one of the most highly utilized nursing facilities in Charleston County, which is unrealistic given the applicant's lack of experience of provision of this level of care in South Carolina.
 - Fair Market Value Rent is omitted in the operating costs. The lease is \$28.23 per square foot for skilled nursing space—the average doctor office space in Charleston is greater without FFE included. The lease is a net lease (lessee pays a portion of taxes, insurance fees, maintenance).
 - Spring Street allocates the Project Budget based on the square footage of each level of care instead of specific construction requirements for each level of care, which are different. A SNF requires higher building codes/cost than Assisted Living beds. A higher cost per square foot should be allocated to the SNF.
 - Insurance Costs (liability, property and casualty, automobile, wind and hail, and flood) are not included in the operating costs.
 - Spring Street does not identify what expenses the Management fee covers (if any).
 - The following normal operating expenses are not clearly identified including: malpractice, technology, marketing, utilities, security, clinical training/education, and licensure fees.

- Spring Street states it will provide transportation services, but it does not address purchasing of vehicles, lease payments of vehicles, maintenance, insurance, property taxes, depreciation, or any transportation expenses.

Spring Street's CON Application is Not Compliant with CON Project Review Criteria

Spring Street has had numerous opportunities to supplement its CON application in order to provide more detailed information and data to attempt to demonstrate need for its proposed project. However, the applicant has failed to provide evidence that there is a need for its proposed project or that the proposal satisfies applicable Project Review Criteria.

DHEC should deny the CON application because Spring Street failed to address the Project Review Criteria (PRC) of Reg. 61-15 Certification of Need for Health Facilities completely and sufficiently. Spring Street did not:

- Properly document and demonstrate need;
- Respond to the current 2020 SHP CON Projections and Standards for Nursing Facilities;
- Meet required financial and staffing-related criteria;
- Develop relationships and support throughout the community;
- Produce complete CON application; and
- Meet numerous regulations and review criteria.

Given the significant deficiencies of Spring Street's CON application and the fact that the applicant appears to have begun construction of its proposed SNF unit without CON approval, DHEC should deny Spring Street's CON application.

Sincerely,



David S. Levitt
Managing Partner

Final Bishop Gadsden Post-Project Review Follow Up 6.8.21

Crum, Liz <lcrum@burr.com>

Wed 6/9/2021 10:38 AM

To: Murdock, Margaret P. <murdocmp@dhec.sc.gov>; Hyman, Jennifer J. <HYMANJJ@dhec.sc.gov>

Cc: fshepke@lhomes.com <fshepke@lhomes.com>; dan.westbrook@nelsonmullins.com <dan.westbrook@nelsonmullins.com>;
wmullins@brunerpowell.com <wmullins@brunerpowell.com>; Laura Johnson Evans (levans@shumaker.com)
<levans@shumaker.com>

📎 1 attachments (179 KB)

Final Bishop Gadsden Post-Project Review Follow Up 6.8.21.pdf;

*** Caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Ladies and gentlemen, please find attached Bishop Gadsden's reply to Liberty's response to the project review meeting. I would appreciate your acknowledging receipt of our response. Best, Liz



AL • DE • FL • GA
MS • NC • SC • TN

M. Elizabeth "Liz" Crum • *Counsel*

1221 Main St., Suite 1800, Columbia, South Carolina 29201
main 803-799-9800 • fax 803-753-3278 • cell 803-331-1185
lcrum@burr.com • www.burr.com

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LIBERTY Senior Living

2334 S. 41st Street • Wilmington, NC 28403
(910) 815-3122 • FAX: (910) 815-3111

June 10, 2021

Margaret P. Murdock
Director, Certificate of Need Program
Jennifer J. Hyman
Project Coordinator, Certificate of Need Program
S.C. Department of Health and Environmental Control
301 Gervais Street
Columbia, SC 29201

SUBJECT: Response to Bishop Gadsden regarding the Certificate of Need concerning CON #2827, Spring Street Health Center Application (the "Application")

Dear Ms. Murdock and Ms. Hyman:

Spring Street Senior Housing OPCO, LLC (the "Applicant") respects the time and effort needed to review a Certificate of Need Application. After the Project Review meeting held on May 24, 2021, Ms. Hyman detailed clearly the dates requested to have responses back. The Applicant was asked to submit any additional comments by June 1, 2021, which we did. The Opposition was asked to submit any responsive comments by June 8, 2021. Despite the clear direction, Bishop Gadsden chose not to submit any comments until June 9, 2021. The Bishop Gadsden comments are primarily a summary of arguments already raised. However, there was a serious and reckless allegation that Liberty Senior Living (Spring Street's parent corporation) has a history of ignoring regulations. We respect the Department's need to have finality to the review but felt compelled to respond to this misinformation.

Shem Creek (approved as South Bay at Mt. Pleasant via Project SC-16-154) received its Certificate of Need effective December 6, 2016. Shem Creek was granted final approval from Elie Macaron, Jr, Director of Administration for Division of Health Facilities Construction/Office of Fire and Life Safety on February 27, 2017 for the full healthcare building, which included ALF and SNF. The healthcare building was a part of a larger CCRC community to be built in phases. The ALF and SNF healthcare building was designated as Phase III and received its building permit approval via permit number CN-17-132323 on April 24, 2017. Construction of the building began soon thereafter.

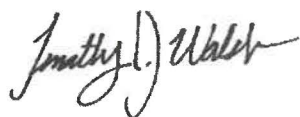
Bishop Gadsden's assertion that Liberty Senior Living has a history of ignoring CON regulations is wholly unsupported and not accurate. Liberty Senior Living's development of Shem Creek was performed in a transparent manner with DHEC fully involved and approving every aspect of the development required by the CON Program and the Division of Health Facilities Construction and Health Licensing.

All other comments from Bishop Gadsden have been addressed in the Spring Street CON as well as documents prepared and submitted previously.

The Spring Street CON Application complies with all of the requirements set forth in the CON Act, the South Carolina Health Plan and the applicable review criteria set forth in SC Reg. 61-15. Therefore, Spring Street is requesting that the Department proceed with issuing a Staff Decision granting the subject CON Application.

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink that reads "Timothy J. Walsh". The signature is written in a cursive style with a large initial "T" and "W".

Timothy Walsh
Senior Financial Analyst
Liberty Senior Living
TWalsh@libertyseniorliving.com
(910) 332-1982

March 11, 2021

VIA CERTIFIED MAIL

Timothy Walsh
Liberty Senior Living
2334 South 41st Street
Wilmington, NC 28403

Re: Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center
Project: Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.
Matter No. 2827

Dear Mr. Walsh:

This is to notify you the South Carolina Department of Health and Environmental Control ("Department") has determined the above-referenced project to be complete for purposes of review by the Certificate of Need Program. Enclosed is an invoice for the required application fee. It may be paid by check made payable to the S.C. Department of Health and Environmental Control or by electronic check through the Department's website (www.scdhec.gov) using the "Pay Invoices" hyperlink at the bottom of each webpage. This is a secure website. If payment is not received within fifteen (15) days of your receipt of this invoice, the pending application will be considered withdrawn and this matter closed. Should this deadline fall on a weekend or State holiday, it will be extended to the next calendar day that is neither weekend nor holiday pursuant to S.C. Regulation 61-15, Section 303.

Should the Department receive your application fee within the fifteen (15) day deadline, the Department will render a decision no earlier than thirty (30) days, but no later than one-hundred (120) days from the date notice is provided to affected persons in the State Register, unless a public hearing is held pursuant to Regulation 61-15, Section 305.

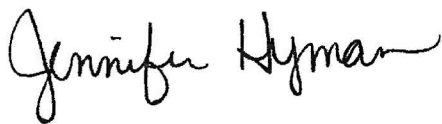
The Department has determined the relative importance of the project review criteria, pursuant to Regulation 61-15, Section 304, which will be used to review your application. The specific criteria to be used are set forth below and are ranked according to their relative importance, with the most important being listed first. All other relevant criteria will be given equal importance.

- a. Community Need Documentation;
- b. Distribution (Accessibility);
- c. Staff Resources; and
- d. Record of the Applicant.

The above criteria are set forth in Regulation 61-15, Section 802. Should you wish to submit any additional information to the Department in support of your application, you have thirty (30) days from the receipt of this correspondence to do so.

If you have any questions, please contact me at 803.545.0260.

Sincerely,



Jennifer Hyman
Project Coordinator, Certificate of Need Program
South Carolina Department of Health and Environmental Control

Enclosure: Application Fee Invoice

cc: Dere R. Brown
Elizabeth Crum
Frank Shepke



INVOICE FOR SERVICES

Invoice Number

Bureau of Financial Management / Sims/Aycock Building
2600 Bull St, Columbia, South Carolina 29201

PC27151-0

Invoice To:

LIBERTY SENIOR LIVING
ATTN TIMOTHY WALSH
2334 SOUTH FORTY FIRST ST
WILMINGTON, NC 28403-

Ship To:

S.C. DHEC
Attn: Bureau of Financial Management
2600 Bull Street
Columbia, South Carolina 29201

Date	Terms	Department Name	Order Filled By
2021-03-11	DUE UPON RECEIPT	Planning and Programs	GOINSAD

Description of Services: CON APPLICATION FEE

Quantity	Unit Description	Location	Org	Fund	Account	Analytical	Unit Price	Line Amt
1	CON APPLICATION FEE INVOICE (2827)	400	402011	428015	4486701	0000000	\$7,000.00	\$7,000.00
Total:							\$7,000.00	\$7,000.00

For online Payment via Credit or Ach/E-Check:

- Go to <https://www.scdhec.gov/PayAnInvoice>
- Follow on-screen instructions
- When prompted by the system, enter Invoice Number: **PC27151-0**

*Limit \$3,000.00 and \$1.00 transaction fee for debit/credit card payment.

For Invoice Payment questions, please contact:

Email: receivables@dhec.sc.gov
Web Site: www.scdhec.gov
Finance Department Phone: 803.898.3460. 8:30 a.m.- 5:00 p.m., Monday t

Note: Make checks payable to South Carolina Department of Heal

S.C. DHEC
Attn: Bureau of Financial Mana
2600 Bull Street
Columbia, South Carolina 29

*This is a copy
of your invoice.
Paid with check
8230800050
\$ 7000.00*



INVOICE FOR SERVICES

Invoice Number

Bureau of Financial Management / Sims/Aycock Building
2600 Bull St, Columbia, South Carolina 29201

PC27151-0

Invoice To:

LIBERTY SENIOR LIVING
ATTN TIMOTHY WALSH
2334 SOUTH FORTY FIRST ST
WILMINGTON, NC 28403-

Ship To:

S.C. DHEC
Attn: Bureau of Financial Management
2600 Bull Street
Columbia, South Carolina 29201

Date	Terms	Department Name	Order Filled By
2021-03-11	DUE UPON RECEIPT	Planning and Programs	GOINSAD

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Total:							\$7,000.00	\$7,000.00

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Web Site: www.scdhec.gov
Finance Department Phone: 803.898.3460. 8:30 a.m.- 5:00 p.m., Monday through Friday

Note: Make checks payable to South Carolina Department of Health and Environmental Control, remit to:

S.C. DHEC
Attn: Bureau of Financial Management
2600 Bull Street
Columbia, South Carolina 29201

M. Elizabeth Crum
lcrum@burr.com
Direct Dial: (803) 753-3240
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Burr & Forman LLP
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Office (803) 799-9800
Fax (803) 753-3278

BURR.COM

April 5, 2021

VIA EMAIL

Margaret P. Murdock
Director, Certificate of Need Program
South Carolina Dept. of Health & Environmental
Control
301 Gervais Street
Columbia, SC 29201

**Re: Request for public hearing in Charleston Co. Nursing Home Certificate of Need
Application #2827, Spring Street Senior Housing OPCO, LLC d/b/a Spring Street
Health Center**

Dear Ms. Murdock:

On behalf of Bishop Gadsden Episcopal Retirement Community (Bishop Gadsden) we request a public hearing pursuant to S.C. Code Ann. Reg. 61-15 §306. Attached is a copy of the deemed complete letter, notifying us that the project review period had begun and what project review criteria would be used during the Department's review process. Bishop Gadsden received the deemed complete letter on March 16, 2021, notifying it that the review process has begun.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions about this request.

Very truly yours,



M. Elizabeth Crum

MEC
Enclosure

cc: Sarah Tipton
Lynne Loring Kerrison, CPA



Article #: 92148969009997901419155067

March 11, 2021

RECEIVED

MAR 16 2021

BURR & FORMAN LLP

VIA CERTIFIED MAIL

Timothy Walsh
Liberty Senior Living
2334 South 41st Street
Wilmington, NC 28403

Re: Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center
Project: Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.
Matter No. 2827

Dear Mr. Walsh:

This is to notify you the South Carolina Department of Health and Environmental Control ("Department") has determined the above-referenced project to be complete for purposes of review by the Certificate of Need Program. Enclosed is an invoice for the required application fee. It may be paid by check made payable to the S.C. Department of Health and Environmental Control or by electronic check through the Department's website (www.scdhec.gov) using the "Pay Invoices" hyperlink at the bottom of each webpage. This is a secure website. If payment is not received within fifteen (15) days of your receipt of this invoice, the pending application will be considered withdrawn and this matter closed. Should this deadline fall on a weekend or State holiday, it will be extended to the next calendar day that is neither weekend nor holiday pursuant to S.C. Regulation 61-15, Section 303.

Should the Department receive your application fee within the fifteen (15) day deadline, the Department will render a decision no earlier than thirty (30) days, but no later than one-hundred (120) days from the date notice is provided to affected persons in the State Register, unless a public hearing is held pursuant to Regulation 61-15, Section 305.

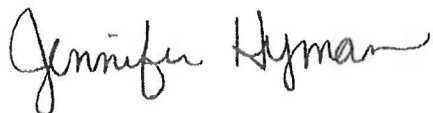
The Department has determined the relative importance of the project review criteria, pursuant to Regulation 61-15, Section 304, which will be used to review your application. The specific criteria to be used are set forth below and are ranked according to their relative importance, with the most important being listed first. All other relevant criteria will be given equal importance.

- a. Community Need Documentation;
- b. Distribution (Accessibility);
- c. Staff Resources; and
- d. Record of the Applicant.

The above criteria are set forth in Regulation 61-15, Section 802. Should you wish to submit any additional information to the Department in support of your application, you have thirty (30) days from the receipt of this correspondence to do so.

If you have any questions, please contact me at 803.545.0260.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Hyman".

Jennifer Hyman
Project Coordinator, Certificate of Need Program
South Carolina Department of Health and Environmental Control

Enclosure: Application Fee Invoice

cc: Dere R. Brown
Elizabeth Crum
Frank Shepke



Certificate of Need
2600 Bull Street
Columbia, SC 29201
Return Service Requested

Elizabeth Crum
1221 Main St, Suite 1800
Columbia, SC 29201

RECEIVED

MAR 16 2021

RUHR & FORMAN LLP

US POSTAGE \$000.46

BY-RSMP 29201





Article #: 92148969009997901541463931

June 28, 2021

VIA CERTIFIED MAIL

Timothy Walsh
Liberty Senior Living
2334 South 41st Street
Wilmington, NC 28403

Decision Granting Certificate of Need for:

Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center

Project: Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.

Matter No.: 2827

Charleston County

Dear Mr. Walsh:

The South Carolina Department of Health and Environmental Control (Department) has reviewed the application submitted by Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center (Spring Street) for a Certificate of Need (CON) for construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284 (Project). After consideration of the entire administrative record of this matter, the Department concludes Spring Street has presented substantial evidence that the Project complies with the relevant project review criteria and with the *2020 South Carolina Health Plan, enacted March 13, 2020 for all but Chapter 3, which was enacted June 12, 2020 (Plan)* and materially complies with the relevant project review criteria set forth in Section 802 of Regulation 61-15. Accordingly, it is the decision of the Department that a Certificate of Need be issued for this Project. This decision is based on the following findings:

Community Need Documentation

Spring Street clearly identified its target population and, using population statistics consistent with those generated by the State Demographer, Spring Street made reasonable projections of anticipated population changes, with assumptions and methodologies clearly outlined in the application. Spring Street has sufficiently demonstrated that the proposed Project will meet an

identified need and that the projected utilization of the Project is sufficient to justify its implementation.

The Department finds that the Applicant has sufficiently met the requirements of Section 802.2, Reg. 61-15.

Distribution (Accessibility)

The Department finds that the Project will not result in unnecessary duplication or modernization of services based on Spring Street's documentation regarding both need and accessibility. Admission to Spring Street will be under orders of a physician duly licensed in the state of South Carolina. Spring Street states that it accepts referrals of patients needing nursing home services without regard to race, sex, creed, or national origin. Spring Street provided its indigent care policy to demonstrate that it has established provisions to ensure that individuals in need of treatment as determined by a physician have access to the Project, regardless of ability to pay.

The Department finds that the Applicant has sufficiently met the requirements of Section 802.3, Reg. 61-15.

Staff Resources

Spring Street provided a manpower budget to provide the necessary medical staff for the contemplated service. The applicant's previous known track record suggests a satisfactory ability to provide necessary staff for its facilities and other services.

Accordingly, the Department concludes the Applicant satisfies the requirements of Reg. 61-15, Section 802.20.

Record of the Applicant

The Liberty organization is an affiliate of the applicant and has extensive healthcare experience including thirty-five nursing homes, eight assisted living facilities, two independent living communities, five continuing care retirement communities, and a home health and hospice company with twenty-nine locations servicing various counties in North Carolina, South Carolina, and Virginia. The Department has found no issues with the Liberty organization's cooperation and compliance with state and federal regulatory programs that would impact this Decision.

The Department finds that the Applicant has sufficiently met the requirements of Section 802.13, Reg. 61-15.

Other Considerations

The Department notes that by letters dated January 15, 2021, February 3, 2021 and May 24, 2021 NHC Healthcare Charleston, Bishop Gadsden Episcopal Retirement Center, Lutheran Homes and Providence Group requested the Department consider each as an affected person and in

opposition to the Project. After consideration of all information presented, the Department has determined that the opposition does not present a sufficient reason to deny the Application.

The Department has determined the findings required by S.C. Code Reg. 61-15 §501 are not applicable to this Project.

The issuance of a Certificate of Need does not constitute approval for any proposed construction, licensing, or certification changes. You should contact, as needed, the following individuals for information concerning these related issues: Bureau of Radiological Health, Ms. Susan Jenkins (803.545.0530); Division of Health Facilities Construction, Mr. Graham Cormack (803.727.3576); and Bureau of Health Facilities Oversight, Ms. Angie Smith (803.545.4252).

Reviewed and Written By:

Approved for Release By:



Jennifer Hyman
Project Coordinator
Certificate of Need Program



Maggie Parham Murdock
Director
Certificate of Need Program

cc: Wade Mullins, Esquire (via email)
Dere R. Brown
Dan Westbrook, Esquire (via email)
Elizabeth Crum, Esquire (via email)
Frank Shepke
Laura Evans, Esquire (via email)
David Levitt (via email)

Article #: 92148969009997901541463955

Article #: 92148969009997901541463948



INVOICE FOR SERVICES

Invoice Number

Bureau of Financial Management / Sims/Aycock Building
2600 Bull St, Columbia, South Carolina 29201

PC26426-7

Invoice To:

SPRING STREET SENIOR HOUSING
OPCO, LLC
ATTN: TIMOTHY WALSH
2334 SOUTH 41ST ST
WILMINGTON, NC 28403-

Ship To:

S.C. DHEC
Attn: Bureau of Financial Management
2600 Bull Street
Columbia, South Carolina 29201

Date	Terms	Department Name	Order Filled By
11/24/2020	DUE UPON RECEIPT	Planning and Programs	MURDOCMP

Description of Services: CERTIFICATE OF NEED FILING FEE

Quantity	Unit Description	Location	Org	Fund	Account	Analytical	Unit Price	Line Amt
1	CERTIFICATE OF NEED FILING FEE (2827)	400	402011	428015	4486701	0000000	\$500.00	\$500.00
Total:							\$500.00	\$500.00

For online Payment via Credit or Ach/E-Check:

- Go to <https://www.scdhec.gov/PayAnInvoice>
- Follow on-screen instructions
- When prompted by the system, enter Invoice Number: **PC26426-7**

***Limit \$3,000.00 and \$1.00 transaction fee for debit/credit card payment. No Limit or fee on ACH/E-Check**

For Invoice Payment questions, please contact:

Email: receivables@dhec.sc.gov
Web Site: www.scdhec.gov
Finance Department Phone: 803.898.3460. 8:30 a.m.- 5:00 p.m., Monday through Friday

Note: Make checks payable to South Carolina Department of Health and Environmental Control, remit to:

S.C. DHEC
Attn: Bureau of Financial Management
2600 Bull Street
Columbia, South Carolina 29201

CLEMSON UNIVERSITY

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that the Department of Plant Industry, under the authority of the State Crop Pest Commission and at the recommendation of the South Carolina Invasive Species Advisory Committee, will be adding *Pyrus calleryana* (i.e. Callery Pear; Bradford Pear) and *Elaeagnus* spp. (*E. angustifolia*, *E. pungens*, and *E. umbellata*) to the State Plant Pest List. The listing of these invasive plants will effectively make it illegal to sell, trade, or otherwise move them within the boundaries of South Carolina.

The Department of Plant Industry expects to initiate a grandfathering period to enable industry transition away from these plants and specifically requests comments regarding a desired length of grandfathering period or other comments concerning unforeseen consequences or concerns related to the listing of these plants as plant pests. Written comments may be submitted to: The Department of Plant Industry, at 511 Westinghouse Road, Pendleton, SC 29560 or by email at plantindustry@clemson.edu.

If no comments are received within sixty (60) days of publication of this Notice, the Department will proceed with listing *Pyrus calleryana* (i.e. Callery Pear; Bradford Pear) and *Elaeagnus* spp. (*E. angustifolia*, *E. pungens*, and *e*) as a plant pest and taking steps to eradicate it from South Carolina.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **December 25, 2020** for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201, at (803) 545-4200, or by email at coninfo@dhec.sc.gov.

Affecting Charleston County**Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center**

Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.

Affecting Greenville County**Prisma Health d/b/a Prisma Health Patewood Outpatient Surgery Center**

Renovation of existing ambulatory surgery center for the addition of 6 OR's for a total of 12 OR's at a total project cost of \$18,764,740.

Prisma Health d/b/a Prisma Health Centennial Outpatient Surgery Center

Construction for the establishment of an ambulatory surgery center including 6 OR's at a total project cost of \$25,598,880.

Millennium ASC, LLC d/b/a Millennium ASC

Construction for the establishment of a 34,700 sf ambulatory surgery center including 6 OR's and 2 endoscopy rooms at a total project cost of \$38,678,597.

Affecting Horry County**Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center**

Renovation of an existing facility for the construction of a new patient bed tower and addition of 52 acute care beds at a total project cost of \$67,563,251.

Grand Strand Regional Medical Center, LLC d/b/a South Strand Medical Center

Renovation of an existing facility for the establishment of an acute care hospital through addition of 59 acute care beds and 4 operating rooms, and expansion of the emergency department, at a total project cost of \$146,157,308.

Affecting Richland County**Prisma Health d/b/a Prisma Health Baptist Parkridge Endoscopy Center**

Establishment of an ambulatory surgery center restricted to endoscopic procedures at a total project cost of \$1,964,000.

Affecting Spartanburg County**Agape Hospice of the Low Country, LLC d/b/a Upstate Community Hospice House**

Renovation of existing 1,609 sf facility adding 6 inpatient hospice beds for a total of 18 inpatient hospice beds at a total project cost of \$145,030.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from **December 25, 2020**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200 or email coninfo@dhec.sc.gov.

Affecting Abbeville County**Interim Healthcare of the Upstate, LLC**

Establishment of home health services in Abbeville County at a total project cost of \$35,000.

Affecting Charleston County**Medical University Hospital Authority d/b/a MUSC Shawn Jenkins Children's Hospital and Pearl Tourville Women's Pavilion**

Addition of 3 intermediate bassinets (totaling 39 Intermediate bassinets) and 6 Intensive bassinets (totaling 52 Intensive bassinets) for a total of 91 NICU bassinets at a total project cost of \$2,786,450.

Affecting Fairfield County**Precious Jewels Medical and Health Services, LLC**

Establishment of Home Health Agency in Fairfield county at a total project cost of \$15,000.

Affecting Greenville County**Upstate Surgical Center, LLC (USC)**

Construction of a 29,995 sf ambulatory surgery center at a total project cost of \$18,034,295.

Affecting Spartanburg County**White Oak Manor-Spartanburg, Inc. d/b/a White Oak Anderson Mill**

Construction of a new 65,000 sq. ft. nursing home for the replacement of the current White Oak Manor - Spartanburg Nursing Home and the addition of 40 skilled nursing beds for a total of 100 skilled nursing beds at a total project cost of \$24,087,818.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **February 26, 2021** for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201, at (803) 545-4200, or by email at coninfo@dhec.sc.gov.

Affecting Anderson County**AnMed Health d/b/a AnMed Health Medical Center**

Transfer of 72 acute care beds from AnMed Health Women's & Children's Hospital to AnMed Health Medical Center for a total of 495 acute care beds at a total project cost of \$14,758,778.

Affecting Chester County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Chester County at a total project cost of \$69,686.

Affecting Chesterfield County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Chesterfield County at a total project cost of \$69,686.

Affecting Dorchester County**Trident Medical Center, LLC d/b/a Summerville Medical Center**

Purchase of a da Vinci Robotic surgical system at a total project cost of \$1,800,000.

Affecting Horry County**McLeod Loris Seacoast Hospital d/b/a McLeod Health Seacoast**

Purchase of a da Vinci Xi Robotic Surgical system at a total project cost of \$2,481,268.

McLeod Loris Seacoast Hospital d/b /a McLeod Health Seacoast

Acquisition of MRI with a 3.0T Magnet at a total project cost of \$3,038,620.

Affecting Lancaster County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Lancaster County at a total project cost of \$69,686.

Affecting Oconee County**Prisma Health-Upstate Oconee Memorial Hospital**

Purchase of a da Vinci Robotic Surgical system at a total project cost of \$2,276,000.

Affecting Pickens County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Pickens County at a total project cost of \$69,686.

Affecting Richland County**Carolina Healthcare Facilities, LLC d/b/a The Plastic Surgery Center**

26 NOTICES

Renovation of the existing space for the for the establishment of a 3,854-sf ambulatory surgery facility with 2 ORs specializing in Aesthetic and Reconstructive surgery at a total project cost of \$450,573.

Affecting York County

Excel Home Care LLC

Establishment of a Home Health agency to serve York County at a project cost of \$4350.

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in York County at a total project cost of \$69,686.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from **February 26, 2021**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200 or email coninfo@dhec.sc.gov.

Affecting Beaufort County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Beaufort County at a total project cost of \$69,686.

Affecting Berkeley County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Berkeley County at a total project cost of \$69,686.

Affecting Charleston County

Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center

Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.

Affecting Clarendon

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Clarendon County at a total project cost of \$69,686.

Affecting Darlington County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Darlington County at a total project cost of \$69,686.

Affecting Dillon County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Dillon County at a total project cost of \$69,686.

Affecting Dorchester County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Dorchester County at a total project cost of \$69,686.

Affecting Kershaw County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Kershaw County at a total project cost of \$69,686.

Affecting Greenville County**Prisma Health d/b/a Prisma Health Patewood Outpatient Surgery Center**

Renovation of existing ambulatory surgery center for the addition of 6 OR's for a total of 12 OR's at a total project cost of \$18,764,740.

Prisma Health d/b/a Prisma Health Centennial Outpatient Surgery Center

Construction for the establishment of an ambulatory surgery center including 6 OR's at a total project cost of \$25,598,880.

Millennium ASC, LLC d/b/a Millennium ASC

Construction for the establishment of a 34,700-sf ambulatory surgery center including 6 OR's and 2 endoscopy rooms at a total project cost of \$38,678,597.

Affecting Horry County**Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center**

Renovation of an existing facility for the construction of a new patient bed tower and addition of 52 acute care beds at a total project cost of \$67,563,251.

Pathway Treatment Center, LLC

Construction for the establishment of an Opioid Treatment Program (OTP) at a total project cost of \$141,898,00.

Affecting Laurens County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Laurens County at a total project cost of \$69,686.

Affecting Oconee County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Oconee County at a total project cost of \$69,686.

Affecting Spartanburg County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Spartanburg County at a total project cost of \$69,686.

Affecting Sumter County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Sumter County at a total project cost of \$69,686.

Affecting Union County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Union County at a total project cost of \$69,686.

CON File No. 2827

Licensee: Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center

Project Description: Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.

Timothy Walsh
Liberty Senior Living
2334 South 41st Street
Wilmington, NC 28403

Please copy all correspondence to:

Affected Persons/Opposition:

NHC Healthcare/Charleston	<u>Contact</u>
	Dere R. Brown Director of Health Planning and Licensure/Certification 100 East Vine St Murfreesboro, TN 37130 615-890-2020 Dan Westbrook
Bishop Gadsden Episcopal Retirement Center	Elizabeth Crum 1221 Main St, Suite 1800 Columbia, SC 29201 803-799-9800
Lutheran Homes	Frank Shepke 300 Ministry Drive Irmo, SC 29063 803-749-5110
Providence Group	Laura Evans 176 Croghan Spur Rd, Suite 400 Charleston, SC 29407 (843)996-1900

**REQUEST FOR FINAL REVIEW
AND
STAFF RESPONSE**

RECEIVED

JUL 12 2021

Clerk, Board of Health
and Environmental Control

21-RFR-49

M. Elizabeth Crum
lcrum@burr.com
Direct Dial: (803) 753-3240
Direct Fax: (803) 933-1484

Burr & Forman LLP
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

Office (803) 799-9800
Fax (803) 753-3278

BURR.COM

July 12, 2021

Denise Crawford
Clerk
DHEC Board
2600 Bull St.
Columbia, SC 29201

Re: Request for Review of the Department Staff's decision dated June 28, 2021 to approve Certificate of Need Application #2827, Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center

Dear Ms. Crawford:

On behalf of our client Bishop Gadsden Episcopal Retirement Center (Bishop Gadsden) we submit this request for review pursuant to S.C. Code Ann. § 44-1-60(e)(RFR) and request that the Board reverse the Staff Decision and deny the application for the reason's set forth herein. Spring Street filed a CON application for 23 skilled nursing beds (long term care beds), as part of a 71 bed assisted living and memory facility, to be located on the fifth (5th) floor of the building. The facility has been under construction, including the long term care beds, for a number of months without receiving a CON for the long term care beds.

The copy of the Staff Decision is attached hereto as Attachment A and our check for the filing fee of \$100 is enclosed.

Bishop Gadsden was established in Charleston in 1850 and is a well-respected long-term care provide in the Charleston area with a long history of excellent quality and commitment to service in the community. It is located within 5 miles of the proposed Spring Street Senior Housing facility. (Spring Street). Bishop Gadsden filed as an affected party on January 15, 2021 (Ex. A) and filed its detailed opposition on March 17, 2021 (Ex. B). A project review meeting was held on May 24, 2021 and Bishop Gadsden's expert in health planning and health care finance filed additional detailed opposition to the proposed project. Ex. C. Bishop Gadsden also raised the legal issue during the project review hearing that Spring Street has violated the CON Act and regulations by constructing the long term care facility before obtaining a CON. Ex. D. After the

project review meeting, Bishop Gadsden addressed issues raised by Spring Street during the project review meeting. Ex. E.

The Staff deemed the following PRC most important are: Community Need Documentation, Distribution (Accessibility), Staff Resources; and Record of the Applicant. *See* Ex. E. Oddly, the deemed complete letter did not list compliance with the Plan as a criterion, a requirement of the CON Act. Ex. F.

The Board should grant Bishop Gadsden's RFR and reverse the Staff Decision on the following Grounds:¹

1. The Proposed Project Does Not Meet the Long Term Care Need in the Plan. The Application does not meet the general bed need set forth in the Plan, in part, because it did not provide the information required by Part B- Question 11, Reg. 61-15 § 202.2.b.11. Question 11 requires **that the application**

[d]emonstrate that the proposed project is needed or projected as necessary to meet an identified need of the public. This shall address at a minimum: identification of the target population;² the degree of unmet need; projected utilization of the proposed facility or service; utilization of existing facilities and services; past utilization of existing similar services within the facility; and justification that the proposed project will not unnecessarily duplicate existing entities. The applicant must show all assumptions, data sources, and methodologies used. The applicant must use population statistics consistent with those generated by the State Demographer, State Budget and Control Board.

The Application did not provide the information required by Question 11, much less demonstrate the proposed project is necessary to meet an identified need of the public. Without the necessary information, Staff could not and did not make a meaningful, well-reasoned decision. For further discussion, see Ex. C, pp. 9-14.

2. The application does not meet the Community Need Documentation PRC. Decline in nursing home facility utilization is an industry wide occurrence. Total occupancy has fallen to a new low of 74.9% in South Carolina and 76.4% in Charleston County. And the average length of stay is decreasing. These changes are in part due to the rise in utilization of Home Health and

¹ A summary of the grounds the Application should be denied on is contained in Ex. C, p. 8.

² For example, Spring Street relies on the population of all of Charleston County, yet it is sandwiched in on the peninsula, with limited access to the growth areas of Charleston County, including such areas as Mt. Pleasant and the East Cooper area, the West Ashley area and northern Charleston County, including North Charleston.

Home Care services (generally a cheaper alternative which also allows individuals to stay at home longer). For a thorough discussion, see Ex. B, pp. 2-5; Ex. C, pp. 9-14; and Ex. E, p. 2.

3. The Application Does Not Meet the Distribution (Accessibility) PRC. In addition to the statements in paragraph 2 above, Medicare cost reports show that the average length of stay (ALSO) is decreasing and people are not staying in nursing homes as long to convalesce. There are currently 16 existing nursing facilities within a 20 mile radius (11 within 10 miles) of the proposed project (it is less than 5 miles from Bishop Gadsden). See Ex. B, p. 6-12; Ex. C., pp. 15-18.

4. The Application Does Not Meet the Staff Resources PRC. The 2021 Skilled Nursing Outlook Report states that staffing challenges are the top challenge (excluding COVID) facing nursing facilities in 2021 and forward. The Spring Street application appears to conflate the staffing requirements for the assisted living and long term care beds the proposed staff compensation is less than the living wage and not competitive in the service area. See Ex. B, pp. 18-23; Ex. C, pp. 19-22; and Ex. E, p. 3-4.

5. The Application Does Not Meet the Record of the Applicant PRC. Fifteen (15) of Spring Street's parent company, Liberty Senior Living, only have a CMS rating of 2 or 1. See Ex. B, p. 20; Ex. C, p. 23-24.

6. The Project Is Not Financially Feasible. Spring Street projects 70% of its revenue will come from Medicare—contrary to the increasing Medicare reimbursement plans (home health, etc., discussed above. Its projected stabilized occupancy of 91% is significantly higher than that experienced by established long term care facilities in Charleston County (76.4%) and the State (74.9%). See Ex. B, pp. 24-32; Ex. C, pp. 25- 28.

7. Failure to Provide Indigent Care. Spring Street's application does not provide historic indigent care information from its other facilities. See Ex. C, p. 30

8. The Staff Decision violates the CON Act.

- a. *Staff impermissibly shifted the burden of proof during review.* At the Staff level, the applicant has the burden to prove that its application meets the requirements of the CON Act, the *2020 South Carolina State Health Plan*, and the Project Review Criteria (PRC), not the affected persons. In its Decision, the Staff stated: “After consideration of all information presented, the Department has determined **that the opposition does not present a sufficient reason to deny the Application.**” (Emphasis added). See: S.C. Code Ann. § 44-7-200(A); § 44-7-200(B); § 44-7-200(C) “On the basis of staff review of the application, the staff shall make a staff decision to grant or deny” the CON. The Staff impermissibly shifted the burden of

proof during Staff Review to the affected persons, erroneously applying the burden of proof required of a petitioner for contested case review at the Administrative Law Court.

- b. Spring Street Violated the CON Act and Regulations in Building the Long Term Care Facility Before It Obtained a CON. *See* Ex. D. Ironically, the Proposed Project is well under construction. *See* Ex., D, Ex. A (pictures). Nonetheless, the Staff Decision, in spite of the evidence that the long term care facility is being constructed, states” “The issuance of a Certificate of Need does not constitute approval for any proposed construction, licensing, or certificate changes.” Attachment A, p. 3 (pages numbered but counted). As enumerated during the project review, DHEC has prevented previous projects that involve facilities that include assisted living (licensure but not CON approval needed) and long term care beds (CON and licensure needed) from being constructed until after the portion of the facility that required a CON had actually received the CON. The CON division appears to have made an abrupt change in its interpretation of the clear language of the CON Act and Regulations without explanation. The Board should determine that Spring Street’s construction of the long term care facility prior to receiving a CON is a violation of the CON Act and Regulations and deny the CON. At the least, the Board should remand the matter to the Staff and require it to explain why it does not consider the building prior to the issuance of a required CON a violation of the CON Act and Regulations.

The design and construction requirements for assisted living and long term care facilities are not interchangeable. Ex. E, p. 3.

The Department issued CON SC-19-27 on March 22, 2019 to Bishop Gadsden to construction of a new health care facility that will offer a 100 bed health care center, which includes an additional 50 skilled nursing beds at a total project cost of \$56,457,735. Bishop Gadsden is under construction and has been making quarterly implementation reports and undergoing inspections as required by the CON Regulations and the Division of Health Facilities Construction. Spring Street will be rewarded by its failure to follow the CON Act and Regulations and will most likely be open before Bishop Gadsden, who followed the rules.

Bishop Gadsden incorporated all of the discussion and information contained in Exs. A-E, if not otherwise set forth herein, as if fully set forth herein.

For the above reasons, the Board should grant Bishop Gadsden’s request for final review and should deny the Application. We appreciate your attention to this matter.

Denise Crawford
July 12, 2021
Page 5

Very truly yours,



M. Elizabeth Crum

MEC

cc: Margaret P. Murdock
Jennifer J. Hyman
Ashley C. Biggers, Esq.
Vito Wicevic, Esq.
E. Wade Mullins, Esq.
Sarah Tipton
Lynne Kerrison



June 28, 2021

VIA CERTIFIED MAIL

Timothy Walsh
Liberty Senior Living
2334 South 41st Street
Wilmington, NC 28403

Decision Granting Certificate of Need for:

Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center

Project: Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.

Matter No.: 2827

Charleston County

Dear Mr. Walsh:

The South Carolina Department of Health and Environmental Control (Department) has reviewed the application submitted by Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center (Spring Street) for a Certificate of Need (CON) for construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284 (Project). After consideration of the entire administrative record of this matter, the Department concludes Spring Street has presented substantial evidence that the Project complies with the relevant project review criteria and with the *2020 South Carolina Health Plan, enacted March 13, 2020 for all but Chapter 3, which was enacted June 12, 2020 (Plan)* and materially complies with the relevant project review criteria set forth in Section 802 of Regulation 61-15. Accordingly, it is the decision of the Department that a Certificate of Need be issued for this Project. This decision is based on the following findings:

Community Need Documentation

Spring Street clearly identified its target population and, using population statistics consistent with those generated by the State Demographer, Spring Street made reasonable projections of anticipated population changes, with assumptions and methodologies clearly outlined in the application. Spring Street has sufficiently demonstrated that the proposed Project will meet an

identified need and that the projected utilization of the Project is sufficient to justify its implementation.

The Department finds that the Applicant has sufficiently met the requirements of Section 802.2, Reg. 61-15.

Distribution (Accessibility)

The Department finds that the Project will not result in unnecessary duplication or modernization of services based on Spring Street's documentation regarding both need and accessibility. Admission to Spring Street will be under orders of a physician duly licensed in the state of South Carolina. Spring Street states that it accepts referrals of patients needing nursing home services without regard to race, sex, creed, or national origin. Spring Street provided its indigent care policy to demonstrate that it has established provisions to ensure that individuals in need of treatment as determined by a physician have access to the Project, regardless of ability to pay.

The Department finds that the Applicant has sufficiently met the requirements of Section 802.3, Reg. 61-15.

Staff Resources

Spring Street provided a manpower budget to provide the necessary medical staff for the contemplated service. The applicant's previous known track record suggests a satisfactory ability to provide necessary staff for its facilities and other services.

Accordingly, the Department concludes the Applicant satisfies the requirements of Reg. 61-15, Section 802.20.

Record of the Applicant

The Liberty organization is an affiliate of the applicant and has extensive healthcare experience including thirty-five nursing homes, eight assisted living facilities, two independent living communities, five continuing care retirement communities, and a home health and hospice company with twenty-nine locations servicing various counties in North Carolina, South Carolina, and Virginia. The Department has found no issues with the Liberty organization's cooperation and compliance with state and federal regulatory programs that would impact this Decision.

The Department finds that the Applicant has sufficiently met the requirements of Section 802.13, Reg. 61-15.

Other Considerations

The Department notes that by letters dated January 15, 2021, February 3, 2021 and May 24, 2021 NHC Healthcare Charleston, Bishop Gadsden Episcopal Retirement Center, Lutheran Homes and Providence Group requested the Department consider each as an affected person and in

opposition to the Project. After consideration of all information presented, the Department has determined that the opposition does not present a sufficient reason to deny the Application.

The Department has determined the findings required by S.C. Code Reg. 61-15 §501 are not applicable to this Project.

The issuance of a Certificate of Need does not constitute approval for any proposed construction, licensing, or certification changes. You should contact, as needed, the following individuals for information concerning these related issues: Bureau of Radiological Health, Ms. Susan Jenkins (803.545.0530); Division of Health Facilities Construction, Mr. Graham Cormack (803.727.3576); and Bureau of Health Facilities Oversight, Ms. Angie Smith (803.545.4252).

Reviewed and Written By:

Approved for Release By:



Jennifer Hyman
Project Coordinator
Certificate of Need Program



Maggie Parham Murdock
Director
Certificate of Need Program

cc: Wade Mullins, Esquire (via email)
Dere R. Brown
Dan Westbrook, Esquire (via email)
Elizabeth Crum, Esquire (via email)
Frank Shepke
Laura Evans, Esquire (via email)
David Levitt (via email)

Article #: 92148969009997901541463955

Article #: 92148969009997901541463948

M. Elizabeth Crum
lcrum@burr.com
Direct Dial: (803) 753-3240
Direct Fax: (803) 933-1484

Burr & Forman LLP
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address:
Post Office Box 11390
Columbia, SC 29211

Office 803.799.9800
Fax 803.753.3278

BURR.COM

January 15, 2021

Via E-mail (murdocmp@dhec.sc.gov)

Margaret P. Murdock
Director, Certificate of Need Program
Dept. of Health and Environmental Control
301 Gervais St.
Columbia, SC. 29201

**Re: Spring Street Senior Housing OPCO, LLC (d/b/a Spring Street Health Center)
DHEC File # 2827 and Bishop Gadsden Episcopal Retirement Center
Request For Affected Person Status**

Dear Ms. Murdock:

On behalf of our client, Bishop Gadsden Episcopal Retirement Center (BGERC or Bishop Gadsden), which is located in Charleston County, the service area for Spring Street Senior Housing OPCO, d/b/a/ Spring Street Health Center (Spring Street), CON application for a 23-bed non-institutional nursing home (Application), we would like to submit a request for affected person status on behalf of BGERC. Since Bishop Gadsden also provides nursing home services, Bishop Gadsden is an affected person pursuant to S.C. Code Ann. § 44-7-120(1). Please accept this request, pursuant to S.C. Code Ann. §§ 44-7-200 and 44-7-210 and S.C. Code Ann. Regs. 61-15, Section 103(1) that Bishop Gadsden be considered an affected person in the above CON project.

BGERC is opposing this project on the following grounds and reserves the right to provide additional grounds of opposition after we receive the "deemed complete" letter establishing the project review criteria that are most important in DHEC's review of the Spring Street Application. The Application does not comply with the 2020 South Carolina Health Plan, the project review criteria, and the applicable regulations in Reg. 61-15.





Article #: 92148969009997901419155067

RECEIVED

MAR 16 2021

BURR & FORMAN LLP

March 11, 2021

VIA CERTIFIED MAIL

Timothy Walsh
Liberty Senior Living
2334 South 41st Street
Wilmington, NC 28403

Re: Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center
Project: Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.
Matter No. 2827

Dear Mr. Walsh:

This is to notify you the South Carolina Department of Health and Environmental Control ("Department") has determined the above-referenced project to be complete for purposes of review by the Certificate of Need Program. Enclosed is an invoice for the required application fee. It may be paid by check made payable to the S.C. Department of Health and Environmental Control or by electronic check through the Department's website (www.scdhec.gov) using the "Pay Invoices" hyperlink at the bottom of each webpage. This is a secure website. If payment is not received within fifteen (15) days of your receipt of this invoice, the pending application will be considered withdrawn and this matter closed. Should this deadline fall on a weekend or State holiday, it will be extended to the next calendar day that is neither weekend nor holiday pursuant to S.C. Regulation 61-15, Section 303.

Should the Department receive your application fee within the fifteen (15) day deadline, the Department will render a decision no earlier than thirty (30) days, but no later than one-hundred (120) days from the date notice is provided to affected persons in the State Register, unless a public hearing is held pursuant to Regulation 61-15, Section 305.

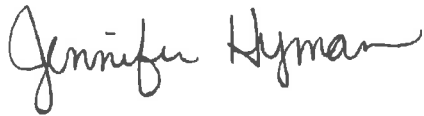
The Department has determined the relative importance of the project review criteria, pursuant to Regulation 61-15, Section 304, which will be used to review your application. The specific criteria to be used are set forth below and are ranked according to their relative importance, with the most important being listed first. All other relevant criteria will be given equal importance.

- a. Community Need Documentation;
- b. Distribution (Accessibility);
- c. Staff Resources; and
- d. Record of the Applicant.

The above criteria are set forth in Regulation 61-15, Section 802. Should you wish to submit any additional information to the Department in support of your application, you have thirty (30) days from the receipt of this correspondence to do so.

If you have any questions, please contact me at 803.545.0260.

Sincerely,



Jennifer Hyman
Project Coordinator, Certificate of Need Program
South Carolina Department of Health and Environmental Control

Enclosure: Application Fee Invoice

cc: Dere R. Brown
Elizabeth Crum
Frank Shepke

BISHOP GADSDEN



March 17, 2021

Ms. Margaret P. Murdock
Director, Certificate of Need Program
Mr. Louis Eubank
Chief, Health Quality, Bureau of Planning and Construction
Bureau of Health Facilities and Services Development
S.C. Department of Health and Environmental Control
301 Gervais Street
Columbia, South Carolina 29201

Re: Charleston Co. Nursing Home certificate of Need Application #2827, Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center—Matter 2827:

Dear Ms. Murdock and Mr. Eubank:

Bishop Gadsden Episcopal Retirement Community is submitting this letter of opposition as an affected person to the above Certificate of Need Application for a new 23-bed non-institutional nursing home (application) to be located at 194 Spring Street, Charleston, South Carolina 29403. We received the “deemed complete” letter yesterday (March 16) and reserve the right to make additional comments.

The verbatim stated goal of the Certificate of Need Act reads as follows: *“The **purpose** of the Act is to promote cost containment, prevent unnecessary duplication of health care facilities and services, guide the establishment of health facilities and services which will best serve public **need** and ensure high quality services are provided in health facilities in this State.”*

The Spring Street Health Center application does not advance any of the stated objectives in the purpose of the CON Act. Its proposed nursing home would be a duplication of readily available services requiring unnecessary healthcare expenditures without compelling evidence of the ability to serve the public need and the community around it. With the owner’s affiliates’ average star quality rating of less than 3 stars, their record in other states does not support the goal of ensuring high quality services are provided in this state.

Furthermore, the application is deficient in the following regulatory requirements, including the four project review criteria identified in the “deemed complete” letter, as evidenced in the attached supporting documentation. Substantively, the application does not:

- Properly document and demonstrate the need
- Meet the required staffing and financial criteria
- Develop support and relationships throughout the community
- Meet numerous regulations and review requirements

1 Bishop Gadsden Way | Charleston, SC 29412
843.762.3300 *phone*
843.762.6119 *fax*
www.BishopGadsden.org
A Life Care Retirement Community



Ms. Margaret P. Murdock

Page 2

March 17, 2021

Bishop Gadsden, established in the city of Charleston in 1850 and on our present site on James Island since 1987, is a well-respected long-term care provider in the Charleston area with a long history of excellent quality and commitment to service in the community. Our facility is located within 5 miles of the proposed site of this applicant.

We are available at your request to answer any questions you may have about our opposition. You can contact us at (843-762-3300) or our attorney, Liz Crum (803-753-3240). We respectfully request this application be denied.

Sincerely,



Sarah E. H. Tipton
President/CEO

Enclosures

cc: Liz Crum, Esq., Burr & Forman, LLP

BISHOP GADSDEN

Opposition to Liberty Health – Spring Street *Charleston, SC*

Opposition Overview

- Bishop Gadsden opposes Spring Street Senior Housing OPCCO, LLC's (Spring Street)(A/K/A Liberty Health) Certificate of Need (CON) application to construct a nursing facility in Charleston
- DHEC should deny the CON application because Spring Street failed to completely and sufficiently address the Project Review Criteria (PRC) of **Reg. 61-15 Certification of Need for Health Facilities:**
 - Spring Street did not:
 - Properly document and demonstrate need
 - Meet required financial and staff related criteria
 - Develop relationships and support throughout the community
 - Meet numerous regulations and review criteria

Failure to Document Community Need

SECTION 802. CRITERIA FOR PROJECT REVIEW (2.)



2

Failure to Document Need

- Spring Street failed to address points required *within Part B – Question 11*, relying only on the State Health Plan’s need and failing to include:
 - Documentation to support need within the target population, the county per the Plan.
 - Discussion of existing facilities and services within the service area.
 - The projects will **unnecessarily duplicate** existing entities and services.
 - Need methodologies and projected utilization are flawed.
- It appears that Spring Street has not used data to develop a credible need, and has not properly assessed nor does not fully understand the local nursing home market.

Failure to Document Need

- The target population per Spring Street CON is the County Of Charleston
 - Charleston County is 1358 square miles-(916 square miles of land and 442 square miles of water
 - The largest county in South Carolina
- Spring Street is located on the peninsula on an extremely busy thoroughfare
 - The only access to the thoroughfare is via the interstate or bridges
 - The area is highly congested
 - The area is prone to extensive flooding
- This location is not easily accessible by the vast majority of the residents of Charleston County
- Spring Street does not address parking for staff, residents, families, visitors or vendors, etc. (this area of Charleston has an inadequate supply of parking) and zoning requirements in Charleston mandate parking by use. While Spring Street is properly zoned for use, there is no mention of its meeting the parking requirements or having an exemption.
- The target population is not clearly identified as to size, location, distribution and socioeconomic status and does not provide evidence that services support this target population**



Failure to Document Need

- Spring Street will not be serving the residents of Charleston County living the closest to the facility. The population in the zip code (29403) of the proposed Spring Street skilled facility represents 58% of the residents over the age of 65 with an annual income below \$50,000 (Exhibit 13 attached)*
- Can someone with an income of \$50K actually afford to be at facility?**

5

Distribution (Accessibility)

SECTION 802. CRITERIA FOR PROJECT REVIEW (3.)



6

Community Need—Duplication of Services

- Decline in Nursing Facility occupancy is an industry wide problem.
 - Life expectancy in the United States dropped during the first half of 2020 and as data is compiled for remaining months of 2020 it has the potential drop further. This is the largest drop since the 1940's (Exhibit 6 attached)
- According to the NIC Skilled Nursing Monthly Report data through November 2020 states that total occupancy fell to a new low of 74.2% (Exhibit 7 attached)
 - South Carolina fell to an average of 74.9% in 2020 (Exhibit 8 attached)
 - Charleston County fell to an average of 76.4% in Q4 2020
- Industry trends for average length of stay is steadily decreasing. The National SNF average length of stay (ALOS) is trending down as evidenced by Medicare cost reports.

Community Need-Duplication of Services

- Managed Medicare plans utilization is increasing while private pay and traditional Medicare is decreasing. Revenue per patient day (RPPD) under Managed Medicare Plans is significantly less than private pay and traditional Medicare
 - NIC Skilled Nursing Monthly Report includes graphs to support these trends (Exhibit 11 attached).
- Demand for Nursing Facilities is now shifting to Home Health and Home Care services as demonstrated in Exhibit 9 and Exhibit 10 (attached).
 - During 2020 Home Health Agencies has significant growth in census
 - Home Care Services have been developed to offer similar services as Nursing Facilities in a home setting
 - Developing technologies are supporting ability for patients to recover and live in the home setting without the need for an intervening stay at a nursing home.

Community Need-Duplication of Services

This chart (Exhibit 12 attached) uses current data and demonstrates sufficient beds to cover needs in Charleston County for Medicare and Private Pay

The conservative estimate (Column A) puts current excess capacity at 1,120 beds and scenarios based on current trends project excess capacity to be as great as 4,569 beds (Column E)

Data compiled utilizing Medicare cost reports

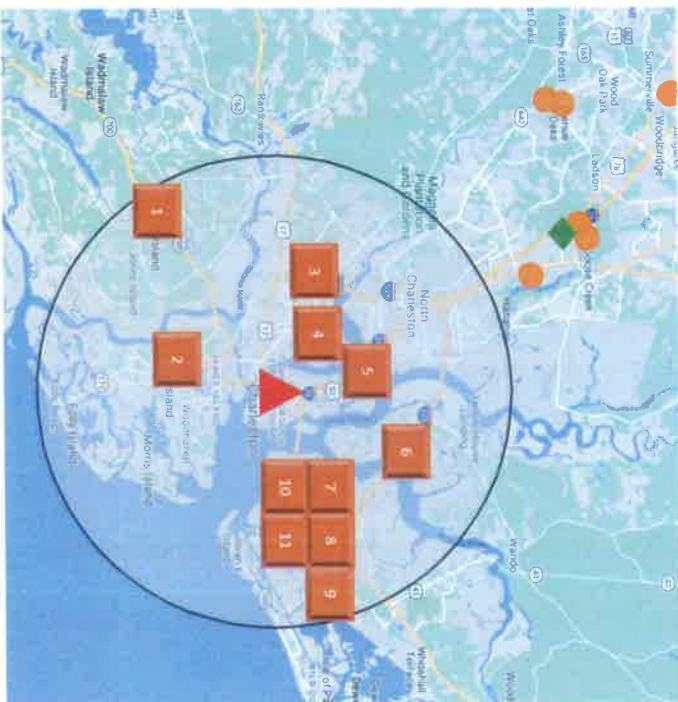
	A	B	C	D	E
Occupancy	0%	90%	80%	75%	ALOS
Total Medicare licensed beds	1483				1483
Calendar days	365				365
total patient days	541,295				541,295
Medicare payer mix	19.80%				19.80%
Medicare days	107,176				107,176
Medicare Average length of stay	29				15
Annual Medicare Capacity	3,696				7,145
Average beds in use	1,335				-
Beds available	148				371
Total 2019 Charleston County discharges to SNF	2,576				2,576
Excess bed capacity	1,120				4,569

*****Spring Street will only serve Medicare residents and Private Pay
 ***** Spring Street will not serve Medicaid patients
 ***** National trend for Occupancy to decrease-----Home Health to increase
 ***** Industry trend is for average length of stay to decrease

Q

Community Need-Duplication of Services

- ❑ There are currently 11 established nursing facilities within a 10 mile radius of the Spring Street project
 - ❑ The current providers represent 1184 beds and are geographically dispersed to serve the population
 - ❑ Each of these facilities has excess capacity to serve the surrounding population
- Represents current nursing facilities in a 10-mile radius of proposed site
- ▲ Represents proposed site at 194 Spring Street
- This Clearly demonstrates duplication of Services**



JP

Community Need-Duplication of Services

□ There are an additional six facilities and one additional facility in advanced planning stages that represent an additional 792 beds within a 20 Mile Radius of the Spring Street project



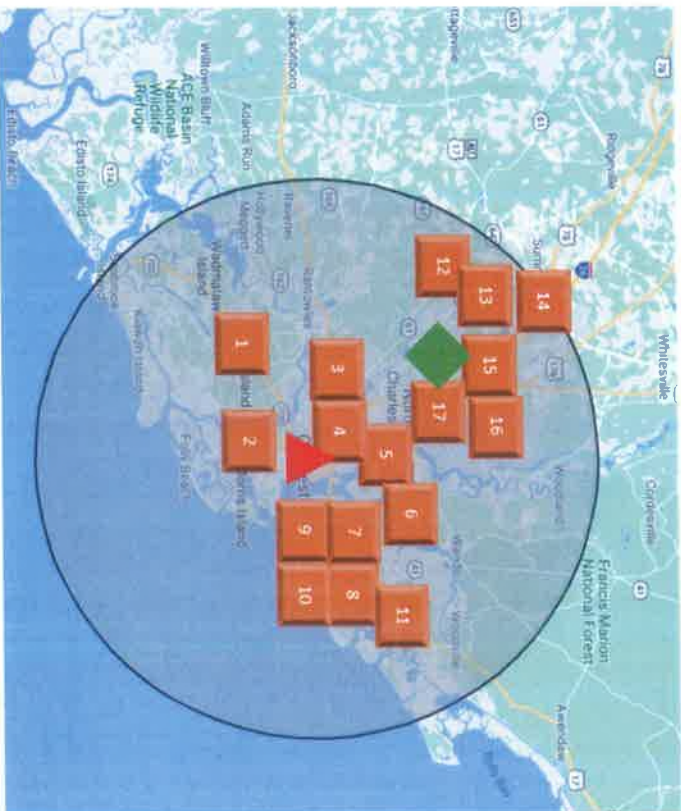
Represents current nursing facilities in a 20-mile radius of proposed site



Represents proposed site at 194 Spring Street



Represents nursing facility currently in planning (North Charleston Post-Acute)



This Clearly demonstrates duplication of Services

Community Need

Adverse Effects on other Facilities

Section 802 (23) (a) The impact on the current and projected occupancy rates or use rates of existing facilities and services should be weighed against the increased accessibility offered by the proposed services

The Spring Street project would adversely effect the existing facilities in Charleston and as discussed further below and offers NO increased accessibility

Failure to Demonstrate Provisions for Access/Indigent Care

SECTION 802 CRITERIA FOR PROJECT REVIEW 31



13

Indigent Care Support

Spring Street failed to provide historical performance from other facilities in Spring Street's consolidated group for evidence of adequate provisions for access/indigent care.

The indigent care plan outlined in the application would most likely provide care for less than 5 residents a year:

- Budgeted charity care of \$11,756 year 1, \$20,064 year 2 and \$20,775 year 3 is depicted in the CON application. The net revenue per patient day is \$348 year 1, \$351 year 2, and \$358 year 3. This equates to a total of 33 indigent care days year 1, 57 days year 2 and 56 days year 3.
- The estimated population of Charleston County age 65 and with an income level below \$50,000 is **20,610** in 2020.
- With the forecasted population growth depicted in Spring Street's application of 17.89% by the year 2025, it should be assumed that the population of the income level \$50,000 and below in Charleston County will increase to **24,300** residents..

Spring Street does not demonstrate commitment to support indigent and low-income residents of the Charleston community as required. (802-3 (f/g)) (31)

Lack of Evidence of Community Support Acceptability

SECTION 802. CRITERIA FOR PROJECT REVIEW 4.



15

Community Support

- Corporate headquarters of Spring Street Health Center are located in Florida and it is a Delaware LLC.
- The majority of their other facilities are outside the state of SC.
- 40% of the facilities Spring Street states (pg. 12 of the CON application) will transfer patients to the Spring Street location have a skilled nursing facility attached to their Assisted Living and Memory Care facilities and most likely will not discharge to Spring Street.
- The Medical University of South Carolina transfer agreement support letter states “we will *consider* entering into a transfer agreement...”
- The two letters from local physicians and the mayor state a 25 bed facility---this is a 21 room facility with two double occupancy rooms, totaling 23 beds-NOT 25



-  Spring Street Site
-  Corporate Headquarters
-  LLC Registration State

Community Support

The organizational chart provided in the Spring Street Senior Housing OPCO, LLC CON application is labeled

- POINSETTE – CHARLOTTE SC

Spring Street did not include an appropriate organizational chart

The regulations' require a list of names, addresses, % of ownership, person responsible and attorneys' representing the proposal---this information is not depicted clearly on the organizational chart PART A, ¶ 7.



Staff Resources



18

Staffing Resources

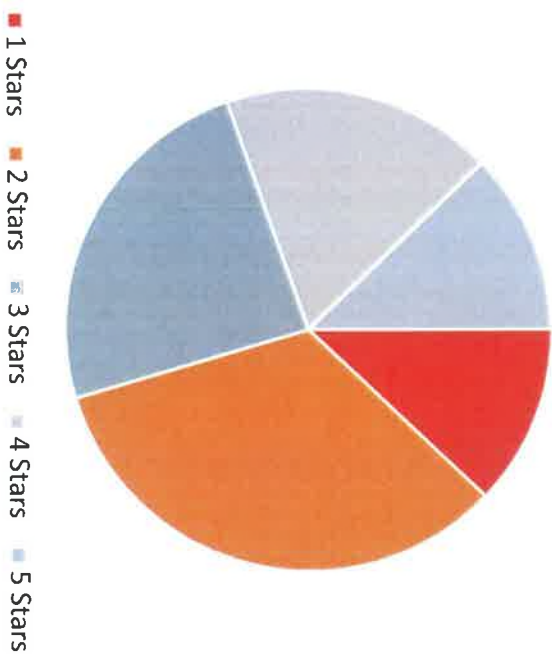
- Liberty will need experienced, qualified staff for care of the targeted population
 - Potential to adversely impacting existing care providers as Spring Street's recruitment will draw highly qualified staff from existing care providers
- Charleston Regional Business Journal* (June 26th) details significant challenges currently facing the region for recruitment of cooks, wait staff, and utility/dishwashers and qualified medical staff (Exhibit 1 attached)
- Charleston Region historical and forecasted occupational cluster employment trends depicts medical (nurses and nurse aides) as the third highest growth in job needs by 2023. (Exhibit 2 attached)
- South Carolina is experiencing a critical shortage of nurses and it ranked fourth in the United States with greatest forecasted deficit (Exhibit 3 attached)

Staffing Resources

- It is possible that Liberty's reputation will result in Challenges recruiting the experienced, qualified staffing needed
- Currently Liberty operates 15 facilities that are 1 or 2 Stars as rated by CMS

Average Rating	2.85
1 Stars	4
2 Stars	11
3 Stars	8
4 Stars	6
5 Stars	4

Liberty Star Rating Distribution



20

Staffing Resources

- The 2021 Skilled Nursing Outlook Report (Exhibit 4 attached) states staffing challenges as the top non-Covid challenge to nursing facilities in 2021. A direct quote from this reports states “Pre-pandemic, post-pandemic, it makes no difference; Staffing remains a top challenge for the skilled nursing industry heading into 2021.”
- The Spring Street Project forecasts annual salary increases of just 2% per year. According to the living wage MIT study (exhibit 5) the living wage for Charleston County increased to \$16.23 as of February 2021. This is approximately a 30% increase since the 2020 study. This living wage far outpaces projected staffing costs/salaries for this project.
- Staffing compensation does not appear to be in a competitive range in the service area.

Manpower Budget

- Upon review of the manpower budget, the administrator is not clearly identified.
- Staffing plan-the manpower budget appears to be for all of the business operations included in the building and does not break out the staffing for the skilled beds from the other licensed beds in the facility
 - Staff working in a SNF should have a different clinical skill set and most likely will cost more.
- The CON does not clearly demonstrate proper staffing for 23 skilled nursing beds

22

Manpower Budget

- Spring Street does not provide evidence of on-going clinical training
- Spring Street does not provide support for working with the local high school, tech schools or colleges to attract and provide on-going training

Due to the nursing shortage in Charleston County—how does Spring Street plan to comply with Section 802 (23) Adverse Effects on Other Facilities

“the staffing of the proposed service should be provided without unnecessarily depleting the staff of existing facilities or services creating an excessive rise in staffing costs due to increased competition”

Financial

SECTION 802. CRITERIA FOR PROJECT REVIEW 5,6,7,8,9,15,20,23

24

Financial

- Spring Street is using a rate of \$542.00/day for rehab and a blended rate of \$420.00/day for private pay. **These appear to be unrealistic projections**
- According to the NIC Map data through November 2020, (Exhibit 11 attached) Medicare (rate per patient day) RPPD spiked in 2020 to a high of approximately \$560.
- Many industry experts believe this rate will decrease in the near future as CMS studies the impact of the new PDPM rates on the overall reimbursement.
- The Medicare RPPD fluctuated between \$530 and \$540 between years 2012 and 2019.
- The Spring Street project indicates 70% of annual revenue from Medicare which is contrary to trends of increasing Medicare Replacement plans. This is an aggressive patient mix and is not comparable to other facilities in the surrounding area

Financial

- Spring Street is projecting a stabilized occupancy of 91%--(55% in year 1)
 - This is contrary to occupancy trends within Charleston County and within the greater industry
- Page 138 of the Certificate of Need application confirms that “**Charleston County is a highly competitive Senior Living market**” (This also applies to staffing)
 - This statement is confirmed by current occupancy trends in Charleston County and current excess bed capacity for surrounding nursing facilities
- Overstated revenue and higher than market occupancy rates support that the actual revenue may be less than the forecasted revenues. Spring Street does not indicate any other sources of revenues except Medicare and private pay.
- As required (6) Spring Street does not provide a contingency plan if revenue or occupancy does not meet forecasted targets.

Financial

- The following expenses are omitted in the operating costs:
 - FMV Rent—
 - A related entity owns the Land, Building and Furniture, Equipment (FFE) which is rented to Spring Street
 - The lease is \$28.23 per square foot for skilled nursing space—the average doctor office space is Charleston is greater without FFE included
 - The lease with extensions is for only 15 years—Is this operation expected to only operate 15 years?
 - The lease is a net lease (lessee pays a portion of taxes, insurance fees, maintenance)
- The CON states a FMV rent will be paid in years 6-15 (pg 53/5.7)—does this imply the rent paid in years 1-5 are not a FMV rent?**

Financial

- Salaries and benefits represent the majority of operating costs. An inflationary increase (page 150 of the application) of 2% will likely not be enough to retain a workforce and provide quality care to the residents of the facility in the Charleston County market.
- Low wages promote high employee turnover. High turnover in a medical setting does not promote quality healthcare
- Higher turnover rates increase operational costs for training and recruiting that may not be reflected in projected costs
- Overstated revenue and understated expenses result in a forecast depicting a greater net income each year of the forecast. Corrections to revenue mix, occupancy declines and increases in wages, benefits and employee turnover would likely result in a decrease to net income and possibly create a net loss.
- The certificate of need application (page 144) states a management fee of 6% of total revenue will be paid. The owners of Spring Street are not located in Charleston County or South Carolina, thus this fee will not boost the local or state economy

Other Financial Questions

- Spring Street allocates the Project Budget based on the square footage of each level of care—
 - A SNF requires higher building codes/cost than AL beds. A higher cost per square foot should be allocated to the SNF
- Spring Street states a larger facility provides construction costs that are more economical—
 - Our past building experience does not support this theory
- Insurance Costs (liability, property and casualty, automobile, wind and hail, and flood) are not included in the operating costs
- Spring Street does not identify what expenses the Management fee covers (if any)---
 - Without this knowledge, it cannot be determined if it is priced as an arm's length transaction
- IF THE ABOVE EXPENSES ARE OMITTED OR ARE LESS THAN FMV-the operating costs are understated**

Other Financial Questions

- It is difficult to obtain a complete schedule of operating costs because of the lease agreement between the owner of the building, Spring Street Senior Housing PROPCO, LLC, a Delaware limited liability company and Spring Street Senior Housing OPSCO, LLC, a Delaware limited liability company and determine if costs are understated.
- A consolidated schedule of operating costs would properly show operating costs in accordance with section 802 (7)
- Spring Street has not demonstrated that related party transactions are recorded at (FMV) arms' length-GAAP requires FMV of related party transactions or disclosure

Other Financial Questions

- The following normal operating expenses are not clearly identified:
 - Malpractice Insurance
 - Technology Expense
 - Advertising
 - Marketing
 - Electric
 - Water/Sewer
 - Cable/Internet
 - Security
 - Clinical Training/Education
 - Licensure Fees
 - Appropriate Depreciation
- Spring Street states it will provide transportation services, but it does not address purchasing of vehicles, lease payments of vehicles, maintenance, insurance, property taxes, depreciation, or any transportation expenses.

Other Comments

- The lease states that Assisted Living and Memory Care are the only business operations that can be conducted in the Spring Street facility without the express written consent of the landlord (which can be withheld for any reason, in its sole discretion) –how can the tenant operate the skilled beds without violating the lease?
- The Landlord of the facility has the right to review ALL records. There is no exception for medical records---what about HIPAA violations?

Conclusion

- In summary, DHEC should deny the CON application because Liberty failed to do the following:
 - Properly document and demonstrate need
 - Meet required financial and staff related criteria
 - Develop relationships and support throughout the community
 - Meet numerous regulations and review criteria
- The application does not comply with the State Health Plan, including the project review criteria identified in the Plan and the deemed complete letter

Exhibits

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Exhibit 1

Health care industry warns of labor crisis



Patrick Hoff



@ParHoffCRBJ



phoff@schiznews.com

"The workforce shortage ... is mostly focused on front-line clinicians like nurses and physicians," said Schipp Ames, executive director of communications and marketing for the S.C. Hospital Association. "So it's really these front-line, bedside clinicians where you're seeing projected workforce shortages."

"You can make a much better living in a clinical setting than you can as faculty," he said. "So there's not as much available medical faculty to keep up with the amount of physicians and nurses we need."

"You're going to see a large number of clinicians retiring over the next several years," he said. "A huge portion of the physician and nurse population is age 55 to 75."

Franklin said just not enough people are gravitating to health care jobs.

"The crisis is already there, and it just seems like it's going to accelerate," she said.

[HTTPS://CHARLESTONBUSINESS.COM/NEWS/HEALTH/73093](https://charlestonbusiness.com/news/health/73093)

Exhibit 2

343,102
Employment
2018

+9.3%
5-Year % Growth
2018 - 2023

31,998
New Jobs
2018 - 2023

+

Largest 15 Industry Clusters

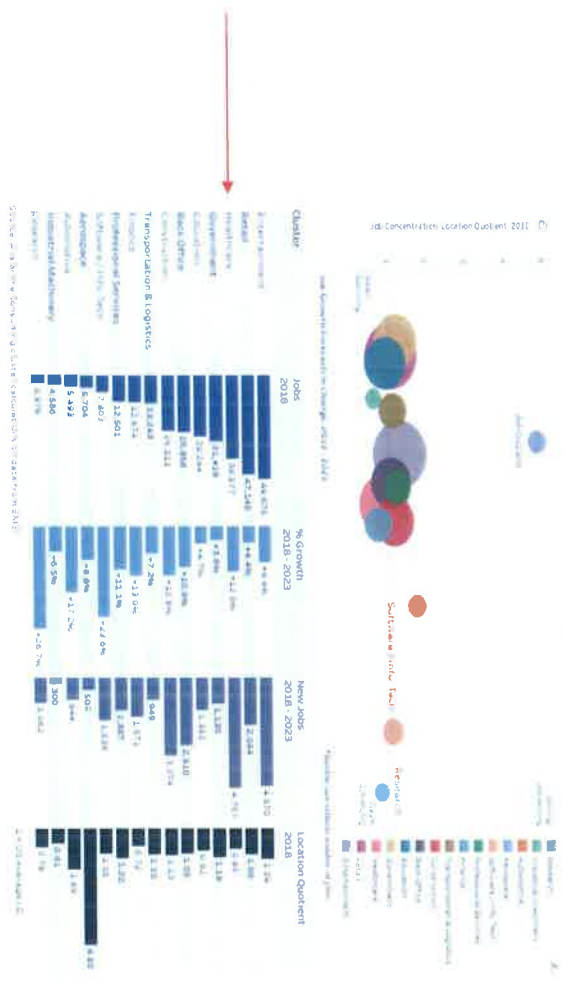


Exhibit 3

Registered Nurse Shortages by State, Projected Difference between supply and demand expected by 2030

Most

Rank	State	Demand (2030)	Supply (2030)	Difference
1	California	387,900	343,400	-44,500
2	Texas	269,300	253,400	-15,900
3	New Jersey	102,200	90,800	-11,400
4	South Carolina	62,500	52,100	-10,400
5	Alaska	23,800	18,400	-5,400
6	Georgia	101,000	98,800	-2,200
7	South Dakota	13,600	11,700	-1,900
8	Montana	12,100	12,300	200
9	North Dakota	9,200	9,900	700
10	New Hampshire	20,200	21,300	1,100
11	Delaware	12,800	14,000	1,200
12	Arizona	98,700	99,900	1,200
13	Massachusetts	89,300	91,300	2,000
14	Louisiana	49,700	52,000	2,300
15	Vermont	6,800	9,300	2,500

Least

Rank	State	Demand (2030)	Supply (2030)	Difference
1	Florida	240,000	293,700	53,700
2	Ohio	132,800	181,900	49,100
3	Virginia	86,500	109,200	22,700
4	New York	195,200	213,400	18,200
5	Missouri	73,200	89,900	16,700
6	North Carolina	118,600	135,100	16,500
7	Indiana	75,300	89,300	14,000
8	Kansas	34,900	47,500	12,600
9	Maryland	73,900	86,000	12,100
10	Kentucky	53,700	64,200	10,500
11	Iowa	35,300	45,400	10,100
12	Arkansas	32,300	42,100	9,800
13	New Mexico	21,600	31,300	9,700
14	Colorado	63,200	72,500	9,300
15	Tennessee	82,200	90,600	8,400



Bureau of Health Workforce

Exhibit 4

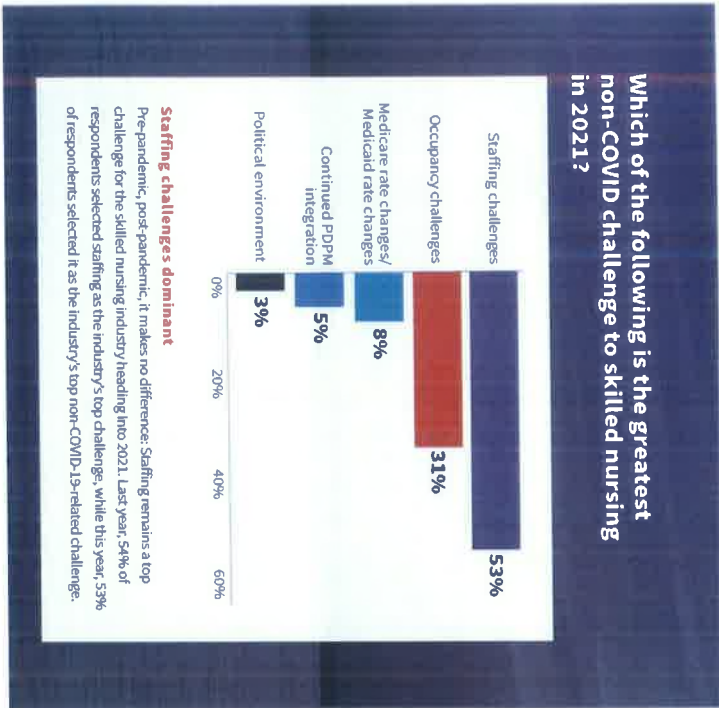


Exhibit 5

Living Wage Calculation for Charleston County, South Carolina

	1 ADULT			
	0 Children	1 Child	2 Children	3 Children
Living Wage	\$16.43	\$32.29	\$38.25	\$47.96
Poverty Wage	\$6.13	\$8.29	\$10.44	\$12.60
Minimum Wage	\$7.25	\$7.25	\$7.25	\$7.25

<https://livingwage.mit.edu/counties/45019>

Exhibit 6

US life expectancy drops a year in pandemic, most since WWII

By MARILYNN MARCHIONE February 17, 2021

Life expectancy at birth drops in US



Life expectancies for 2019 shown; final estimates. Estimates are based on provisional data from Jan. 2020 - June 2020. Source: Centers for Disease Control and Prevention / Graphic: Phil Hain

AP

“What is really quite striking in these numbers is that they only reflect the first half of the year ... I would expect that these numbers would only get worse,” said Dr. Kirsten Bibbins-Domingo, a health equity researcher and dean at the University of California, San Francisco.

[HTTPS://APNEWS.COM/ARTICLE/US-LIFE-EXPECTANCY-HUGE-DECLINE-F4CAAF4555563D09E927F1798136A869#:~:TEXT=LIFE%20EXPECTANCY%20IN%20THE%20UNITED,DEATHS%2C%20HEALTH%20OFFICIALS%20ARE%20REPORTING.](https://apnews.com/article/us-life-expectancy-huge-decline-f4caaf4555563d09e927f1798136a869#:~:text=LIFE%20EXPECTANCY%20IN%20THE%20UNITED,DEATHS%2C%20HEALTH%20OFFICIALS%20ARE%20REPORTING.)

40

Exhibit 7



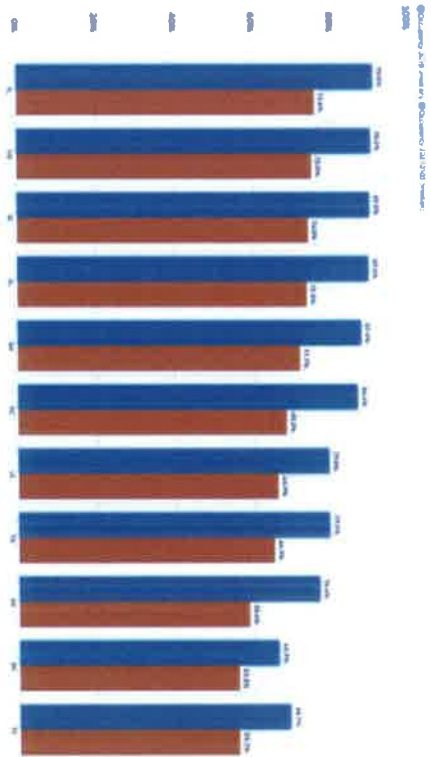
Data Through November 2020

Key Takeaways

Occupancy continues to be challenged for skilled nursing properties, with the November 2020 occupancy rate falling to a new low of 74.2%. It was down 69 basis points from October (74.9%) and 11.2 percentage points from pre-pandemic levels in February 2020 (85.4%) and 10.7 percentage points from year-earlier levels. Since February, COVID-19 has significantly impacted skilled nursing operations across the country due to high acuity levels of residents, pandemic-related deaths as well as fewer elective surgeries at hospitals which have resulted in less need for rehab services often provided by nursing care properties. As the country and the skilled nursing sector navigate through the Winter months and vaccine distributions, it is likely that occupancy will continue to face pressure.

Exhibit 8

**Southern States Occupancy
(Pre-COVID to January 3, 2021)**



Source: CIA

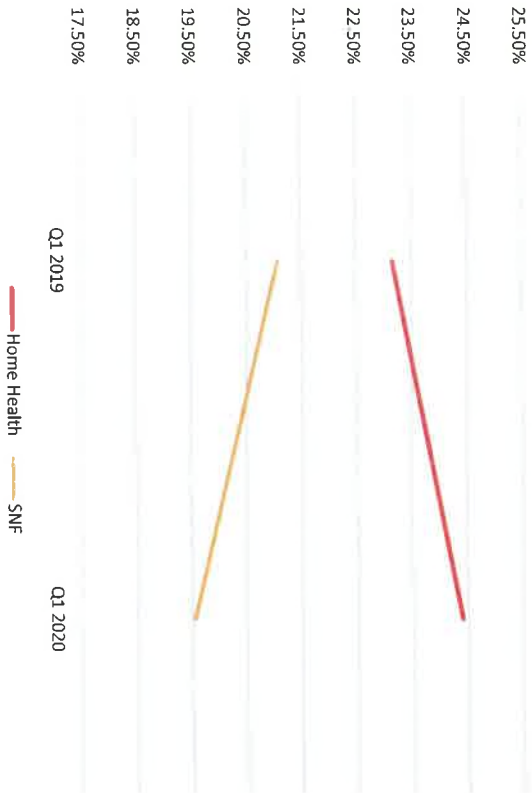
The states covered in the chart, from left to right, are Florida, Mississippi, South Carolina, Alabama, Georgia, North Carolina, Louisiana, Tennessee, Arkansas, Oklahoma, and Texas.

https://skillednursingnews.com/2021/01/48-states-saw-nursing-home-occupancy-of-80-or-worse-as-2021-dawned-with-census-as-low-as-56/?utm_source=Skilled+Nursing+News&utm_campaign=1643ea1bf4-EMAIL_CAMPAIGN_2021_01_25_10_28&utm_medium=email&utm_term=0_0eef5a4d02c-1643ea1bf4-227189

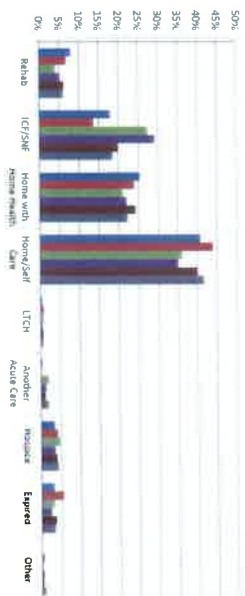
42

Exhibit 9

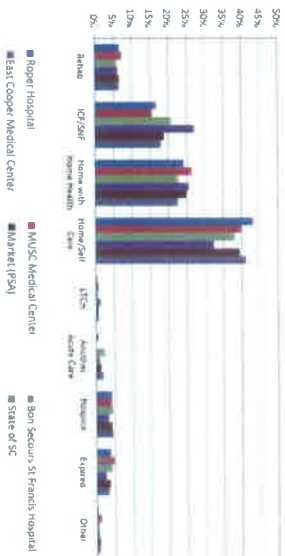
Discharge Disposition
Q1 '19 vs Q1 '20



PSA Bishop Gaddden: YE 2019Q1 Discharge Status Conversion Rate Compared to Market and State, Ages 65+



PSA Bishop Gaddden: YE 2020Q1 Discharge Status Conversion Rate Compared to Market and State, Ages 65+



43

Exhibit 10

www.ziegler.com

ZIEGLER INVESTMENT BANKING SENIOR LIVING FINANCE Z-NEWS

Page 1 | Week of January 11, 2021

Technology: Technology has quickly become our saving grace across many levels. Providers have learned that stakeholders are willing to adopt technologies and that there are successful, innovative solutions to some of our most pressing issues. In 2021, rather than focusing on the speed of deployment as was seen in 2020, we will see greater focus on refinement and meaningful integration of technology solutions. Technology is here to stay.

Skilled Nursing: It is likely that this will be the one area continuing to experience instability in the year ahead. With dramatic drops in occupancy and shifts to intensive home health and home care services, occupancy will not likely rebound quickly. Providers will be assessing their unit

444

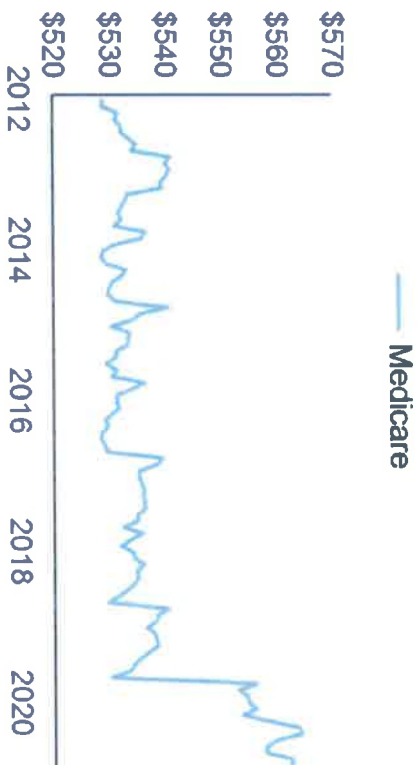
Exhibit 11

Skilled Nursing Monthly Report

Data through November 2020

<http://www.nic.org/nic-map> | 410-267-0504
National Investment Center for Seniors Housing & Care (NIC)

Revenue Per Patient Day



45

Exhibit 12

	A	B	C	D	E
Occupancy	0%	90%	80%	75%	ALOS
Total Medicare licensed beds	1483				1483
Calendar days	365				365
total patient days	541,295				541,295
Medicare payer mix	19.80%				19.80%
Medicare days	107,176				107,176
Medicare Average length of stay	29				15
Annual Medicare Capacity	3,696				7,145
Average beds in use		1,335	1,186	1,112	
Beds available		148	297	371	
Total 2019 Charleston County discharges to SNF	2,576				2,576
Excess bed capacity	1,120				4,569

*****Spring Street will only serve Medicare residents and Private Pay
 ***** Spring Street will not serve Medicaid patients
 ***** Natlional trend for Occupancy to decrease-----Home Health to increase
 *****Industry trend is for average length of stay to decrease

HL

Exhibit 13

Charleston County, SC AIG Households

	Age				Total
	Under 64 ⁽¹⁾	65-74	75-84	85 and Over	
29403					
Less than \$50,000	1,231	754	503	221	2,709
\$50,000 - \$100,000	513	396	165	50	1,124
\$100,000 - \$200,000	306	215	71	15	607
Greater than \$200,000	383	116	20	6	525

BISHOP GADSDEN

Project Review Meeting
Spring Street Health Center
(CON Application #2827)
May 24, 2021



Opposition Overview

- Bishop Gadsden opposes Spring Street Senior Housing OPCO, LLC's (Spring Street) (A/K/A Liberty Health) Certificate of Need (CON) application to construct a nursing facility in Charleston.
 - Bishop Gadsden is a 100-bed nursing facility located just five miles from the proposed Spring Street Health Center.
- DHEC should deny the CON application because Spring Street failed to completely and sufficiently address the Project Review Criteria (PRC) of **Reg. 61-15 Certification of Need for Health Facilities**.
- Spring Street did not:
 - Properly document and demonstrate need;
 - Respond to the current 2020 SHP CON Projections and Standards for Nursing Facilities;
 - Meet required financial and staffing-related criteria;
 - Develop relationships and support throughout the community;
 - Produce complete CON application; and
 - Meet numerous regulations and review criteria.

Project Review Criteria

- The Deemed Complete letter, dated March 11, 2021, outlined the four most important project review criteria:
 - a. Community Need Documentation
 - b. Distribution (Accessibility)
 - c. Staff Resources
 - d. Record of the Applicant
- Spring Street failed to comply with all four of these review criteria.
- The proposed CON application for a 23-bed nursing facility should be denied.

Failure to Respond to Current CON
Projections & Standards
(2020 State Health Plan)

Failure to Respond to Current CON Projections & Standards: 2020 State Health Plan

- ❑ On pages 15-16 of the CON application, Spring Street provides brief responses to what it purports to be “Current SC Health Plan Standards for Nursing Home Services.”
 - However, the three standards listed by the applicant are not from the current 2020 State Health Plan.
 - They are the standards from the 2018-2019 State Health Plan.
- ❑ Failure to respond to the correct CON review standards from the 2020 State Health Plans renders the Spring Street application incomplete.
- ❑ Clearly, the applicant lacks knowledge of CON rules and review processes, as well as the local market which it proposes to serve.

Summary of Failure to Comply with SC 61-15

SECTION 802. CRITERIA FOR PROJECT REVIEW

SC 61-15

Criteria	Reasoning
Community Need Documentation	Failure to demonstrate need; Exclusion of essential information and documentation.
Distribution (Accessibility)	Failure to assess existing providers/services/capacity.
Acceptability	Failure to demonstrate support of affected persons; Exclusion of cooperative agreements.
Projected Revenues and Expenses	Question concerning accuracy/credibility of financials due to lack of need methodologies and market assessment; Questionable average charge per day; Low and omitted operating expenses.
Beginning Cash Flow	Lack of documentation regarding availability of resources/funding; Question concerning accuracy/credibility of financials.
Net Income	Question concerning accuracy/credibility of financials.

SC 61-15

Criteria	Reasoning
Record of Applicant/Ability to Complete	Failure to provide sufficient details about applicant to determine success of existing facilities; Failure to demonstrate history of quality of care.
Financial Feasibility	Question concerning accuracy/credibility of financials reduce feasibility.
Cost Containment	Failure to demonstrate alternative most feasible; No discussion of costs/charges/impact
Efficiency	Failure to demonstrate that services not duplicated, shared services promoted and economies of scale/size fostered.
Staff Resources	Failure to provide a plan for recruitment of staff and physicians; Staffing shortages could result in potential adverse impact as staff members are recruited away from existing facilities.
Adverse Effects on Other Facilities	Staffing shortages could result in potential adverse impact as staff members are recruited away from existing facilities.
Medically Underserved Groups	Spring Street does not plan to serve low income patients in any meaningful capacity; the applicant projects very little indigent/charity care.

Failure to Document Community Need

SECTION 802. CRITERIA FOR PROJECT REVIEW (2.)

Failure to Document Need: General Need

- Spring Street failed to address points required *within Part B – Question 11*, relying only on the State Health Plan’s need and failing to:
- Provide a detailed description of what the proposed project includes (types of services, etc.).
- Document need within the target population (the county) per the Plan.
 - No data is included other than Charleston County population.
- Discuss existing facilities and services within the service area.
 - Existing market providers, services offered and statistical data are essential to documentation of need.
 - It is impossible to determine whether or not the proposed project will unnecessarily duplicate existing entities and/or services.
- Provide evidence that the project will not **unnecessarily duplicate** existing entities and services.
 - Exclusion of detailed project description, failure to document the specific target patient population, and lack of discussion of existing providers makes it impossible to determine whether or not the proposed project will unnecessarily duplicate existing entities and/or services in the service area.
- Include sufficient detail or assumptions related to need methodologies and projected utilization.
 - Proper market assessment, including analysis of market data beyond population projections, must be conducted in order to develop credible need methodologies and reasonable utilization projections.

Failure to Document Need: Bed Need

- Spring Street does not provide any analysis related to the need for its proposed project, or the justification for its proposed 23 beds. Instead, Spring Street relies upon the projected bed need in the 2020 State Health Plan, which is not entirely applicable to the population Spring Street proposes to serve.
 - Specifically, the patient population Spring Street proposes to serve (primarily Medicare SNF patients) is sufficiently served in the market, with existing providers having available capacity.
- The mere existence of a calculated bed need in an area does not directly imply need for a specific project. The burden is on the applicant to show why its project is needed or how it will serve an unmet need in the target area.
- The lack of data or analysis included in the Spring Street application results in failure to develop a credible need argument that would satisfy the community need review criteria.

Failure to Document Need: Bed Need

- Rather than attempt to show a need for the population it proposes to serve, Spring Street simply relies on the calculated bed need for Charleston County. However, this approach falls short of the requirements of B.11, which states:

“Demonstrate that the proposed project is needed or projected as necessary to meet an identified need of the public. This shall address at a minimum: identification of the target population; the degree of unmet need; projected utilization of the proposed facility or service; utilization of existing facilities and services; past utilization of existing similar services within the facility; and justification that the proposed project will not unnecessarily duplicate existing entities...” (Emphasis Added)

- Spring Street makes no mention of any of the 13 existing nursing facilities in Charleston County.

Failure to Document Need: Proximity to Population

- The target population per Spring Street CON is the County Of Charleston
- Charleston County is 1,358 square miles (916 square miles of land and 442 square miles of water)
- The largest county in South Carolina based on land area
- Spring Street is located on the peninsula on an extremely busy thoroughfare
 - The only access to the site is via the interstate or bridges
 - The area is highly congested
 - The area is prone to extensive flooding
- This location is not easily accessible for the vast majority of the residents of Charleston County, meaning that Spring Street's identification of all of Charleston County as its target population is unreasonable.
- Spring Street does not address parking for staff, residents, families, visitors or vendors, etc. (this area of Charleston has an inadequate supply of parking) and zoning requirements in Charleston mandate parking by use. While Spring Street is properly zoned for use, there is no mention of its meeting the parking requirements or having an exemption.
- The target population is not clearly identified as to size, location, distribution and socioeconomic status. Spring Street fails to provide detail associated with its proposed project and instead just relies on calculated bed need for Charleston County.**



Failure to Document Need: Utilization of Existing Providers

- There are 1,483 nursing facility beds in Charleston County.
 - A number of exiting facilities currently service the specific population targeted by the Spring Street CON.
- A number of providers have excess capacity to accommodate additional admissions as needed.
- In 2018 (most recent JAR data), there were at least 210 beds available within existing facilities that reported.
 - 4 facilities with 283 total beds did not report JARS in 2018.
- Specifically, Bishop Gadsden is approved to operate 100 nursing facility beds (approved expansion and new facility through SC-19-23 on April 10, 2019). Full project expected to be complete March 2022.
- Additionally, a number of existing providers have also expressed opposition to the proposed project, based on lack of need, unnecessary duplication of services and adverse impact.

Distribution (Accessibility)

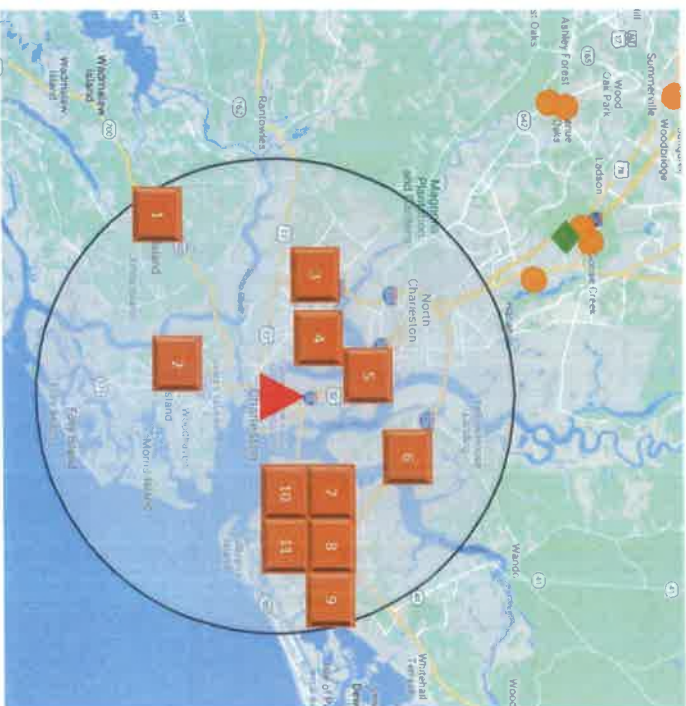
SECTION 802. CRITERIA FOR PROJECT REVIEW (3.)

Distribution (Accessibility): Limited Patient Population

- ❑ Spring Street proposes to only serve private pay and Medicare patients and states explicitly that Medicaid patients will not be served.
 - Per the 2020 State Health Plan, “the Medicaid program pays for approximately 65% of all nursing facility residents.”
 - Since the majority of nursing home residents are covered by the Medicaid program, excluding this patient population notably limits the potential patient population Spring Street intends to serve.
- ❑ Spring Street does not even attempt to discuss distribution or accessibility of services, with the application containing no mention of the 13 existing nursing facilities in Charleston County or any information related to the types of patients served by these facilities.
- ❑ In the absence of a comprehensive need assessment, demonstration of community need or evidence that existing providers are not meeting the needs of the community, Spring Street fails to comply with a number of regulations and standards.

Distribution (Accessibility): Duplication of Services

- ❑ There are currently 11 established nursing facilities within a 10-mile radius of the Spring Street project
 - ❑ The current providers represent 1,184 beds and are geographically dispersed to serve the population
 - ❑ Many of these facilities has excess capacity to serve the surrounding population
- Represents current nursing facilities in a 10-mile radius of proposed site
 - ▲ Represents proposed site at 194 Spring Street
- The close proximity of numerous providers to the proposed site clearly demonstrates the Spring Street project is a duplication of services.**



Distribution (Accessibility): Duplication of Services

□ There are an additional six existing facilities and one facility in advanced planning stages that represent 792 additional beds within a 20 mile radius of the Spring Street project.

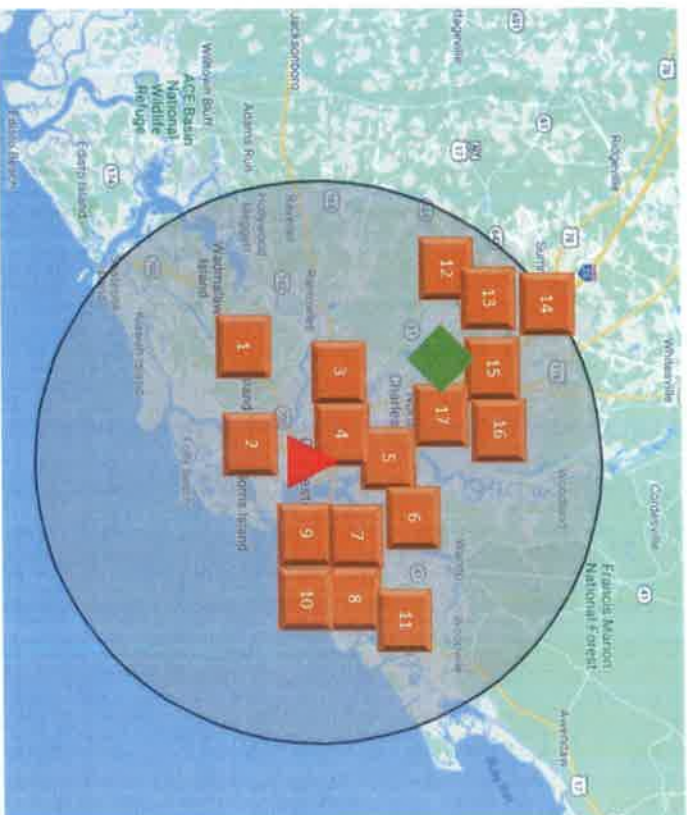
↳ It would be premature to approve additional nursing facility capacity in the area.

■ Represents current nursing facilities in a 20-mile radius of proposed site

▲ Represents proposed site at 194 Spring Street

◆ Represents nursing facility currently in planning (North Charleston Post-Acute)

The close proximity of numerous providers that are not yet operational clearly demonstrates the Spring Street project is a duplication of services.



Staff Resources

Section 802. Criteria for Project Review (20.)

Staffing Resources

- The applicant will need experienced, qualified staff for care of the targeted population
 - Potential to adversely impact existing care providers as Spring Street’s recruitment will draw highly qualified staff from existing care providers.
- Charleston Regional Business Journal* (June 26th) details significant challenges currently facing the region for recruitment of cooks, wait staff, and utility/dishwashers and qualified medical staff.
- South Carolina is experiencing a critical shortage of nurses and it ranked fourth in the United States with greatest forecasted deficit of qualified nurses.
- The 2021 Skilled Nursing Outlook Report states staffing challenges as the top non-Covid challenge to nursing facilities in 2021. A direct quote from this reports states “Pre-pandemic, post-pandemic, it makes no difference; Staffing remains a top challenge for the skilled nursing industry heading into 2021.”

Manpower Budget

- The manpower budget appears to be for all of the business operations included in the building and does not break out the staffing for the skilled beds from the other licensed beds in the facility.
 - Staff working in a SNF should have a different clinical skill set and most likely will cost more.
- The CON information is inadequate to demonstrate proper staffing for 23 skilled nursing beds.
 - Low numbers of licensed nursing staff.
- The Spring Street Project forecasts annual salary increases of just 2% per year. According to the living wage MIT study the living wage for Charleston County increased to \$16.23 as of February 2021. This is approximately a 30% increase since the 2020 study. This living wage far outpaces projected staffing costs/salaries for this project.
- Staffing compensation does not appear to be in a competitive range in the service area.
- Any omissions or increases in staff salaries and benefits from the financial projections would have a negative effect on net income and call into question the financial feasibility of the proposed project.

Manpower Budget

- Spring Street does not provide evidence of on-going clinical training.
- Spring Street does not provide evidence of intent to work with the local high school, tech schools or colleges to attract and provide on-going training.

Due to the nursing shortage in Charleston County, Spring Street will likely not comply with Section 802 (23) Adverse Effects on Other Facilities, which states:

“b. the staffing of the proposed service should be provided without unnecessarily depleting the staff of existing facilities or services creating an excessive rise in staffing costs due to increased competition.”

Record of the Applicant

SECTION 802. CRITERIA FOR PROJECT REVIEW (13.)

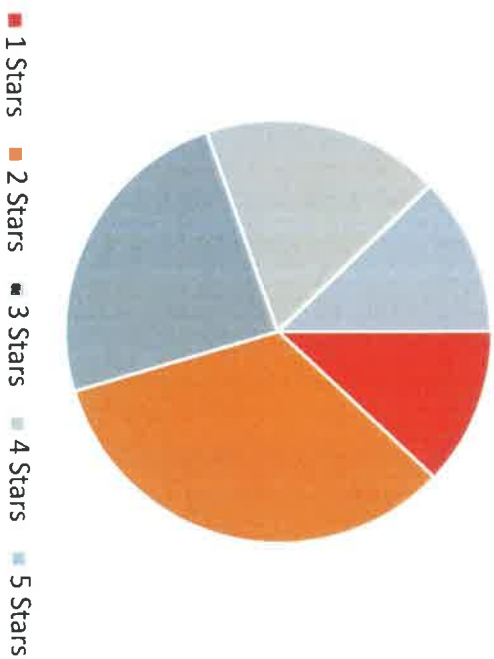
Staffing Resources

☐ CMS provides quality ratings for nursing facilities as part of its Nursing Home Compare tool.

☐ Liberty Senior Living operates 15 facilities that are 1 or 2 Stars as rated by CMS

Average Rating	Count
1 Stars	4
2 Stars	11
3 Stars	8
4 Stars	6
5 Stars	4

Liberty Senior Living Star Rating Distribution



Financial

SECTION 802. CRITERIA FOR PROJECT REVIEW 5,6,7,8,9,15,23

Financial

- Spring Street is using a rate of \$542.00/day for rehab and a blended rate of \$420.00/day for private pay. **These appear to be unrealistic projections.**
- The Spring Street project indicates 70% of annual revenue from Medicare which is contrary to trends of increasing Medicare Replacement plans. This is an aggressive patient mix and is not comparable to other facilities in the surrounding area.
 - The time delay associated with Medicare certification is not reflected in the pro forma.
- Spring Street is projecting a stabilized occupancy of 91%--(55% in year 1)
 - This is contrary to occupancy trends within Charleston County and within the greater industry, which are declining.
 - This level of utilization would make Spring Street one of the most highly utilized nursing facilities in Charleston County, which is unrealistic given the applicant's lack of experience of provision of this level of care in South Carolina.
- Overstated revenue and higher than market occupancy rates support that the actual revenue may be less than the forecasted revenues, thus calling into question the financial feasibility of the proposed project. Spring Street does not indicate any other sources of revenues except Medicare and private pay.

Financial

- Several omissions and questions regarding the financially projections render them unreliable.
 - Fair Market Value Rent is omitted in the operating costs
 - The lease is \$28.23 per square foot for skilled nursing space—the average doctor office space in Charleston is greater without FFE included.
 - The lease is a net lease (lessee pays a portion of taxes, insurance fees, maintenance).
- Spring Street allocates the Project Budget based on the square footage of each level of care.
 - A SNF requires higher building codes/cost than Assisted Living beds. A higher cost per square foot should be allocated to the SNF.
- Insurance Costs (liability, property and casualty, automobile, wind and hail, and flood) are not included in the operating costs.
- Spring Street does not identify what expenses the Management fee covers (if any).

Other Financial Questions

- The following normal operating expenses are not clearly identified:
 - Malpractice Insurance
 - Cable/Internet
 - Technology Expense
 - Security
 - Advertising
 - Clinical Training/Education
 - Marketing
 - Licensure Fees
 - Electric
 - Appropriate Depreciation
 - Water/Sewer
- Spring Street states it will provide transportation services, but it does not address purchasing of vehicles, lease payments of vehicles, maintenance, insurance, property taxes, depreciation, or any transportation expenses.

Failure to Demonstrate Provisions for Access/Indigent Care

SECTION 802 CRITERIA FOR PROJECT REVIEW (31.)

Indigent Care Support

Spring Street failed to provide historical performance from other facilities in Spring Street's consolidated group for evidence of adequate provision of indigent care.

The indigent care plan outlined in the application would most likely provide care for less than 5 residents a year:

- Budgeted charity care of \$11,756 year 1, \$20,064 year 2 and \$20,775 year 3 is depicted in the CON application. The net revenue per patient day is \$348 year 1, \$351 year 2, and \$358 year 3. This equates to a total of 33 indigent care days year 1, 57 days year 2 and 56 days year 3.
- The estimated population of Charleston County age 65 and with an income level below \$50,000 is **20,610** in 2020.
- With the forecasted population growth depicted in Spring Street's application of 17.89% by the year 2025, it should be assumed that the population of the income level \$50,000 and below in Charleston County will increase to **24,300** residents.

Spring Street does not demonstrate commitment to support indigent and low-income residents of the Charleston community as required.




Lack of Evidence of Community Support Acceptability

SECTION 802. CRITERIA FOR PROJECT REVIEW (4.)

Lack of Community Support/Acceptability

- Spring Street Health Center Corporate Headquarters is located in Florida and it is a Delaware LLC.
- The majority of Liberty's facilities are outside the state of SC.
- 40% of the facilities Spring Street states will transfer patients to the Spring Street location (pg. 12 of the CON application) have a skilled nursing facility attached to their Assisted Living and Memory Care facilities and most likely will not discharge to Spring Street.
 - Opponents have confirmed the fact that they will not refer to Spring Street.
- The Medical University of South Carolina transfer agreement letter states "we will *consider* entering into a transfer agreement..." and is not a support letter.
- The two letters from local physicians and the mayor state a 25 bed facility. However, this is a 21-room facility with two double occupancy rooms, totaling 23 beds.



-  Spring Street Site
-  Corporate Headquarters
-  LLC Registration State

Lack of Community Support/Acceptability

- ❑ Existing providers have expressed opposition to the proposed project, including:
 - Bishop Gadsden Episcopal Retirement Community (100 Beds)
 - NHC HealthCare Charleston (132 Beds)
 - Lutheran Homes of South Carolina (Franke Health Care Center – 44 Beds)
- ❑ Failure to address and document community relationships and support within the community:
 - Cooperative agreements – Extremely important for this patient population.
 - Access – Specific referral facilities/agencies were not included in letters of support.
 - Community endorsement – Documentation such as letters of support was excluded.
- ❑ Entire application based solely on existence of State Health Plan need.
- ❑ Lack of letters of support, as well as numerous opposition letters from existing providers confirms that there is no need for the project and it will result in an unnecessary duplication of services.

Conclusion

- ❑ In summary, DHEC should deny the CON application because Spring Street did not:
 - Properly document and demonstrate need;
 - Respond to the current 2020 SHP CON Projections and Standards for Nursing Facilities;
 - Meet required financial and staffing-related criteria;
 - Develop relationships and support throughout the community;
 - Produce complete CON application; and
 - Meet numerous regulations and review criteria.

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May 24, 2021

VIA EMAIL (murdocmp@dhec.sc.gov)

Margaret P. Murdock
Director, Certificate of Need Program
DHEC
301 Gervais Street
Columbia, SC 29201

Jennifer J. Hyman
Project Coordinator, CON Program
DHEC
301 Gervais St.
Columbia, S.C. 29201

Re: Spring Street Health Center CON application for 23 skilled nursing beds--DHEC No. 2827 (Project).

Dear Maggie and Jennifer:

On behalf of our client, Bishop Gadsden Retirement Center, I am raising the following legal issues for your consideration in reviewing the above referenced project. Spring Street Senior Housing OPCO, LLC (Spring Street) has filed a CON to operate a 23-bed non-institutional nursing home which is proposed to be a part of the Spring Street Health Center. As Spring Street describes the project, "[in] addition to the 23-bed nursing home, the building [that would house the nursing home] is expected to include 77 assisted living (adult care) beds (including 21 memory care units)."

As the Department is aware, a CON is a prerequisite to undertaking any health care project subject to the State Certificate of Need and Health Care Facility Licensure Act. S. C. Code Ann. § 44-7-120 (the CON Act requires the "issuance of a Certificate of Need before undertaking a project prescribed by this article") and S.C. Code Ann. Reg. 61-15 § 102 (CON Regs.). S.C. Code Ann. § 44-7-160(1) and Reg. 61-15 § 102.1.a require Spring Street to obtain a CON **prior** to beginning construction on a nursing home. CON Reg. 61-15 § 202.2.d requires Spring Street, as the applicant, to give the following assurances as part of the CON application:



(2) That approval by the department of the final drawings and specifications, which will be prepared by an architect and/or engineer legally registered under the laws of the State of South Carolina, will be obtained. ...

(8) That the Department or its authorized representatives may at any time during the course of construction and upon the completion of the project make an on-site inspection of the construction and equipment to check for compliance of the construction in accordance with the application for which the Certificate of Need was issued. ...

(10) That the applicant will notify the Department in writing that the contractual agreement has been completed. For a construction project, the letter shall indicate that a construction contract specifying the beginning and completion dates of the project, has been signed by both parties. For services projects, the letter must indicate that equipment purchase orders with estimated delivery dates have been properly negotiated. ...

(12) That the applicant will provide monthly progress reports and a final completion report which contain the information required by Section 607 of these regulations.

Spring Street gave each of these assurances. See Application, p. 25.

Section 44-7-230(C) provides, in pertinent part: "Prior to any construction authorized by a Certificate of Need, final drawings and specifications prepared by an architect or engineer legally registered under the laws of this State must be submitted to the department for approval." (Emphasis added). In other words, no construction can commence unless it is authorized by a CON and the final drawings and specifications are approved after the CON is issued.

The construction of a nursing home is prescribed by the CON Act and regulated by S.C. Code Ann. Reg. § 61-17. Spring Street does not have a CON and the construction of the nursing home is well under way. See Attachments A and B. This nursing home construction without a CON is a violation of §§ 44-7-120, 44-7-160(1) and Reg. 61-15 § 102.1.a.

S.C. Code Ann. § 44-7-320 provides, in pertinent part: "(A)(1) The Department may deny, suspend or revoke licenses or assess a monetary penalty or both, against a person of facility for: (a) violating a provision of this article or departmental regulations." Reg. 61-15 § 701 provides:

Margaret P. Murdock
Jennifer J. Hyman
May 24, 2021
Page 3

Undertaking any activity requiring certificate of need review, as defined in Section 102 of these regulations, without prior approval of the Department or failing to comply with any of the above stated regulations shall be grounds for the denial, suspension, or revocation of the Certificate of Need, or other penalties, under the provisions of Sections 44-7-320 through 44-7-340 of the Code of Laws of South Carolina, as amended. Any violation of this regulation is subject to provisions set forth in the statute.

On information and belief, Spring Street did not obtain prior approval to begin construction on the nursing home described in the Spring Street application.

In summary, Spring Street is in violation of the CON Act and regulations because it is not in compliance with §§ 44-7-120, 44-7-160(1) and 61-15 § 102.1.a or with Reg. 61-15 §§ 201.2.d (2), (8), (10) and (12) and 701 in that it has not:

- Gotten approval of the final drawings and specifications before it began construction;
- Notified the Division of Health Facilities Construction (DHFC) of the ongoing construction so that they may inspect;
- Notified the Department that the contractual agreement was completed, etc.;
- Provided the Department with monthly progress reports; and
- Obtained prior CON approval to begin construction on the nursing home project.

For this reason and the other reasons outlined in Bishop Gadsden's opposition, the Spring Street Project should be denied. Please do not hesitate to contact me if you have any questions. Thank you for your attention to this matter.

Very truly yours,



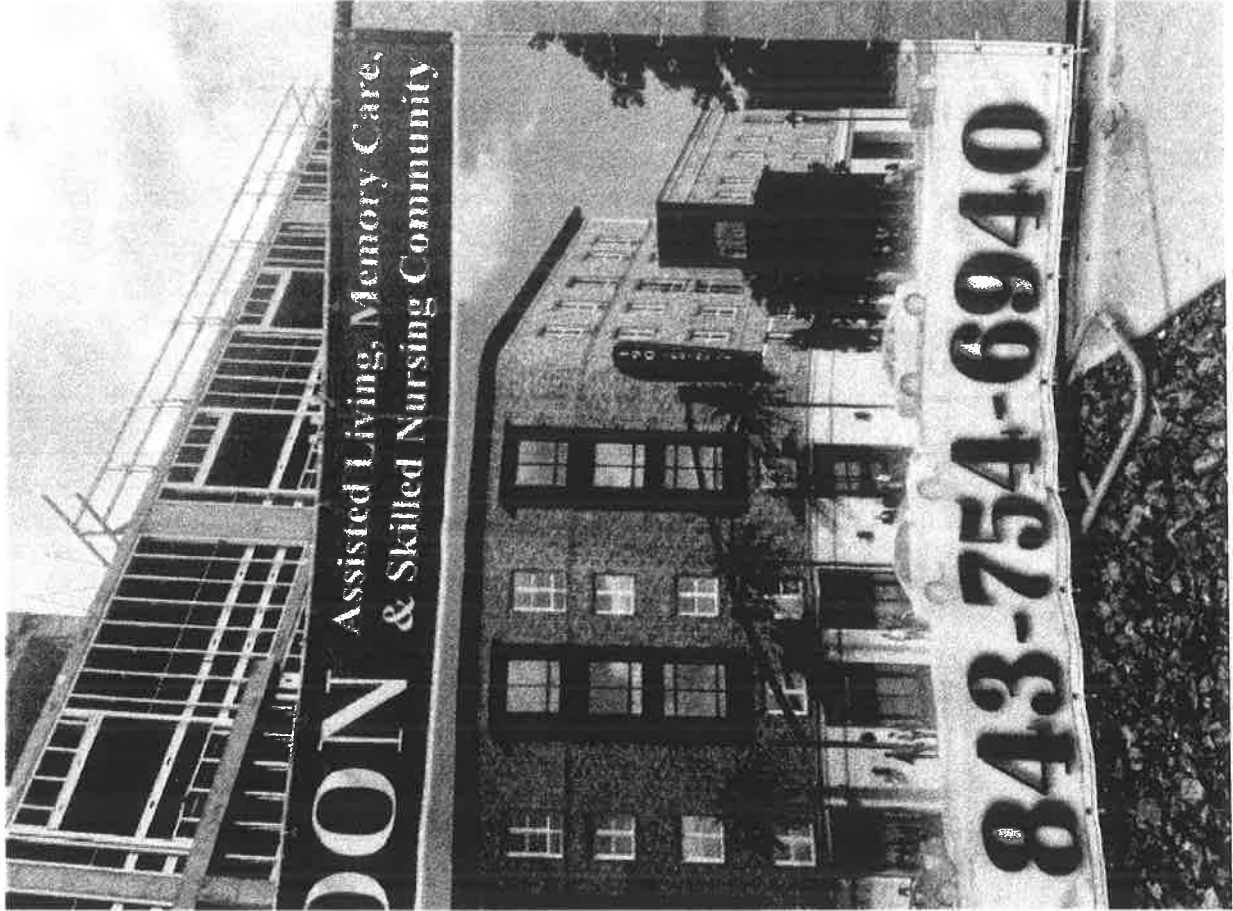
M. Elizabeth Orum
Counsel

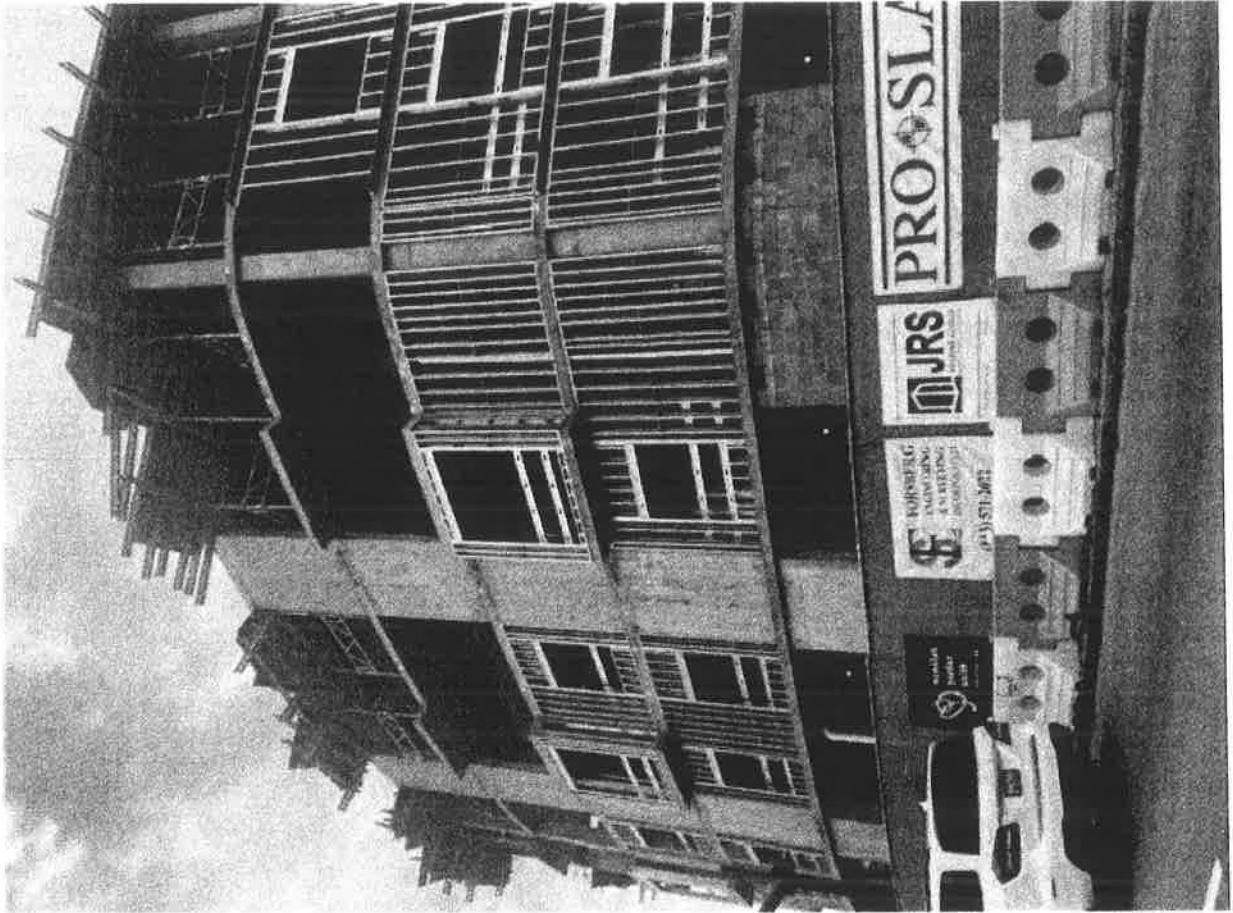
Enclosures

Cc: Sarah Tipton
Lynne Kerrison

45561759 v1

EXHIBIT A









LEVITT
healthcare
affiliates

June 8, 2021

Margaret "Maggie" Murdock
Director, Certificate of Need (C.O.N.) Program
South Carolina Dept. of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

Re: Spring Street Health Center (CON Application #2827)

Dear Ms. Murdock:

Bishop Gadsden Episcopal Retirement Community is submitting this follow up letter of opposition in response to Spring Street Health Center's Certificate of Need Application #2827 for a new 23-bed non-institutional nursing home to be located at 194 Spring Street, Charleston, South Carolina 29403.

Bishop Gadsden, established in the city of Charleston in 1850 and at its present site on James Island since 1987, is a well-respected long-term care provider in the Charleston area with a long history of excellent quality and commitment to service in the community. The facility is located within 5 miles of the proposed site of this applicant.

Bishop Gadsden filed an affected party notice and detailed opposition letter on March 17, 2021. The applicant, Bishop Gadsden and three other opposing parties presented comments at a Project Review meeting held May 24, 2021. The applicant submitted additional comments on June 1, 2021. This letter is responsive to the applicant's complete failure to meet applicable review standards and regulations set forth in the CON Act and State Health Plan.

34 Wrights Point Circle, Beaufort, SC 29902
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cell 404.964.2658
david.levitt@comcast.net



Spring Street's Application Remains Deficient and is Not Approvable

In its Project Review presentation and subsequent comments, Spring Street attempted to address deficiencies within the CON application. However, the applicant has not provided any additional information or data to supplement the Application, which is still deficient and should be denied. Specifically:

- Spring Street has not demonstrated community need for its proposed project:
 - Calculated need in the State Health Plan is not meant for short-term rehab care such as what is being proposed by the applicant. The calculated need is meant for true long-term nursing home care. Spring Street is using the calculated need to overstate numerical need for its proposed short-term project.
 - The applicant has not identified where those patients will come from and why they are not being treated now.
 - The applicant has not identified any specific referral sources. In fact, its only letters of support are from non-clinical sources and elected officials and do not speak to actual need for a project such as what Spring Street proposes.
 - The applicant has not provided any information (anecdotal or quantified) that states that existing providers (including 120 approved but not yet operational beds in the area) aren't meeting the needs of this patient population. In fact:
 - Several other area providers offer this level of short-term skilled nursing care.
 - 2019 Medicare Cost report data shows average percentage of Medicare patients for Charleston providers is 18.7%. Far lower than the 70% projected by the applicant.
 - Existing providers have available and accessible capacity.
 - For those providers that reported 2019 utilization (JARS), the average occupancy was 86%
 - Covid effects are still being felt in terms of decreased utilization, not reflected in the 2019 numbers.
 - Other levels of care are being utilized, including home care for short-term rehabilitation purposes.
 - The vast majority of the letters of support are not from referral sources or clinicians.

Architectural Design: SNF and ALF Design are Not Interchangeable

Spring Street contends that it has received "DHFC Project Plan Approval for a 5-story Community Residential Care Facility..." and that "The 5th floor was designed in a way that would be compliant for a CRCF as well as skilled nursing." (June 1, 2021 letter). However:

- If design was approved for an ALF, DHFC conducts inspections for that level and not for specific SNF standards. As such, Spring Street will not be able to inspect for SNF compliance if construction is completed prior to CON approval.
- DHEC should review plans and quarterly progress reports to determine what Spring Street is actually building.
- Other providers have not been allowed to begin construction for ALF/SNF facilities until SNF CON is approved. Recent projects include Sprenger Beaufort and Sprenger Bluffton.
- Liberty Senior Living (the applicant's parent company) has, on information and belief, a history of ignoring CON regulations by developing an ALF with a SNF component before SNF CON is approved. On information and belief, this was the case in Shem Creek.

As the Department is aware, a CON is a prerequisite to undertaking any health care project subject to the State Certificate of Need and Health Care Facility Licensure Act. S. C. Code Ann. § 44-7-120 (the CON Act requires the "issuance of a Certificate of Need before undertaking a project prescribed by this article") and S.C. Code Ann. Reg. 61-15 § 102 (CON Regs.). S.C. Code Ann. § 44-7-160(1) and Reg. 61-15 § 102.1.a require Spring Street to obtain a CON **prior** to beginning construction on a nursing home. The construction of a nursing home is prescribed by the CON Act and regulated by S.C. Code Ann. Reg. § 61-17. Spring Street does not have a CON and the construction of the nursing home is well under way. This nursing home construction without a CON is a violation of §§ 44-7-120, 44-7-160(1) and Reg. 61-15 § 102.1.a.

Spring Street Failed to Satisfy or Even Address Many Additional Deficiencies

- Failure to satisfy staff resources review criteria:
 - Spring Street did not show project-specific SNF staffing separately from the other components of its project. Without SNF staff separately identified, the Department has no way to determine whether the proposed project meets the license staffing requirements.

- Spring Street did not even attempt to address the significant staffing shortages in Charleston.
- Spring Street did not demonstrate that it will not negatively impact the ability of existing providers to recruit and retain qualified staff.
- Failure to satisfy numerous financial review criteria:
 - Spring Street did not respond to any opposing parties' criticisms regarding financial deficiencies in its CON application.
 - Spring Street's project indicates 70% of annual revenue from Medicare which is contrary to trends of increasing Medicare Replacement plans. This is an aggressive patient mix and is not comparable to other facilities in the surrounding area. Additionally, the time delay associated with Medicare certification and attendant reduction in reimbursement is not reflected in the pro forma.
 - Spring Street is projecting a significant high occupancy of 91% by Year 3 (55% in year 1). This is contrary to occupancy trends within Charleston County and within the greater industry, which are declining. This level of utilization would make Spring Street one of the most highly utilized nursing facilities in Charleston County, which is unrealistic given the applicant's lack of experience of provision of this level of care in South Carolina.
 - Fair Market Value Rent is omitted in the operating costs. The lease is \$28.23 per square foot for skilled nursing space—the average doctor office space in Charleston is greater without FFE included. The lease is a net lease (lessee pays a portion of taxes, insurance fees, maintenance).
 - Spring Street allocates the Project Budget based on the square footage of each level of care instead of specific construction requirements for each level of care, which are different. A SNF requires higher building codes/cost than Assisted Living beds. A higher cost per square foot should be allocated to the SNF.
 - Insurance Costs (liability, property and casualty, automobile, wind and hail, and flood) are not included in the operating costs.
 - Spring Street does not identify what expenses the Management fee covers (if any).
 - The following normal operating expenses are not clearly identified including: malpractice, technology, marketing, utilities, security, clinical training/education, and licensure fees.

RECEIVED

AUG 05 2021

Clerk, Board of Health
and Environmental Control

STAFF RESPONSE TO REQUEST FOR FINAL REVIEW

Requestor: Bishop Gadsden Episcopal Retirement Center
In Re: **Docket No. 21-RFR-49** - Approval of Certificate of Need to Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center for the construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284 (Project), CON Matter No. 2827.

INTRODUCTION

Spring Street Health Center submitted the above-reference application on November 20, 2020, under the *2020 South Carolina Health Plan, enacted March 13, 2020 for all but Chapter 3, which was enacted June 12, 2020 (Plan)*. The application was published as Accepted for Filing in the State Register on December 25, 2020. The application was published as Deemed Complete in the State Register on February 26, 2021. By letter dated March 11, 2021, the Department notified Spring Street Health Center that the application was deemed complete (Deemed Complete Letter) and listed the relative importance of the project review criteria to be used in reviewing the application (Relative Importance Criteria): Community Need Documentation (Section 802(2)); Distribution (Accessibility) (Section 802(3)); Staff Resources (Section 802(20)); and Record of the Applicant (Section 802(13)). The following provided written notice to the Department that they are Affected Persons and also oppose the Project: NHC Healthcare Charleston, by letter dated February 3, 2021 requesting affected person in opposition status and letters dated March 26, 2021 and June 8, 2021 stating grounds for opposing the Project; Bishop Gadsden Episcopal Retirement Center (Bishop Gadsden) by letter dated January 15, 2021, requesting affected person in opposition status and letters dated March 17, 2021, May 24, 2021, and June 8, 2021 stating grounds for opposing the Project; Lutheran Homes, by letter dated January 15, 2021 requesting affected person in opposition status; and Providence Group, by letter dated May 27, 2021 requesting affected person in opposition status. The Department held a staff review on May 24, 2021. Spring Street Center submitted additional information in response to the opposition by letters dated February 11, 2021, March 24, 2021, and June 1, 2021.

After consideration of the relevant portions of the administrative record, including the written opposition submitted by Bishop Gadsden, Department staff concluded that a CON should be issued for the proposed Project because it complies with the Plan and Relative Importance Criteria. Bishop Gadsden filed its request for final review (RFR) on July 12, 2021. Department staff respectfully request that the Board decline to conduct a final review conference on this matter.

RELEVANT LAW¹

The purposes of the *State Certification of Need and Health Facility Licensure Act* (the CON Act), S.C. Code Ann. Sections 44-7-110 *et seq.*, and *Certification of Need for Health Facilities and Services* (the CON Regulation), Regulation 61-15, are to promote cost containment, prevent unnecessary duplication of health care facilities and services, guide the establishment of health facilities and services which will best serve public needs, and ensure that high quality services are provided in health facilities in this State. S.C. Code Ann. § 44-7-120; 3 S.C. Code Ann. Regs. 61-15 § 101.

¹ Excerpts of referenced statutes and regulations are attached as Exhibits 2 and 3. Excerpts of the Plan are attached as Exhibit 4.

The CON Act and Regulation require a person or health care facility to obtain a CON from the Department before undertaking certain projects. S.C. Code Ann. § 44-7-160; 3 S.C. Code Ann. Regs. 61-15 § 102(1). The Department may not issue a CON unless an application complies with the South Carolina Health Plan and project review criteria, which must be identified by the Department. S.C. Code Ann. § 44-7-210(B); see also 3 S.C. Code Ann. Regs. 61-15 § 307(1). Upon determination by the Department that an application is complete, the Department must notify the applicant of the relative importance of the project review criteria to be used in reviewing the application. 3 S.C. Code Ann. Regs. 61-15 § 304(1). A project need not comply with every project review criterion in order to be approved, but no project may be approved unless it is consistent with the South Carolina Health Plan. *Id.* § 801(3).

Chapter 11 of the *Plan* contains the standards for long-term care facilities and services.

RESPONSE TO REQUEST FOR REVIEW

Bishop Gadsden's RFR incorporates the issues raised in opposition to the Project during staff review. During the review period, the Department reviewed and considered all documents contained in the administrative record, including Bishop Gadsden's opposition, and did not find any information sufficient to deny the application.

Bishop Gadsden contends, incorrectly, that Department staff impermissibly shifted the burden to the affected person opposing the application during the review process. Staff's decision contains findings detailing Spring Street Center's compliance with the Plan and with the project review criteria the Department deemed of most relative importance to the review of Spring Street Center's CON application. See Exhibit 1. Staff considered all information in the application and the opposition arguments prior to reaching those findings. The entire administrative record, including the information provided by the applicant, demonstrates compliance and supports approval.

Bishop Gadsden claims that Spring Street Center's CON application does not comply with the long term care need in the State Health Plan. The State Health Plan projects a need for 836 nursing home beds in Charleston County. The proposed Project is requesting 23 of those beds. Additionally, Spring Street Health Center demonstrated need in compliance with applicable Plan standards through submission of acceptable data demonstrating that the Project's projected utilization is sufficient to justify its implementation.

With respect to Community Need Documentation, Spring Street Center demonstrated the need for an additional skilled nursing facility, as explained above and in the staff's decision letter. Staff determined Bishop Gadsden's opposition did not present sufficient reason to deny the Application.

With respect to Distribution (Accessibility), Bishop Gadsden asserted during staff review that the proposed Project will create unnecessary duplication of services to an area that is already well served. Staff responds that the Project will not create unnecessary duplication. Staff determined this opposition did not present sufficient reason to deny the Application.

Bishop Gadsden contends the application does not meet the Staff Resources criterion. As detailed in staff's decision, Spring Street provided information sufficient to demonstrate a satisfactory ability to provide necessary staff for the proposed Project.

Bishop Gadsden takes issue with the applicant's compliance with other project review criteria not identified by staff as of most relative importance during the review. Staff considered all

arguments raised by Bishop Gadsden during review and they did not present sufficient reason to deny the application.

Bishop Gadsden contends the applicant began construction on the Project without first obtaining a CON in violation of applicable laws. Department staff reviewed the information Bishop Gadsden raised on this point during staff review and found no violation of CON requirements. The construction in question is related to the construction of an assisted living facility, which does not require CON review. Staff considered the Record of the Applicant during its review and found no issues with compliance with state and federal regulatory programs that would impact this Decision.

REQUESTED ACTION

For the foregoing reasons, staff respectfully request that the Board deny Bishop Gadsden's request to conduct a final review conference in this matter.

Respectfully submitted:



Jennifer Hyman
Certificate of Need Program



Ashley Biggers, Esquire
Chief Counsel for Healthcare Quality

- Exhibit 1 – Staff Decision
- Exhibit 2 – Excerpts of CON Act
- Exhibit 3 – Excerpts of CON Regulation
- Exhibit 4 – Excerpts of the *Plan*

Exhibit 1



June 28, 2021

VIA CERTIFIED MAIL

Timothy Walsh
Liberty Senior Living
2334 South 41st Street
Wilmington, NC 28403

Decision Granting Certificate of Need for:

Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center

Project: Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.

Matter No.: 2827

Charleston County

Dear Mr. Walsh:

The South Carolina Department of Health and Environmental Control (Department) has reviewed the application submitted by Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center (Spring Street) for a Certificate of Need (CON) for construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284 (Project). After consideration of the entire administrative record of this matter, the Department concludes Spring Street has presented substantial evidence that the Project complies with the relevant project review criteria and with the *2020 South Carolina Health Plan, enacted March 13, 2020 for all but Chapter 3, which was enacted June 12, 2020 (Plan)* and materially complies with the relevant project review criteria set forth in Section 802 of Regulation 61-15. Accordingly, it is the decision of the Department that a Certificate of Need be issued for this Project. This decision is based on the following findings:

Community Need Documentation

Spring Street clearly identified its target population and, using population statistics consistent with those generated by the State Demographer, Spring Street made reasonable projections of anticipated population changes, with assumptions and methodologies clearly outlined in the application. Spring Street has sufficiently demonstrated that the proposed Project will meet an

identified need and that the projected utilization of the Project is sufficient to justify its implementation.

The Department finds that the Applicant has sufficiently met the requirements of Section 802.2, Reg. 61-15.

Distribution (Accessibility)

The Department finds that the Project will not result in unnecessary duplication or modernization of services based on Spring Street's documentation regarding both need and accessibility. Admission to Spring Street will be under orders of a physician duly licensed in the state of South Carolina. Spring Street states that it accepts referrals of patients needing nursing home services without regard to race, sex, creed, or national origin. Spring Street provided its indigent care policy to demonstrate that it has established provisions to ensure that individuals in need of treatment as determined by a physician have access to the Project, regardless of ability to pay.

The Department finds that the Applicant has sufficiently met the requirements of Section 802.3, Reg. 61-15.

Staff Resources

Spring Street provided a manpower budget to provide the necessary medical staff for the contemplated service. The applicant's previous known track record suggests a satisfactory ability to provide necessary staff for its facilities and other services.

Accordingly, the Department concludes the Applicant satisfies the requirements of Reg. 61-15, Section 802.20.

Record of the Applicant

The Liberty organization is an affiliate of the applicant and has extensive healthcare experience including thirty-five nursing homes, eight assisted living facilities, two independent living communities, five continuing care retirement communities, and a home health and hospice company with twenty-nine locations servicing various counties in North Carolina, South Carolina, and Virginia. The Department has found no issues with the Liberty organization's cooperation and compliance with state and federal regulatory programs that would impact this Decision.

The Department finds that the Applicant has sufficiently met the requirements of Section 802.13, Reg. 61-15.

Other Considerations

The Department notes that by letters dated January 15, 2021, February 3, 2021 and May 24, 2021 NHC Healthcare Charleston, Bishop Gadsden Episcopal Retirement Center, Lutheran Homes and Providence Group requested the Department consider each as an affected person and in

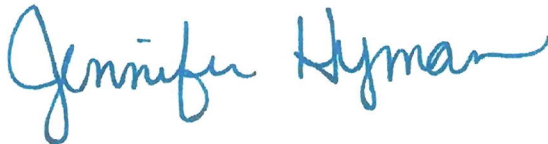
opposition to the Project. After consideration of all information presented, the Department has determined that the opposition does not present a sufficient reason to deny the Application.

The Department has determined the findings required by S.C. Code Reg. 61-15 §501 are not applicable to this Project.

The issuance of a Certificate of Need does not constitute approval for any proposed construction, licensing, or certification changes. You should contact, as needed, the following individuals for information concerning these related issues: Bureau of Radiological Health, Ms. Susan Jenkins (803.545.0530); Division of Health Facilities Construction, Mr. Graham Cormack (803.727.3576); and Bureau of Health Facilities Oversight, Ms. Angie Smith (803.545.4252).

Reviewed and Written By:

Approved for Release By:



Jennifer Hyman
Project Coordinator
Certificate of Need Program



Maggie Parham Murdock
Director
Certificate of Need Program

cc: Wade Mullins, Esquire (via email)
Dere R. Brown
Dan Westbrook, Esquire (via email)
Elizabeth Crum, Esquire (via email)
Frank Shepke
Laura Evans, Esquire (via email)
David Levitt (via email)

Article #: 92148969009997901541463955

Article #: 92148969009997901541463948

Exhibit 2

CHAPTER 7
Hospitals, Tuberculosis Camps, and Health Services Districts

ARTICLE 3
State Certification of Need and Health Facility Licensure Act

SECTION 44-7-110. Short title.

This article may be cited as the "State Certification of Need and Health Facility Licensure Act".

HISTORY: 1962 Code Section 32-761; 1952 Code Section 32-761; 1947 (45) 510; 1971 (57) 376; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1.

SECTION 44-7-120. Declaration of purpose.

The purpose of this article is to promote cost containment, prevent unnecessary duplication of health care facilities and services, guide the establishment of health facilities and services which will best serve public needs, and ensure that high quality services are provided in health facilities in this State. To achieve these purposes, this article requires:

- (1) the issuance of a Certificate of Need before undertaking a project prescribed by this article;
- (2) adoption of procedures and criteria for submittal of an application and appropriate review before issuance of a Certificate of Need;
- (3) preparation and publication of a State Health Plan;
- (4) the licensure of facilities rendering medical, nursing, and other health care.

HISTORY: 1962 Code Section 32-763; 1952 Code Section 32-763; 1947 (45) 510; 1971 (57) 376; 1979 Act No. 51 Section 1; 1981 Act No. 16, Section 1; 1988 Act No. 670, Section 1; 1992 Act No. 511, Section 1.

....

SECTION 44-7-160. Certificate of Need required under certain circumstances.

A person or health care facility as defined in this article is required to obtain a Certificate of Need from the department before undertaking any of the following:

- (1) the construction or other establishment of a new health care facility;
- (2) a change in the existing bed complement of a health care facility through the addition of one or more beds or change in the classification of licensure of one or more beds;
- (3) an expenditure by or on behalf of a health care facility in excess of an amount to be prescribed by regulation which, under generally acceptable accounting principles consistently applied, is considered a capital expenditure except those expenditures exempted in Section 44-7-170(B)(1). The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the development, acquisition, improvement, expansion, or replacement of any plant or equipment must be included in determining if the expenditure exceeds the prescribed amount;
- (4) a capital expenditure by or on behalf of a health care facility which is associated with the addition or substantial expansion of a health service for which specific standards or criteria are prescribed in the South Carolina Health Plan;
- (5) the offering of a health service by or on behalf of a health care facility which has not been offered by the facility in the preceding twelve months and for which specific standards or criteria are prescribed in the South Carolina Health Plan;
- (6) the acquisition of medical equipment which is to be used for diagnosis or treatment if the total project cost is in excess of that prescribed by regulation.

HISTORY: 1962 Code Section 32-765; 1952 Code Section 32-765; 1947 (45) 510; 1971 (57) 376; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 1992 Act No. 511, Section 6; 2010 Act No. 278, Section 5, eff July 1, 2010.

....

SECTION 44-7-210. Certificate of Need review procedures.

(A) After the department has determined that an application is complete, affected persons must be notified in accordance with departmental regulations. The notification to affected persons that the application is complete begins the review period; however, in the case of competing applications, the review period begins on the date of notice to affected persons that the last of the competing applications is complete and notice is published in the State Register. The staff shall issue its decision to approve or deny the application no earlier than thirty calendar days, but no later than one hundred twenty calendar days, from the date affected persons are notified that the application is complete, unless a public hearing is timely requested as may be provided for by department regulation. If a public hearing is properly requested, the staff's decision must not be made until after the public hearing, but in no event shall the decision be issued more than one hundred fifty calendar days from the date affected persons are notified that the application is complete. The staff may reorder the relative importance of the project review criteria no more than one time during the review period. The staff's reordering of the relative importance of the project review criteria does not extend the review period provided for in this section.

(B) The department may not issue a Certificate of Need unless an application complies with the South Carolina Health Plan, Project Review Criteria, and other regulations. Based on project review criteria and other regulations, which must be identified by the department, the department may refuse to issue a Certificate of Need even if an application complies with the South Carolina Health Plan. In the case of competing applications, the department shall award a Certificate of Need, if appropriate, on the basis of which, if any, most fully complies with the requirements, goals, and purposes of this article and the State Health Plan, Project Review Criteria, and the regulations adopted by the department.

(C) On the basis of staff review of the application, the staff shall make a staff decision to grant or deny the Certificate of Need and the staff shall issue a decision in accordance with Section 44-1-60(D). Notice of the decision must be sent to the applicant and affected persons who have asked to be notified. The decision becomes the final agency decision unless a timely written request for a final review is filed with the department as provided for in Section 44-1-60(E).

However, a person may not file a request for final review in opposition to the staff decision on a Certificate of Need unless the person provided written notice to the department during the staff review that he is an affected person and specifically states his opposition to the application under review.

(D) The staff's decision is not the final agency decision until the completion of the final review process provided for in Section 44-1-60(F).

(E) A contested case hearing of the final agency decision must be requested in accordance with Section 44-1-60(G). The issues considered at the contested case hearing considering a Certificate of Need are limited to those presented or considered during the staff review.

(F) Notwithstanding any other provision of law, including Section 1-23-650(C), in a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or deny a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160, the following apply:

- (1) each party may name no more than ten witnesses who may testify at the contested case hearing;
- (2) each party is permitted to take only the deposition of a person listed as a witness who may testify at the contested case hearing, unless otherwise provided for by the Administrative Law Court;
- (3) each party is permitted to serve only ten interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure;
- (4) each party is permitted to serve only ten requests for admission, including subparts; and
- (5) each party is permitted to serve only thirty requests for production, including subparts.

The limitations provided for in this subsection are intended to make the contested case process more efficient, less burdensome, and less costly to the parties in Certificate of Need cases. Therefore, the Administrative Law Court may, by court order, lift these limitations beyond the parameters set forth in this subsection only in exceptional circumstances when failure to do so would cause substantial prejudice to the party seeking additional discovery.

(G) Notwithstanding any other provision of law, in a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or deny a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160, the Administrative Law Court shall file a final decision no later than eighteen months after the contested case is filed with the Clerk of the Administrative Law Court, unless all parties to the contested case consent to an extension or the court finds substantial cause otherwise.

HISTORY: 1962 Code Section 32-771; 1952 Code Section 32-771; 1947 (45) 510; 1971 (57) 376; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 1990 Act No. 471, Sections 2, 3; 1992 Act No. 511, Section 10; 1998 Act No. 303, Section 4; 2010 Act No. 278, Section 11, eff July 1, 2010.

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Exhibit 3

61-15. CERTIFICATION OF NEED FOR HEALTH FACILITIES AND SERVICES.

(Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-340)

HISTORY: Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003.

CHAPTER 1. PURPOSE, APPLICABILITY AND DEFINITIONS

Section 101. Purpose

The purpose of these Regulations is to promote cost containment, prevent unnecessary duplication of health care facilities and services, guide the establishment of health facilities and services which will best serve public needs, and ensure that high quality services are provided in health facilities in this State.

Section 102. Applicability.

1. A person or health care facility as defined in this Regulation is required to obtain a Certificate of Need from the Department of Health and Environmental Control before undertaking any of the following:

- a. The construction or other establishment of a new health care facility;
- b. A change in the existing bed complement of a health care facility through the addition of one or more beds or change in the classification of licensure of one or more beds;
- c. An expenditure by or on behalf of a health care facility in excess of two million dollars (\$2,000,000) which, under generally acceptable accounting principles consistently applied, is considered a capital expenditure except those expenditures exempted in Section 104. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the development, acquisition, improvement, expansion, or replacement of any plant or equipment must be included in determining if the expenditure exceeds the prescribed amount;
- d. capital expenditure by or on behalf of a health care facility which is associated with the addition or substantial expansion of a health service for which specific standards or criteria are prescribed in the South Carolina Health Plan;
- e. If no capital expenditure is made, the offering of any health service by or on behalf of a health care facility which has not been offered by the facility in the preceding twelve months and for which specific standards or criteria are prescribed in the South Carolina Health Plan. For purposes of this section, operating costs include expenditures incurred by the health care facility and any person or other entity on behalf of the health care facility to establish a new service. A person or other entity shall not be allowed to incur costs thereby attempting to enable a health care facility to avoid Certificate of Need review and establish a new service as described above;
- f. The acquisition of medical equipment which is to be used for diagnosis or treatment if the total project cost is in excess of six hundred thousand dollars (\$600,000);

2. An applicant may not split or combine one expenditure into two or more expenditures for the purpose of avoiding Certificate of Need review, nor may the Department be allowed to lump projects together arbitrarily to bring them under Certificate of Need review.

3. When any question exists, a potential applicant shall forward a letter requesting a formal determination by the Department as to the applicability of the Certificate of Need requirements to a particular project. Such a letter shall contain a detailed description of the project including the extent of modifications, changes in services and total costs. Additional information may be requested as may be reasonably necessary to make such applicability determination. The Department shall respond within sixty (60) calendar days of receipt of the necessary information.

4. These provisions do not apply to acquisitions or changes of ownership of health care facilities, services, and equipment that are already in existence, operational, and providing services in a particular service area, and which have undergone the review and obtained the approval that was appropriate under the law at the time they first entered the relevant service area, so long as the facility or service is not being relocated. For facilities, services, and equipment which have previously undergone Certificate of Need review, the Certificate of Need must be fulfilled prior to a change of ownership.

HISTORY: Amended by State Register Volume 36, Issue No. 5, eff May 25, 2012.

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Section 304. Relative Importance Criteria.

1. Upon determination by the Department that an application is complete, the Department shall notify the applicant, by certified mail, of the relative importance of the project review criteria to be used in reviewing the application. The applicant will have thirty (30) calendar days from the date of receipt of this notice to submit any additional information. If, subsequent to this notice, the Department determines that the relative importance of the review criteria has changed, the Department must again notify the applicant by certified mail. The applicant will have thirty (30) calendar days from receipt of the revised notice to submit any additional information.

2. The staff may reorder the relative importance of the project review criteria no more than one time during the review period. The staff's reordering of the relative importance of the project review criteria does not extend the review period.

3. When an application has been appealed, the Department may not change the weight of the importance of the project review criteria.

HISTORY: Amended by State Register Volume 36, Issue No. 5, eff May 25, 2012.

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Section 307. Department Review.

1. The Department may not issue a Certificate of Need unless an application is in compliance with the South Carolina Health Plan as described in this regulation, project review criteria, and other regulations which must be identified by the Department. The Department may refuse to issue a Certificate of Need even if an application is in compliance with the South Carolina Health Plan but is inconsistent with project review criteria or departmental regulations. The Department must identify any regulation that is used as a basis for denying an application that is in compliance with the South Carolina Health Plan.

2. In the case of competing applications, the Department shall award a Certificate of Need, if appropriate, on the basis of which, if any, most fully complies with the requirements, goals, and purposes of the Certificate of Need program, South Carolina Health Plan, project review criteria, and any regulations developed by the Department.

HISTORY: Amended by State Register Volume 36, Issue No. 5, eff May 25, 2012.

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CHAPTER 8. PROJECT REVIEW CRITERIA

Section 801. Applicability and Weighting.

1. The criteria listed in Section 802 are to be used in reviewing all projects under the Certification of Need program. These criteria have been grouped under the following general categories:

Need for the Proposed Project (Section 802.1 through 802.4)

Economic Consideration (Section 802.5 through 802.19)

Health System Resources (Section 802.20 through 802.25)

Site Suitability (Section 802.26 through 802.30)

Special Consideration (Section 802.31 through 802.33)

2. The Department shall notify the applicant of the relative importance of the project review criteria to be used in reviewing the application. The relative importance assigned to each specific criterion is established by the Department depending upon the importance of the criterion applied to the specific project. The relative importance must be consistent for competing projects.

3. A project does not have to satisfy every criterion in order to be approved, but no project may be approved unless it is consistent with the South Carolina Health Plan. A project may be denied if the Department determines that the project does not sufficiently meet one or more of the criteria.

HISTORY: Amended by State Register Volume 36, Issue No. 5, eff May 25, 2012.

Section 802. Criteria for Project Review.

1. Need:

The proposal shall not be approved unless it is in compliance with the South Carolina Health Plan.

2. Community Need Documentation:

a. The target population should be clearly identified as to the size, location, distribution, and socioeconomic status (if applicable).

b. Projections of anticipated population changes should be reasonable and based upon accepted demographic or statistical methodologies, with assumptions and methodologies clearly presented in the application. The applicant must use population statistics consistent with those generated by the state demographer, State Budget and Control Board.

c. The proposed project should provide services that meet an identified (documented) need of the target population. The assumptions and methods used to determine the level of need should be specified in the application and based on a reasonable approach as judged by the reviewing body. Any deviation from the population projection used in the South Carolina Health Plan should be explained.

d. In the case of a reduction, relocation, or elimination of a facility or service, the applicant should address the need that the population presently has for the service, the extent to which that need will be met by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination, or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, the elderly, handicapped persons, and other underserved groups, to obtain needed health care.

e. Current and/or projected utilization should be sufficient to justify the expansion or implementation of the proposed service.

3. Distribution (Accessibility):

a. Duplication and modernization of services must be justified. Unnecessary duplication of services and unnecessary modernization of services will not be approved.

b. The proposed service should be located so that it may serve medically underserved areas (or an underserved population segment) and should not unnecessarily duplicate existing services or facilities in the proposed service area.

c. The location of the proposed service should allow for the delivery of necessary support services in an acceptable period of time and at a reasonable cost.

d. The proposed facility should not restrict admissions. If any restrictions are applied, their nature should be clearly explained.

e. The applicant must document the means by which a person will have access to its services (e.g. outpatient services, admission by house staff, admission by personal physician).

f. The applicant should address the extent to which all residents of the area, and in particular low income persons, racial and ethnic minorities, women, the elderly, handicapped persons, and other medically underserved groups, are likely to have access to those services being proposed.

g. The facility providing the proposed services should establish provisions to insure that individuals in need of treatment as determined by a physician have access to the appropriate service, regardless of ability to pay.

h. Potential negative impact of the proposed project upon the ability and/or resources of existing providers to serve medically underserved groups must be considered.

4. Acceptability:

a. The proposal and applicant should have the support of "affected persons" (including local providers and the target population). The lack of opposition should not be considered support for the purposes of these criteria.

b. Where documented opposition exists to a proposal, such opposition will be considered along with the application.

c. Possible transfer agreements should be confirmed and an intent to negotiate these arrangements should be documented by all parties.

d. The applicant should document the initiation of any other required reviews or agency check-offs.

5. Financial Entries and Assumptions:

All financial entries and assumptions contained in the application must be provided by an accountant who stands behind the reliability of this financial information.

6. Projected Revenues:

a. The proposed charges should be comparable to those charges established by other facilities for similar services within the service area or state. The applicant should document how the proposed charges were calculated.

b. The projected levels of utilization should be reasonably consistent with those experienced by similar facilities in the service area and/or state. In addition, projected levels of utilization should be consistent with the need level of the target population.

c. The projected collection and reimbursement rates should be reasonably consistent with those experienced/utilized by similar facilities.

d. Failure to provide contingency plans for any known factor which would jeopardize the stability of the revenue projections shall be grounds for rejection of the budget.

7. Projected Expenses:

Projections of construction costs, start-up costs, operating costs, debt service, depreciation, manpower costs, etc. should be consistent with those experienced by similar facilities offering a similar level and scope of services (with proper consideration given to such factors as inflation, cost of capital, etc.).

8. Beginning Cash Flow:

The applicant must have documented the availability of resources or sources of funds sufficient to cover capital requirements and start-up costs. The schedule of utilization and net revenues must be detailed with assumptions explicitly present.

9. Net Income:

The project should show an improvement in its net revenue position over time, especially the first three years, until a steady, positive net income trend is attained. Any projected deviations from this pattern should be explained.

10. Debt Service:

a. Debt service (interest cost plus payment toward principal) should not be so large as to cause a negative net income.

b. Characteristics of the debt (interest, prepayment arrangements, etc.) should be consistent with those arrangements used by other health service entities in the State and consistent with accepted good business practices in terms of assumption and retirement of debt.

c. The applicant must document the impact the project will have on the facility's proposed level of patient charges.

11. Methods of Financing:

a. Possible alternatives should be identified.

b. Reasons for the selection of the proposed funding method should be stated and reasonable.

12. The applicant should demonstrate an ability to obtain the desired capital. The applicant must provide at least conditional commitment from an appropriate institution.

13. Record of the Applicant (Owner and/or Administrator):

a. The applicant's record should be one of successful operation with adequate management experience.

b. The applicant should have a demonstrated ability to obtain necessary capital financing.

c. If the applicant has no prior experience, sources of assistance should be specified (i.e. technical assistance from specific individuals or organizations).

d. The applicant's record or his representative's record of cooperation and compliance with State and Federal regulatory programs will be considered.

14. Ability to Complete the Project:

a. The applicant should have demonstrated that the project can be initiated and completed within the proposed time frame specified in the application.

b. The financial schedules and time frames contained in the application should be consistent with those usually experienced in the development of similar facilities or services.

15. Financial Feasibility:

The applicant must have projected both the immediate and long-term financial feasibility of the proposal. Such projection should be reasonable and based upon accepted accounting procedures.

16. Cost Containment (Minimizing Costs):

a. The applicant should have identified and sought alternative sources and/or methods of funding and demonstrated that the method chosen was the most feasible option.

b. If the applicant had the option of lease or purchase, with all other factors being equal, he should demonstrate that his choice is the least costly in the long run.

c. The impact of the project upon the applicant's cost to provide services and the applicant's patient charges should be reasonable. The impact of the project upon the cost and charges of other providers of similar services should be considered if the data are available.

17. Efficiency:

The proposed project should improve efficiency by avoiding duplication of services, promoting shared services and fostering economies of scale or size.

18. Physical Design:

The proposed project should foster economies of design by use of design characteristics such as improved access and circulation within the facility, the relationship of services within the facility, and the use of shared space for centralized supply, storage, and common activities.

19. Alternative Methods:

a. The applicant should have considered any available or more effective alternatives which exist to the proposed service such as the use of less costly alternatives, outpatient services, shared services, or extended hours of service.

b. For new construction projects, modernization of existing facilities should be considered as an alternative, and the rejection of this alternative by the applicant should be justified.

20. Staff Resources:

a. The applicant should have a reasonable plan for the provision of all required staff (physicians, nursing, allied health and support staff, etc.).

b. The applicant should demonstrate that sufficient physicians are available to insure proper implementation (e.g. utilization and/or supervision) of the project.

c. If the applicant presently owns existing facilities or services, he/she should demonstrate a satisfactory staffing "track record."

d. Alternative uses of resources for the provision of other health services should be identified and considered.

21. Support Services and Equipment:

a. Support services and equipment necessary to implement and sustain the proposed service should be identified, accessible and of sufficient capacity.

b. Where possible, projects should utilize equipment already available and accessible to the population to be served.

22. Distribution:

The existing distribution of the health service(s) should be identified and the effect of the proposed project upon that distribution should be carefully considered to functionally balance the distribution to the target population.

23. Adverse Effects on Other Facilities:

a. The impact on the current and projected occupancy rates or use rates of existing facilities and services should be weighed against the increased accessibility offered by the proposed services.

b. The staffing of the proposed service should be provided without unnecessarily depleting the staff of existing facilities or services or causing an excessive rise in staffing costs due to increased competition.

24. Adverse Effects on Training Programs:

The proposed delivery of health services should not adversely affect the ability of local health professional training programs to meet their clinical needs.

25. Access:

If the proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes should be clearly delineated in the proposal.

26. Zoning:

The proposed site must comply with local zoning regulations. Documentation should be provided from the appropriate zoning authorities that the proposed site is or can be zoned for the intended use.

27. Utilities:

The utilities necessary for the facility to operate should be available on site or the application should state provisions made for bringing these utilities on site or providing alternatives such as wells or sewage treatment plants. Applicants should document the availability of needed utilities. The cost of such provisions should be detailed in the financial section of the application.

28. Site Size:

Documentation should be provided that all of the property intended for use is available to the applicant. Consideration may also be given to the suitability of the proposed site for any expansion of services included in the applicant's long-range plans.

29. Environmental Hazard:

The proposed facility should not be located on a site where environmental conditions would either create a health hazard or aggravate an existing health condition in individuals served by the facility.

30. Square Footage:

Space allocations should conform to applicable local, state, and federal regulations or minimum standards. For all projects, state or other applicable licensing standards must be met by the proposal.

31. Medically Underserved Groups:

a. The applicant should address the contribution of the proposed service in meeting the health needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services (e.g. low income persons, racial and ethnic minorities, women,

the elderly, and handicapped persons), particularly those needs identified in the applicable South Carolina Health Plan as deserving of priority.

b. The extent to which medically underserved populations currently use the applicant's services should be considered in comparison to the percentage of the population in the applicant's service area which is medically underserved, and the extent to which medically underserved populations are expected to use the proposed services if approved.

c. Consideration of the documented performance of the applicant in meeting its obligation, if any, under any applicable Federal regulations requiring provision of uncompensated care, indigent care plan, community service, or access by minorities and handicapped persons to programs receiving Federal financial assistance (including the existence of any civil rights access complaints against the applicant) should be given.

d. Consideration should be given to the extent to which Medicare, Medicaid, and medically indigent patients are served by the applicant.

32. Other Entities:

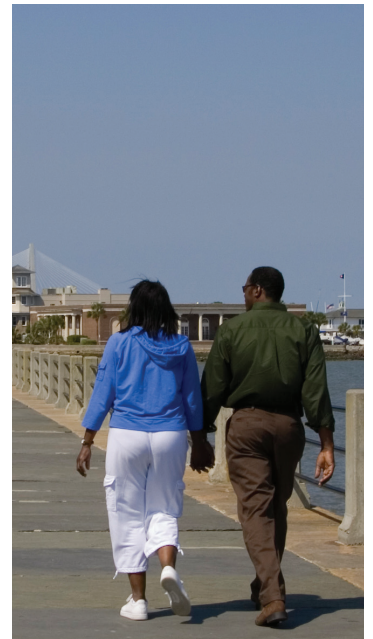
Consideration should be given to the special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. These entities may include medical and other health professions schools, multidisciplinary clinics and specialty centers.

33. Elimination of Safety Hazards

The Department shall issue a Certificate of Need for a proposed capital expenditure if it is required to eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations; or to comply with State Licensure standards, or to comply with accreditation or certification standards which must be met to receive reimbursement under Title XVIII of the Social Security Act or payments under a State Plan for medical assistance approved under Title XIX of that Act, provided the Department has determined that the facility or service for which the capital expenditure is proposed is needed and the obligation of the capital expenditure is consistent with the South Carolina Health Plan. Those portions of a proposed project which are not required to eliminate or prevent safety hazards or to comply with licensure, certification, or accreditation standards shall be reviewed against each of the applicable criteria for project review.

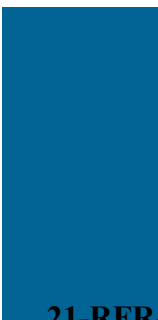
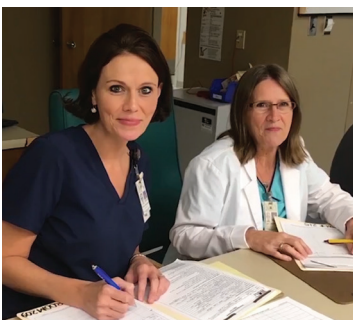
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Exhibit 4



2020 South Carolina Health Plan

Enacted March 13, 2020 for all but Chapter 3, which was enacted June 12, 2020



CHAPTER 11

LONG-TERM CARE FACILITIES AND SERVICES

NURSING FACILITIES

Nursing facilities provide inpatient care for convalescent or chronic disease residents who require nursing care and related medical services. This care is performed under the general direction of persons licensed to practice medicine or surgery in the State. Facilities furnishing primarily domiciliary care are not included. The licensing list of nursing facilities also denotes the facilities that have Alzheimer's units. For more specific detail about nursing facilities, refer to [Regulation 61-17](#) (*Standards for Licensing Nursing Homes*).

Since the vast majority of patients utilizing nursing facilities are 65 years of age or older, only this segment of the population is used in the need calculations. County bed needs are projected through 2022. A two-year projection is used because nursing facilities can be constructed and become operational in two years.

CERTIFICATE OF NEED PROJECTIONS AND STANDARDS

1. Based on observations of methodologies from other states operating a Certificate of Need regime, and recognizing that potential reliance on long-term skilled nursing services increases with age, bed need is calculated on a county basis using the following ratios:
 - a) 10 beds/1,000 population aged 65-74; and
 - b) 58 beds/1,000 population aged 75 and over
2. For each county, these needs are calculated separately. The individual age-group needs are then added together, and the existing bed count subtracted from that total to determine the deficit or (surplus) of beds.
3. When a county shows surplus beds, additional beds will not be approved, except to allow an individual nursing facility to add some additional beds in order to make more economical nursing units. These additions are envisioned as small increments in order to increase the efficiency of the nursing home. This exception for additional beds will not be approved if it results in a three bed ward. A nursing facility may add up to 16 additional beds per nursing unit to create either 44 or 60 bed nursing units, regardless of the projected bed need for the county. The nursing facility must document how these additional beds will make a more economical unit(s).

4. Some Institutional Nursing Facilities are dually licensed, with some beds restricted to residents of the retirement community and the remaining beds are available to the general public. The beds restricted to residents of the retirement community are not eligible to be certified for Medicare or Medicaid. Should such a facility have restricted beds that are inadvertently certified, the facility will be allowed to apply for a Certificate of Need to convert these beds to general nursing home beds, regardless of the projected bed need for that county.

The Long-Term Care Inventory and Bed Need Chart are located at the end of this Chapter.

RELATIVE IMPORTANCE OF PROJECT REVIEW CRITERIA

The following project review criteria are considered the most important in evaluating Certificate of Need applications for these beds or facilities:

1. Community Need Documentation;
2. Distribution (accessibility);
3. Staff Resources; and
4. Record of the Applicant.

Because nursing facilities are located within approximately 30 minutes' travel time for the majority of the residents of the State and at least one nursing facility is located in every county, no justification exists for approving additional nursing facilities or beds that are not indicated as needed in this Plan. The major accessibility problem is caused by the lack of Medicaid funding since the Medicaid Program pays for approximately 65% of all nursing facility residents. This Plan projects the need for nursing facility beds by county. The benefits of improved accessibility do not outweigh the adverse effects caused by the duplication of any existing beds or the placement of Medicaid funds for the beds.

MEDICAID NURSING HOME PERMITS

The Medicaid Nursing Home Permit Act, formerly known as the Nursing Home Licensing Act of 1987, sets forth a regulatory scheme whereby Medicaid nursing home permits and Medicaid patient days are allocated in South Carolina. A long-term care facility (nursing home) must obtain a Medicaid Nursing Home Permit from the Department in order to serve Medicaid patients. A Medicaid patient is a person who is eligible for Medicaid (Title XIX) sponsored long-term care services. Each year, the South Carolina General Assembly establishes the maximum number of Medicaid patient days the Department is authorized to issue. A Medicaid patient day is a day of nursing home care for which the holder of a Medicaid nursing home Permit can receive Medicaid reimbursement. The South Carolina Department of Health and Human Services provides the Department with the total number of Medicaid patient days available so the Department may distribute those patient days amongst Permit holders.

The Medicaid Patient Days and Medicaid Beds Requested & Authorized Chart is located at the end of this Chapter.

COMMUNITY LONG-TERM CARE (CLTC) PROGRAM

South Carolina is seeking to increase access to long-term care facilities through a number of different programs. The Community Long-Term Care Project (CLTC) provides mandatory pre-admission screening and case management to Medicaid-eligible individuals who are in need of applying for nursing facility placement under the Medicaid program. It also provides several community-based services for Medicaid participants who prefer to receive care in the community rather than institutional care. In certain counties, those services include:

Adult Day Healthcare: CLTC offers Adult Day Health Care to individuals enrolled in the Community Choices Waiver. This is medically supervised care and services provided at a licensed day care center. Transportation to and from the home is provided within 15 miles of the center.

Attendant/Personal Assistance: CLTC offers attendant services to individuals enrolled in the Community Choices Waiver. Nurses assist by observing care and helping consumers develop skills in managing their attendant. Services may include assistance with general household activities; help with activities such as bathing, dressing, preparing meals, and housekeeping; and observing health signs.

Care Management (Case Management - Service Coordination): CLTC assigns a nurse to help determine the services for which the participant qualifies and what services will best meet the needs of an individual enrolled in the Community Choices Waiver. Nursing Facility Transition Services may also be offered to help a participant residing in a nursing facility return to the community.

Companion (Sitter): CLTC provides an approved companion to provide supervision of an individual and short-term relief for regular caregivers to individuals enrolled in the Community Choices Waiver.

Home Repair/Modification Assistance: CLTC helps provide pest control services, ramps, heater fans and air conditioners to individuals enrolled in the Community Choices Waiver. It can also help make minor adaptations to non-rental property for the safety and health of the Medicaid participant.

Medical Equipment/Personal Care Supplies: CLTC provides limited durable medical equipment and incontinence supplies (diapers, underpads, wipes, etc.) to individuals enrolled in the Community Choices Waiver.

Nutritional Supplement Assistance: CLTC's Community Choices Program provides two cases per month of Nutritional Supplements to its participants.

The Program for All-Inclusive Care for the Elderly (PACE) is a Medicaid State option that provides comprehensive long-term care to primarily elderly residents of the State. PACE is available to Medicaid participants who are certified as "nursing home" eligible, but prefer care from community services. GHS Senior Care, Palmetto SeniorCare, and The Methodist Oaks currently operate PACE programs in the State.

SPECIAL NEEDS FACILITIES

The South Carolina Department of Disabilities and Special Needs (DDSN) provides 24-hour care to individuals with complex, severe disabilities through five in-state regional facilities located in Columbia, Florence, Clinton, Summerville and Hartsville. These facilities serve those individuals who cannot be adequately cared for by one of DDSN's community living options and focus on those with special needs, head and spinal cord injuries and pervasive development disorders. In 2014, the Centers for Medicare and Medicaid Services (CMS) issued its final rule on Home and Community Based Services (HCBS) that will, inter alia, ensure that individuals who receive services through Medicaid's HCBS programs have access to the benefits of community living. DDSN believes the HCBS initiative will affect its Day Programs and where its clients live. The South Carolina Department of Health and Human Services (DHHS) will be the lead agency in implementing HCBS which will be phased in over the next five (5) years.

INSTITUTIONAL NURSING FACILITY (RETIREMENT COMMUNITY NURSING FACILITY)

An institutional nursing facility means a nursing facility (established within the jurisdiction of a larger non-medical institution) that maintains and operates organized facilities and services to accommodate only students, residents or inmates of the institution. These facilities provide necessary services for retirement communities as established by church, fraternal, or other organizations. Such beds must serve only the residents of the housing complex and either be developed after the housing has been established or be developed as a part of a total housing construction program that has documented that the entire complex is one inseparable project.

CERTIFICATE OF NEED PROJECTIONS AND STANDARDS

To be considered under this special bed category, the following criteria must be met:

1. The nursing facility must be a part of and located on the campus of the retirement community.
2. It must restrict admissions to campus residents.

3. The facility may not participate in the Medicaid program.

There is no projection of need for this bed category. The applicant must demonstrate that the proposed number of beds is justified and that the facility meets the above qualifications. If approved by the Department, such a facility would be licensed as an "Institutional Nursing Home" and the beds generated by such a project will be placed in the statewide inventory in Chapter 11. These beds are not counted against the projected need of the county where the facility is located. For established retirement communities, a generally accepted ratio of nursing facility beds to retirement beds is 1:4.

RELATIVE IMPORTANCE OF PROJECT REVIEW CRITERIA

The following project review criteria, as outlined in Chapter 8 of [Regulation 61-15](#), are considered the most important in evaluating Certificate of Need applications for these beds or facilities:

1. Community Need Documentation;
2. Acceptability; and
3. Record of the Applicant.

Because Institutional Nursing Facility Beds are used solely by the residents of the retirement community, there is no justification for approving this type of nursing facility unless the need can be documented by the retirement center. The benefits of improved accessibility do not outweigh the adverse effects caused by the duplication of any existing beds or facilities.

SWING-BEDS

A Certificate of Need is not required to participate in the Swing Bed Program in South Carolina; however, the hospital must obtain Medicare certification.

[The Social Security Act \(Section 1883\(a\)\(1\), \[42 U.S.C. 1395tt\]\)](#) permits certain small, rural hospitals to enter into a swing bed agreement, under which the hospital can use its beds to provide either acute or SNF care, as needed. The hospital must be located in a rural area and have fewer than 100 beds.

Medicare Part A covers the services furnished in a swing bed hospital under the SNF PPS. The PPS classifies residents into one of 44 categories for payment purposes. To qualify for SNF-level services, a beneficiary is required to receive acute care as a hospital inpatient for a stay of at least three consecutive days, although it does not have to be from the same hospital as the swing bed. Typical medical criteria include daily physical, occupational and/or speech therapy, IV or nutritional therapy, complex wound treatment, pain management, and end-of-life care.

**LONG-TERM CARE INVENTORY
(Chapter 11)**

Region I	# Beds
Abbeville	
Abbeville Nursing Home	94
Anderson	
Brookdale Anderson	44
Ellenburg Nursing Center	181
Iva Rehabilitation and Healthcare Center	60
Linley Park Rehabilitation and Healthcare	88
NHC HealthCare Anderson	290
Richard M. Campbell Veterans Nursing Home	220
Southern Oaks Rehabilitation and Healthcare Center	88
Cherokee	
Blue Ridge in Brookview House	132
Peachtree Centre	111
Greenville	
Arboretum at the Woodlands	30
Brookdale Greenville	45
Brushy Creek Post Acute 1	144
Carlyle Senior Care of Fountian Inn	60
Greenville Post Acute 2	132
Greer Rehabilitation and Healthcare Center	133
Heartland Health Care Center - Greenville East	132
Heartland Health Care Center - Greenville West	125
Linville Courts at the Cascades Verdae	44
Magnolia Manor - Greenville	99
NHC HealthCare Greenville	176
NHC HealthCare Mauldin	180
Patewood Rehabilitation and Healthcare Center	120
Poinsett Rehabilitation and Healthcare Center	132
Prisma Health Greenville Memorial Subacute 3	15
River Falls Rehabilitation and Healthcare Center	44
Rolling Green Village Health Care Facility	74
Simpsonville Rehabilitation and Healthcare Center	132
Southpointe Healthcare and Rehabilitation	120
Greenwood	
Greenwood Transitional Rehabilitation Unit	12
Magnolia Manor - Greenwood	88
NHC HealthCare Greenwood	152
Wesley Commons Health and Rehabilitation Center	80

**LONG-TERM CARE INVENTORY
(Chapter 11)**

Laurens

Martha Franks Baptist Retirement Community	88
NHC HealthCare Clinton	131
NHC HealthCare Laurens	176
Presbyterian Communities of SC - Clinton 4 (48 institutional beds)	64

McCormick

McCormick Rehabilitation and Healthcare Center	120
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Oconee

Prisma Health Lila Doyle 5	120
Seneca Health and Rehabilitation Center	132

Pickens

Brookdale Easley	60
Capstone Rehabilitation and Healthcare Center	60
Clemson Area Retirement Center - Health Care Center	68
Fleetwood Rehabilitation and Healthcare Center	103
Manna Rehabilitation and Healthcare Center	130
Presbyterian Communities of South Carolina - Foothills	44
PruittHealth - Pickens	44

Spartanburg

Golden Age Operations 6	44
Inman Operations 7	40
Lake Emory Post Acute Care	88
Magnolia Manor - Inman	176
Magnolia Manor - Spartanburg	95
Mountainview Nursing Home	132
Physical Rehabilitation & Wellness Center of Spartanburg	120
Rosecrest Rehabilitation and Healthcare	75
Skylyn Nursing and Rehabilitation Center	44
Spartanburg Hospital for Restorative Care SNF	25
Summit Hills Skilled Nursing Facility	33
Valley Falls Terrace	88
White Oak at North Grove	132
White Oak Estates	88
White Oak Manor Spartanburg	60
Woodruff Manor	88

Union

Ellen Sagar Nursing Center	113
Heartland Health Care Center - Union	88

**LONG-TERM CARE INVENTORY
(Chapter 11)**

Region II

Aiken

Anchor Rehabilitation and Healthcare Center of Aiken	120
Carlyle Senior Care of Aiken	86
NHC HealthCare North Augusta	192
Place at Pepper Hill 8	125
PruittHealth - Aiken	176
PruittHealth - North Augusta	132

Barnwell

Blackville Healthcare and Rehab 9	85
PruittHealth - Barnwell	44
Williston Healthcare and Rehab 10	44

Chester

MUSC Health Chester Nursing Center 11	80
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Edgefield

Ridge Rehabilitation and Healthcare Center	120
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Fairfield

PruittHealth - Ridgeway	150
Ridgeway Manor Healthcare Center 12	112

Kershaw

KershawHealth Karesh Long Term Care	96
Springdale Healthcare Center	148

Lancaster

Lancaster Health and Rehabilitation 13	142
MUSC Health Lancaster Nursing Center 14	14
White Oak Manor Lancaster	132

Lexington

Brian Center of Nursing Care - St. Andrews	108
Heritage at Lowman Rehabilitation & Healthcare	176
Laurel Crest Retirement Community 15	12
Lexington Medical Center Extended Care	388
Millennium Post Acute Rehabilitation	132
NHC HealthCare Lexington	170
Opus Post Acute Rehabilitation 16	98
Presbyterian Communities of South Carolina - Columbia	44
Retreat at Wellmore of Lexington	60
South Carolina Episcopal Home at Still Hope	70

Newberry

JF Hawkins Nursing Home	118
White Oak Manor Newberry	146

**LONG-TERM CARE INVENTORY
(Chapter 11)**

Richland

CM Tucker Jr. Nursing Center Fewell & Stone Pavilions	252
CM Tucker Jr. Nursing Center Roddey Pavilion	308
Heartland of Columbia Rehabilitation & Nursing Center	132
Life Care Center of Columbia	179
Midlands Health & Rehabilitation Center	88
NHC HealthCare Parklane	180
PruittHealth - Blythewood	120
PruittHealth - Columbia 17	150
Rice Estate Rehabilitation and Healthcare	80
Sedgewood Manor Health Care Center 18	38
White Oak Manor Columbia	120
Wildewood Downs Nursing and Rehabilitation Center	80

Saluda

Saluda Nursing Center	176
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York

Lodge at Wellmore	60
Magnolia Manor - Rock Hill	106
PruittHealth Rock Hill	132
Rock Hill Post Acute Care Center	99
Westminster Health and Rehabilitation Center	66
White Oak Manor York	109
White Oak of Rock Hill	141
Willow Brook Court at Park Pointe Village	40

Region III

Chesterfield

Cheraw Healthcare	120
Rehab Center of Cheraw 19	104

Clarendon

Lake Marion Nursing Facility	88
Windsor Manor Nursing Home	64

Darlington

Betha Baptist Health Care Center 20	88
Medford Nursing Center	88
Morrell Nursing Center	154
Oakhaven Nursing Center	88

**LONG-TERM CARE INVENTORY
(Chapter 11)**

Dillon

Carlyle Senior Care of Fork	111
PruittHealth Dillon	84

Florence

Carlyle Senior Care of Florence	88
Commander Nursing Center	163
Faith Healthcare Center	104
Heritage Home of Florence	132
Honorage Nursing Center	88
Lake City-Scranton Healthcare Center	88
Methodist Manor Healthcare Center	32
Presbyterian Communities of South Carolina - Florence	44
Southland Health Care Center	88

Georgetown

Blue Ridge in Georgetown	84
Lakes at Litchfield Skilled Nursing Center	24
Prince George Healthcare Center	148

Horry

Brightwater Skilled Nursing Center	67
Compass Post Acute Rehabilitation	95
Conway Manor	190
Grand Strand Rehab and Nursing Center	88
Loris Rehab and Nursing Center	88
Myrtle Beach Manor	60
NHC HealthCare Garden City	148
PruittHealth Conway at Conway Medical Center 21	88

Lee

McCoy Memorial Nursing Center	120
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Marion

MUSC Health Mullins Nursing Center 22	92
Senior Care of Marion	95

Marlboro

Dundee Manor	110
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Sumter

Blue Ridge of Sumter	96
Covenant Place Nursing Center (16 institutional beds)	44
NHC HealthCare Sumter	138
Sumter East Health and Rehabilitation Center	176

Williamsburg

Carlyle Senior Care of Kingstree	96
Dr. Ronald E McNair Nursing and Rehabilitation Center	88

**LONG-TERM CARE INVENTORY
(Chapter 11)**

Region IV

Allendale	
John Edward Harter Nursing Center	44
Bamberg	
Pruitthealth - Bamberg	88
Beaufort	
Bayview Manor	170
Broad Creek Care Center Skilled Nursing	25
Fraser Health Care	33
Life Care Center of Hilton Head	88
NHC HealthCare Bluffton	120
Preston Health Center	77
Sprenger Healthcare of Bluffton 23	60
Sprenger Healthcare of Port Royal	65
Berkeley	
Heartland Health and Rehab Care Center - Hanahan	135
Lake Moultrie Nursing Home	88
PruittHealth - Moncks Corner	132
Retreat at Wellmore of Daniel Island	60
Calhoun	
Calhoun Convalescent Center	120
Charleston	
Bishop Gadsden Episcopal Health Care Center 24	100
Franke Health Care Center	44
Heartland of West Ashley Rehabilitation & Nursing Center	125
Johns Island Post Acute 25	132
Life Care Center of Charleston	148
Mount Pleasant Manor	132
NHC HealthCare Charleston	132
North Charleston Post Acute 26	70
Riverside Health and Rehab	160
Sandpiper Rehab & Nursing	176
Savannah Grace at the Palms of Mt. Pleasant	48
Shem Creek Nursing and Rehab 27	40
White Oak Manor Charleston, Inc.	176
Colleton	
Pruitthealth - Walterboro	132
Veterans Victory House	220

**LONG-TERM CARE INVENTORY
(Chapter 11)**

Dorchester

Hallmark Healthcare Center	88
Oakbrook Health and Rehabilitation Center	88
Presbyterian Communities of South Carolina-Summerville 28	88
St. George Healthcare Center	88

Hampton

Pruitthealth Estill	104
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Jasper

Ridgeland Nursing Center	88
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Orangeburg

Edisto Post Acute 29	113
Jolley Acres Healthcare Center	60
Methodist Oaks	122
PruittHealth - Orangeburg	88

Statewide Total

20,640

E-18-28 was issued June 13, 2018 for the permanent closure of Covenant Towers Health Care (Horry) a 30 bed nursing home facility and has been removed from inventory.

E-19-05 was issued March 2, 2019 for the permanent closure of Palmetto Health Tuomey Subacute

E-19-11 was issued March 12, 2019 for the permanent closure of GHS Laurens County Memorial Palmetto Health Rehabilitation Center (Richland) a 22 bed nursing facility closed June 22, 2017 and has been removed from the inventory.

Vibra Hospital of Charleston - TCU (Charleston) a 35 bed nursing facility closed May 13, 2019 and has been removed from inventory.

1 Formerly Brushy Creek Rehabilitation and Healthcare Center.

2 Formerly Greenville Rehabilitation & Healthcare Center.

3 Formerly GHS Greenville Memorial Hospital Subacute.

4 E-18-42 issued August 27, 2018 for the decrease of licensed bed capacity from 66 to 64.

5 Formerly GHS Lila Doyle.

6 Formerly Golden Age - Inman.

7 Formerly Inman Healthcare.

8 Formerly Pepper Hill Nursing & Rehab Center.

9 Formerly Laurel Baye Healthcare of Blackville, LLC.

10 Formerly Laurel Baye Healthcare of Williston, LLC.

11 Formerly Chester Nursing Center.

12 Formerly Blue Ridge in the Fields.

13 Formerly Lancaster Convalescent Center.

14 Formerly Transitional Care Unit at Springs Memorial Hospital.

15 CON SC-19-103 issued September 12, 2019 for conversion of 12 Institutional Nursing beds to 12 Non-Institutional Nursing beds at a total project cost of \$50,000.

**LONG-TERM CARE INVENTORY
(Chapter 11)**

- 16** E-18-27 issued June 13, 2018 for the decrease of licensed bed capacity from 100 to 98.
- 17** E-19-37 was issued on November 19, 2019 for the decrease in licensed bed capacity by 35 skilled
- 18** Formerly Countrywood Nursing Center.
- 19** Formerly Chesterfield Convalescent Center.
- 20** CON SC-19-15 issued February 12, 2019 for construction of a 44,804 sf building for the
- 21** Formerly Kingston Nursing Center.
- 22** Formerly Mullins Nursing Center.
- 23** Applicant requested a decrease in bed count from 65 to 60 prior to licensing.
- 24** CON SC-19-23 issued April 10, 2019 for construction of a new health care facility that will offer a
- 25** Formerly Johns Island Rehabilitation and Healthcare Center.
- 26** December 21, 2017 Decision granting approval for the construction of a 70 bed skilled nursing
- 27** Formerly South Bay at Mount Pleasant.
- 28** CON SC-16-18 issued May 26, 2016 for construction for the replacement of an existing 87 bed
- 29** Formerly Riverside Rehabilitation and Healthcare Center.

**LONG-TERM CARE BED NEED
(Chapter 11)**

Regions	2022 Population (Thousands) Age 65-74 Years	Bed Need (Pop x 10)	2022 Population (Thousands) Age 75+ Years	Bed Need (Pop x 58)	Existing Beds	Total # Beds to be Added
Region I						
Abbeville	3.25	33	2.53	147	94	85
Anderson	22.81	228	17.26	1,001	971	258
Cherokee	6.12	61	4.40	255	243	73
Greenville	55.37	554	39.69	2,302	1,937	919
Greenwood	7.86	79	6.54	379	332	126
Laurens ¹	7.76	78	5.86	340	411	6
McCormick	1.97	20	1.56	90	120	-10
Oconee	11.96	120	8.44	490	252	357
Pickens	12.93	129	10.14	588	509	208
Spartanburg	33.19	332	24.10	1,398	1,328	402
Union	3.50	35	2.47	143	201	-23
Region I Total	166.72	1,667	122.99	7,133	6,398	2,403
Region II						
Aiken	21.62	216	15.89	922	831	307
Barnwell	2.44	24	1.71	99	173	(49)
Chester	3.81	38	2.76	160	80	118
Edgefield	3.32	33	2.38	138	120	51
Fairfield	3.38	34	2.09	121	262	(107)
Kershaw	8.01	80	5.52	320	244	156
Lancaster	13.84	138	10.99	637	288	488
Lexington	32.32	323	22.41	1,300	1,258	365
Newberry	4.82	48	3.55	206	264	(10)
Richland	36.93	369	23.97	1,390	1,727	33
Saluda	2.43	24	2.08	121	176	(31)
York	29.01	290	18.76	1,088	753	625
Region II Total	161.93	1,619	112.11	6,502	6,176	1,946
Region III						
Chesterfield	5.47	55	3.73	216	224	47
Clarendon	4.86	49	3.80	220	152	117
Darlington	8.11	81	5.82	338	418	1
Dillon	3.27	33	2.25	131	195	(32)
Florence	15.08	151	10.76	624	827	(52)
Georgetown	11.56	116	8.17	474	256	333
Horry	70.71	707	39.70	2,303	824	2,186
Lee	2.06	21	1.29	75	120	(25)
Marion	3.95	40	2.71	157	187	10
Marlboro	2.99	30	2.05	119	110	39
Sumter ²	11.07	111	8.32	483	438	155
Williamsburg	4.05	41	2.90	168	184	25
Region III Total	143.18	1,432	91.50	5,307	3,935	2,804
Region IV						
Allendale	1.08	11	0.78	45	44	12
Bamberg	1.86	19	1.42	82	88	13
Beaufort	34.08	341	27.13	1,574	638	1,276
Berkeley	23.16	232	14.83	860	415	677
Calhoun	2.05	21	1.57	91	120	(8)
Charleston	48.06	481	31.70	1,839	1,483	836
Colleton	4.94	49	3.28	190	352	(112)
Dorchester	16.94	169	10.67	619	352	436
Hampton	2.17	22	1.64	95	104	13
Jasper	4.94	49	2.83	164	88	126
Orangeburg	10.38	104	7.97	462	383	183
Region IV Total	149.66	1,497	103.82	6,022	4,067	3,451
Statewide Totals	621.49	6,215	430	24,964	20,576	10,603

1 48 institutional beds at Presbyterian Communities of SC - Clinton are not included in Laurens County inventory
2 16 insititutional beds at Covenant Place Nursing Center are not included in Sumter County inventory.

**SPRING STREET –
SUBMISSION FOR FRC**

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September 3, 2021

VIA EMAIL (boardclerk@dhec.sc.gov)

The Board of Health and Environmental Control
Office of the Commissioner
ATTN: Denise Crawford, Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201

**Re: Final Review Conference
Docket No. 21-RFR-49, Spring Street Senior Housing OPCO, LLC d/b/a Spring
Street Health Center
Issuance of Certificate of Need for the establishment of a 23-bed skilled nursing
facility at a total project cost of \$7,703,284, CON Matter No. 2827**

Dear Ms. Crawford:

On behalf of our client, Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center ("Spring Street"), we are requesting that this submission along with attachments be provided to the Board in advance of the Final Review Conference to be held September 9, 2021. After a thorough review, the Department granted a Certificate of Need to Spring Street for the establishment of a 23-bed skilled nursing facility. Spring Street is an affiliate of Liberty Senior Living. The Liberty organization is a family-owned company that has been helping people manage their healthcare and residential needs for more than 145 years. This currently includes management and support to thirty-five nursing homes, eight assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, and a home health and hospice company with twenty-nine locations servicing various urban and rural counties in North Carolina, South Carolina, and Virginia.

The Spring Street Project is an 85,000 square foot building consisting of 96 assisted living and memory care units. Approval of the Certificate of Need involves converting 23 of those beds to a skilled nursing unit on the 5th floor. The proposed community will cater to the thriving elderly population in and near Downtown Charleston. The community will be developed in the highly desirable Downtown Charleston, on Charleston's West Side of the Peninsula. The site is situated adjacent to the Medical District of Charleston to the south and the mixed-use high growth waterfront area to the west. Liberty is planning to bring an independent feel to this community. Some amenities that will be available to residents include a roof terrace courtyard with a dining area, library, fitness center, and lounge area. Simply put, Liberty's Spring Street Project is a needed and welcome addition to the health care provider market in downtown Charleston.

The Department staff issued the proposed decision on June 28, 2021 after a thorough review. The Department held a project review meeting on May 24, 2021. A copy of the presentation provided by Spring Street is attached as **Exhibit A**. After the project review, Spring Street and the existing providers who were opposing the application, including Bishop Gadsden, submitted additional information to the Department. A copy of Spring Street's Post-Project Review Submission and Spring Street's Supplemental Response to Bishop Gadsden is attached as **Exhibit B** and **Exhibit C**. In sum, the Department staff, who are experienced and knowledgeable as to the application of the CON Program and the statutory and regulatory requirements, gave due consideration to the arguments raised by Bishop Gadsden and the others and determined that the Spring Street application complied with the purposes of the CON Act, the State Health Plan and the Project Review Criteria of SC Reg. 61-15.

As is clear, the State Health Plan reflects a need for 836 skilled nursing beds in Charleston. Bishop Gadsden argues that the State Health Plan is erroneous, there is no need for additional beds in Charleston and granting this Project will result in an unnecessary duplication of services. Bishop Gadsden held a vastly different position with regards to the State Health Plan and need for nursing beds only two years. In 2019, Bishop Gadsden obtained a CON for 50 additional nursing beds. At that time, the State Health Plan showed a need for 1,412 nursing beds. Bishop Gadsden embraced the State Health Plan need methodology and made repeated representation to the Department of the tremendous need in Charleston County with Bishop Gadsden only taking 50 beds. Indeed, Bishop Gadsden, on Page 14 of its CON application stated that any plans of other facilities to provide additional long term care facilities would be a welcome complement to its project.

It would seem erroneous that 50 additional skilled nursing beds would be needed at Bishop Gadsden, but 23 skilled nursing beds at Spring Street will now "unnecessarily duplicate" existing entities and services. Bishop Gadsden's admission in their own Application that long-term services would be a welcome complement to meet the current shortage is a direct reflection that the opposition does not believe the Spring Street will create unnecessary duplication of services. It only further confirms that there is still a high demand for nursing services in Charleston County.

During the review process, Bishop Gadsden argued that utilization was going down as evidence that there is no need in the Charleston area. While there had been a dip in utilization last year as a result of the impacts of Covid, utilization is in an upward trend in Charleston and elsewhere. Liberty operates a skilled nursing facility in Mt. Pleasant (Shem Creek Health Center at South Bay). The success of the COVID-19 vaccine rollout is evident when looking at Shem Creek and that fact that it has been able to increase its monthly occupancy from a low in February 2021 (51.88%) to a current occupancy of 87.26% (August 2021).

In addition, the utilization for Charleston County as a whole has been increasing in recent months. The current occupancy for the county is currently 78.2%, which is 300 basis points higher than what was reported for the week of 6/7/2021 (75.3%). Furthermore, Bishop Gadsden reported 44 occupied units as of August 15, which equates to an occupancy of 88%. See Skilled Nursing COVID-19 Tracker which reflects utilization reported to CMS attached as **Exhibit D**.

This Board cannot ignore the State Health Plan. The Administrative Law Court has held that the approved Plan is binding. It is important to note that none of the opposition existing providers complained during the comprehensive review process when this State Health Plan was approved by this Board. They cannot now do so. The Plan shows a need, Spring Street demonstrated a community need and there has been no showing of an unnecessary duplication of services.

Bishop Gadsden also argues that the Spring Street application does not meet the Staff resources criterion. The Department considered this argument and determined that Spring Street provided information sufficient to demonstrate an ability to provide necessary staff for the proposed Project. The Liberty corporate office includes an in-house recruiting department that will assure Spring Street is properly staffed. Spring Street will offer competitive pay and attractive benefits to recruit qualified staff including health insurance, life insurance, short and long-term disability insurance, 401(k) plan, and paid time off. Our in-house Human Resources staff periodically conducts salary surveys and adjusts to market demands as necessary. The facility will be active in the local community and interact consistently with area clinical training programs.

The Liberty organization has developed a number of strategies to enhance recruitment and retention of personnel, including:

- Flexible work schedules.
- Opportunities for advancement.
- Catch-a-Liberty Star recognition program
- Employee mentoring program
- Employee Years of Service recognition program
- Education / Tuition Assistance Program
- Annual staff satisfaction surveys
- Seminars, workshops, and other educational programs and encourage staff to stay abreast of the latest in geriatric nursing
- Recognition pins, employee bonuses, employee cookouts and parties, raffles, CNA Day and Nurses' Week
- Involvement of direct care staff in the quality assurance process
- Regular staff meetings to encourage employees to suggest improvements in all aspects of facility operations.

Spring Street will establish relationships with area colleges and community colleges to act as a clinical site for their nursing, nurse aide, activities and therapy programs as well as offer to reimburse training costs for staff to further their healthcare education through Liberty's education assistance program. We have already received support from Charleston Southern University and have been in discussion with Trident Technical College. We have previously detailed the support from MUSC.

In addition, the Shem Creek facility is currently pursuing the establishment of the South Carolina Nurse Aide Training Program. Spring Street would also pursue the establishment of this Program upon the issuance of the CON. This program would allow Spring Street the opportunity to

The Board of Health and Environmental Control
Office of the Commissioner
September 3, 2021
Page 4

a Nurse Aide Training Program to anyone interested. Once an individual has passed the training program, we would assist them with finding employment. This would be a resource that supports all Charleston County nursing homes, not just Spring Street.

Liberty has become well versed in the Charleston market having operated its 40 bed Shem Creek Health Center at South Bay. While Covid has strained the health care labor market, Spring Street does not anticipate experiencing any difficulties it cannot overcome in recruiting the staff required for this proposed project.

Spring Street looks forward to an opportunity to appear before the Board and answer any questions this Board may have after a review of this submission and the Exhibits. Spring Street maintains that the evidence should allow this Board to be confident that its Staff made a thorough review of this application, considered all arguments made by the existing providers and properly determined that the application should be granted.

For these reasons, Spring Street would respectfully request that the Board uphold the staff decision.

With my best regards, I am

Sincerely yours,



E. Wade Mullins III

EWM/lis
Enclosures

cc: M. Elizabeth Crum, Esq. (via email)
Ashley Biggers, Esq.(via email)
Vito Wicevic, Esq. (via email)



SPRING STREET HEALTH CENTER

STAFF PROJECT REVIEW



LIBERTY BACKGROUND

- The Liberty organization (affiliate of the Applicant) is a family-owned company that has been helping people manage their healthcare and residential needs for more than 145 years. This currently includes management and support to thirty-five nursing homes, eight assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, and a home health and hospice company with twenty-nine locations servicing various urban and rural counties in North Carolina, South Carolina, and Virginia.
- Liberty's vision is simple: to provide cost effective quality short-term rehabilitation care and long term skilled nursing care with dignity and respect to residents who have entrusted us with this responsibility, while employing and developing competent, caring and professional employees.

SPRING STREET PROJECT

- Liberty is planning to develop Spring Street, an 85,000 square foot building consisting of 71 assisted living and memory care units and 21 skilled nursing units (23 beds). The proposed community will cater to the thriving elderly population in and near Downtown Charleston.
- The community will be developed in the highly desirable Downtown Charleston, on Charleston's West Side of the Peninsula. The site is situated adjacent to the Medical District of Charleston to the south and the mixed-use high growth waterfront area to the west. Liberty is planning to bring an independent feel to this community. Some amenities that will be available to residents include a roof terrace courtyard with a dining area, library, fitness center, and lounge area.
- The current South Carolina Health Plan ("SCHP") identifies a supply of 1,483 nursing home beds in Charleston County and a need for an additional 836 beds. The continued growth in the county, its attractiveness to retirees, and the aging of the population will likely increase the need for nursing home beds beyond this severe shortage.

SC DHEC RELATIVE IMPORTANCE CRITERIA

- The Department has determined the relative importance of the project review criteria, pursuant to Regulation 61-15, Section 304, which will be used to review the application. The specific criteria is as follows:
 1. Community Need Documentation (2);
 2. Distribution (Accessibility) (3);
 3. Staff Resources (20); and
 4. Record of the Applicant (13)

COMMUNITY NEED DOCUMENTATION

SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- a. Target Population

Spring Street's target population for this application includes all of the residents of Charleston County. There are currently no skilled nursing facilities on the West Side Peninsula of Downtown Charleston, and given the lack of vacant land, high land cost, and stringent zoning/entitlement policies, it is unlikely there will be any new nursing facilities developed on the Peninsula for the foreseeable future. The site is located adjacent to the Medical District of Charleston, which includes the Medical University of South Carolina, Roper Medical Center, and the VA.

The adjacent location to the Medical District is significantly beneficial, as hospital discharge patients will not have to travel far for direct nursing home care.

COMMUNITY NEED DOCUMENTATION SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- b. Population Statistics

The Applicant detailed the population and growth among Charleston County residents by utilizing Spotlight population facts by Environics Analytics. Using the 2020 SCHP bed methodology in conjunction with the population data found through Spotlight, the applicant has identified the county's bed need for 2020 and 2025 within Charleston County. (CON pg. 13)

Region IV	2020 Pop 65-74 (000)	Bed Need (Pop x 10)	2020 Pop 75+ (000)	Bed Need (Pop x 58)	Existing Beds	Total # Beds to be Added
Charleston	44.59	445	26.11	1,514	1,483	476
Region IV	2025 Pop 65-74 (000)	Bed Need (Pop x 10)	2025 Pop 75+ (000)	Bed Need (Pop x 58)	Existing Beds	Total # Beds to be Added
Charleston	55.04	550	30.69	1,780	1,483	847

COMMUNITY NEED DOCUMENTATION

SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- c. Identified (documented) need of Target Population

The 2020 SCHP currently shows Charleston County has a need for 836 additional long-term care beds (CON Page 14 & SCHP Page 121). The basic assumptions of the method are:

- A ratio of 10 beds/1,000 population age 65-74 and a ratio of 58 beds/1,000 population aged 75 and over.
- For each county, these needs are calculated separately. The individual age-group needs are then added together, and the existing bed count subtracted from that total to determine the deficit or (surplus) of beds.

The table below provides projected bed utilization data for Charleston County based on the 2020 SCHP bed need methodology.

Region IV	2022 Pop 65-74 (000)	Bed Need (Pop x 10)	2022 Pop 75+ (000)	Bed Need (Pop x 58)	Existing Beds	Total # Beds to be Added
Charleston	48.06	481	31.70	1,839	1,483	836

COMMUNITY NEED DOCUMENTATION SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- d. Reduction, relocation, or elimination of facility or service

Spring Street's proposal does not reduce, relocate, or eliminate a facility or service and therefore criterion d is not applicable to the review.

COMMUNITY NEED DOCUMENTATION SECTION 802, CRITERIA FOR PROJECT REVIEW (2)

- e. Projected Utilization

The following patient days, average daily census (ADC), and percent occupancy (of the 23 beds) are projected (CON Pg. 15):

	Year 1	Year 2	Year 3
Patient Days	4,625	7,665	7,665
Average Daily Census	13	21	21
Percent Occupancy	55%	91%	91%

The patient day projections are based on the experience of the applicant in the start-up and operation of its extensive experience in existing nursing homes through affiliated communities. The average daily census (ADC) was determined by dividing the patient days by the total number of days in the year and the percent occupancy was determined by dividing the ADC by the number of beds.

COMMUNITY NEED OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden obtained a CON in 2019 to construct a new health care facility that will offer a 100 bed health care center, which includes an additional 50 skilled nursing beds (BG CON SC-19-23). Bishop Gadsden stated in its Application “the South Carolina State Health Plan for 2018-2019 shows a need for an additional 1,412 LTC beds in Charleston County, with a total need of 5,130 LTC beds in the entire low country region. With 65% of the bed need being Medicaid certified, that will leave over 495 non-Medicaid beds, with Bishop Gadsden only seeking 50 of these beds.” (BG CON Pg. 9)

In addition to the projected population growth in our area, the South Carolina State Health Plan for 2018-2019 shows a need for an additional 1,412 LTC beds in Charleston County, with a total need of 5,130 LTC beds in the entire lowcountry region. With 65% of the bed need being Medicaid certified, that will leave over 495 non-Medicaid beds, with Bishop Gadsden only seeking 50 of those beds. The addition of new beds at BG will serve this population of patients in the area who lack access to high-quality skilled nursing and post-acute rehabilitative care. This proposed change will meet the needs of the community by providing greater access while continuing to serve the residents of the Bishop Gadsden community who need high levels of skilled care.

COMMUNITY NEED OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden states in their opposition PowerPoint that Spring Street failed to document need, stating “it appears that Spring Street has not used data to develop a credible need...”. The 2020 SCHP shows a long-term care bed deficit of 836 beds for Charleston County and was a major proponent in the Applicant’s decision to apply for 23 NF beds. Moreover, Spring Street completed its own need analysis using independent population data. Our project would help meet part of this identified (documented) need for Charleston County.
- It appears Bishop Gadsden embraces the SCHP need analysis when it suits them and declares it not credible when opposing a new service.

COMMUNITY NEED OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden comments on Spring Street's location in their opposition PowerPoint.
- However, Spring Street's location adjacent to the Medical District would seem to be a welcome attraction, according to their previously submitted CON. We are both in agreeance that a location in close access to area hospitals (in our case, right across the street) is beneficial to patient discharges. (BG CON Pg. 9)
- In the site selection process for our project, we took the proximity to the local hospitals very serious. Being located across the street, rather than miles away, from both MUSC and Roper hospitals will benefit our residents and their families immensely. With the population density growth in Charleston driving increased traffic in the area, we believe there will continue to be increasing demand for skilled nursing services without residents needing to travel off of the peninsula.

Furthermore, as referenced in Exhibit F, Bishop Gadsden is approximately 4.9 miles from MUSC, 4.6 miles from Roper Hospital, and 6.5 miles from St. Francis Hospital. Our location will be beneficial for patient discharges from the hospitals since patients will not be transported great distances.

COMMUNITY NEED OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden state's that any plans of other facilities to provide additional long-term services would be a welcome complement to their proposal. Spring Street has reviewed the difference in the 2018/2019 SCHP and the 2020 SCHP as it relates the Long-Term Care Inventory for Charleston County (BG CON Pg. 14). The only difference found was the 50 additional beds Bishop Gadsden was approved for as well Vibra Hospital of Charleston – TCU appearing to relinquish their Long Term Care inventory. Overall, that is only a net gain of 15 beds between the two Health Plans.
- It would seem erroneous that 50 additional skilled nursing beds would be needed at Bishop Gadsden, but 23 skilled nursing beds at Spring Street will now “unnecessarily duplicate” existing entities and services. Bishop Gadsden's admission in their own Application that long-term services would be a welcome complement to meet the current shortage is a direct reflection that the opposition does not believe the Spring Street will create unnecessary duplication of services. It only further confirms that there is still a high demand for nursing services in Charleston County.

Bishop Gadsden aims to alleviate the unmet need for skilled nursing and rehabilitative beds in Charleston County. With the current shortage, any plans of other entities to provide and finance additional long-term care services would be a welcome complement to our proposal.

DISTRIBUTION (ACCESSIBILITY)

SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- a. Justified duplication and modernization of services

The Applicant detailed the population and growth among Charleston County residents by utilizing Spotlight population facts by Environics Analytics. Using the 2020 SCHP bed methodology in conjunction with the population data found through Spotlight, the applicant has identified the county's bed need for 2020 and 2025 within Charleston County (CON Pg. 13).

Charleston County has a need for 836 additional long-term care beds (CON Page 14 & SCHP Page 121).

DISTRIBUTION (ACCESSIBILITY)

SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- b. Located so that it may serve medically underserved areas and should not unnecessarily duplicate existing services

Spring Street will be Medicare certified, but will not participate in the state Medicaid program. Spring Street will not restrict its admissions because of gender, race, creed, national origin, or ability to pay. Spring Street will provide a reasonable amount of charity or indigent care.

There are currently no skilled nursing facilities on the West Side Peninsula of Downtown Charleston, and it is unlikely there will be any new nursing home communities developed on the Peninsula for the foreseeable future given the lack of vacant land, high land cost, and stringent zoning/entitlement policies.

DISTRIBUTION (ACCESSIBILITY)

SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- c. Location should allow for delivery of necessary support services

The site is located adjacent to the Medical District of Charleston, which includes the Medical University of South Carolina, Roper Medical Center, and the VA. The location will allow for the delivery of any necessary support services in an acceptable period of time and at a reasonable cost.



DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- d. No restriction on admissions & e. Means by which a person will have access to its services

Admission to Spring Street Health Center's nursing home will be under orders of a physician duly licensed in the State of South Carolina. Spring Street will accept referrals of patients needing nursing home services without regard to race, sex, creed, or national origin. (CON Pg. 12 & Exhibit 16)

DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- f. Extent to which all residents, and in particular the medically underserved, are likely to have access to the services

Admission to Spring Street Health Center's nursing home will be under orders of a physician duly licensed in the State of South Carolina. Spring Street will accept referrals of patients needing nursing home services without regard to race, sex, creed, or national origin. Spring Street had budgeted for charity or indigent care to make sure the medically underserved are served. (CON Pg. 12 & Exhibit 16)

DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- g. Establish provisions to insure individuals in need of treatment have access to appropriate service

Patients unable to pay for services will be accepted on a non-discriminatory basis pursuant to the indigent care policy.

The contract with residents will address specific financial resources and the obligations of Spring Street if the resident exhausts those resources. If this occurs, it is recognized that the resident would likely qualify for Medicaid, but Spring Street will not be a Medicaid provider. In this event, the resident will be referred to nursing home facilities that can accept Medicaid patients to insure treatment is given.

DISTRIBUTION (ACCESSIBILITY) SECTION 802, CRITERIA FOR PROJECT REVIEW (3)

- h. Potential negative impact upon ability and/or resources of existing providers to serve medically underserved groups

Spring Street does not foresee any potential negative impact of the proposed project upon the ability and/or resources of existing providers to serve medically underserved groups.

The need is established in the SCHP and the need analysis performed by the Applicant supports that.

DISTRIBUTION (ACCESSIBILITY) OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden presents in their opposition PowerPoint that November skilled nursing occupancy has fallen to a new low of 74.2%. Unfortunately, Senior Housing occupancy has dropped nationwide, but for no other reason than due to the COVID pandemic. The Exhibit they have presented even confirms this fact, as it states “COVID-19 has significantly impacted skilled nursing operations across the country...”.
- All factors that drove occupancy down in the Exhibit (pandemic-related deaths, elective surgeries) are going away, which has started and will continue to positively impact census.

DISTRIBUTION (ACCESSIBILITY) OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden states in their opposition PowerPoint that conservative estimates put current excess capacity for Medicare beds in Charleston County at 1,120. However, in the previously mentioned Bishop Gadsden CON application, they confirm “...that will leave over 495 non-Medicaid beds, with Bishop Gadsden only seeking 50 of these beds.” Therefore, by their own account and interpretation, Charleston County is still under bedded by 445 non-Medicaid beds. (BG CON Pg. 9)

STAFF RESOURCES

SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- a. Reasonable plan for the provision of all required staff

The corporate office includes an in-house recruiting department that will assure Spring Street is properly staffed.

Spring Street will offer competitive pay and attractive benefits to recruit qualified staff including health insurance, life insurance, short and long-term disability insurance, 401(k) plan, and paid time off. Our in-house Human Resources staff periodically conducts salary surveys and adjusts to market demands as necessary. The facility will be active in the local community and interact consistently with area clinical training programs.

In addition, the Liberty organization has developed a number of strategies to enhance recruitment and retention of personnel, including:

- Flexible work schedules.
- Opportunities for advancement.
- Catch-a-Liberty Star recognition program
- Employee mentoring program
- Employee Years of Service recognition program
- Education / Tuition Assistance Program
- Annual staff satisfaction surveys
- Seminars, workshops, and other educational programs and encourage staff to stay abreast of the latest in geriatric nursing
- Recognition pins, employee bonuses, employee cookouts and parties, raffles, CNA Day and Nurses' Week
- Involvement of direct care staff in the quality assurance process
- Regular staff meetings to encourage employees to suggest improvements in all aspects of facility operations.

The Applicant does not anticipate any difficulties in recruiting the staff required for this proposed project. Liberty is also well versed in the Charleston market, having operated Shem Creek Health Center at South Bay at Mt. Pleasant (a 40-bed nursing home facility).

STAFF RESOURCES

SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- a. Reasonable plan for the provision of all required staff (continued)

The Liberty Organization is a large Southeastern regional operator. On top of attracting local staff, our network, along with the prestigious location of Spring Street, will allow the opportunity to attract staff from outside the area who are looking to relocate to a prime location like Charleston, SC.

STAFF RESOURCES

SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- b. Demonstrate sufficient physicians are available to insure proper implementation

Letters of support from physicians who support this project are presented in the Application (Exhibit 14). Please also find attached (Attachment 1) an additional support letter from Dr. Christopher McLain, Senior Vice President and Chief Physician Officer of Roper St. Frances Healthcare.

Bishop Gadsden has an on-site clinic affiliated with Roper St. Frances, so this support is important to note considering Bishop Gadsden has opposed the Spring Street application on Community Support.

STAFF RESOURCES

SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- c. Presently owns existing facilities or services

The Applicant does not currently hold any facility licenses or CON's. However, the Liberty organization (affiliate of the Applicant) includes: thirty-five nursing homes, eight assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, and a home health and hospice company with twenty-nine locations servicing various urban and rural counties in North Carolina, South Carolina, and Virginia. Our facilities are fully staffed and proud of the success of attracting and maintaining quality staff that provide high quality of care.

STAFF RESOURCES

SECTION 802, CRITERIA FOR PROJECT REVIEW (20)

- d. Alternative uses of resources for the provision of other health services should be identified and considered

In addition to the 23-bed nursing home, the building is expected to include 77 assisted living (adult care) beds (including 21 memory care units). The Applicant believes this to be a benefit as it relates to staffing as many employees can be dually used for the complete building.

STAFF RESOURCES OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden references in their PowerPoint “Charleston Regional Business Journal (June 26th) details significant challenges currently facing the region for recruitment of cooks, wait staff, and utility/dishwashers and qualified medical staff (Exhibit I attached).” However, this article was written in October of 2017, incidentally prior to Bishop Gadsden submitting their own Certificate of Need Application for 50 additional nursing beds.



STAFF RESOURCES OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden references that Liberty's reputation may result in challenges recruiting staffing needs. However, Liberty's Shem Creek Health Center at South Bay at Mt. Pleasant (a 40-bed nursing home facility operated in Charleston County) currently has a 5-star ("Much above average") Overall Rating in the CMS Five-Star Quality Rating System, which takes into account Health Inspections, Staffing, and Quality Measures. Liberty has been able to successfully recruit and operate Shem Creek and will do the same with Spring Street.

STAFF RESOURCES OPPOSITION FROM BISHOP GADSDEN

- CMS Staffing data shows Shem Creek averaging the same or greater staffing in almost all metrics when compared with Bishop Gadsden. While both facilities have excellent ratings and metrics across the board, we only point this out due to Bishop Gadsden questioning our ability to adequately staff nursing beds in Charleston County, which we have proven is an inaccurate assumption.

Staffing	Shem Creek	Bishop Gadsden
Total number of licensed nurse staff hours per resident per day	2 hours and 10 minutes	2 hours and 2 minutes
Registered Nurse hours per resident per day	1 hour and 17 minutes	1 hour and 17 minutes
LPN/LVN hours per resident per day	53 minutes	45 minutes
Nurse aide hours per resident per day	2 hours and 46 minutes	2 hours and 48 minutes
Physical therapist staff hours per resident per day	14 minutes	1 minute

Source: <https://www.medicare.gov/care-compare/compare?providerType=NursingHome&providerIds=425417,425411&city=MT%20Pleasant&state=SC>

STAFF RESOURCES OPPOSITION FROM BISHOP GADSDEN

- Bishop Gadsden comments that Spring Street forecasts an annual salary increase “of just 2% per year.” They also state that “an inflationary increase of 2% will not be enough to retain a workforce and provide quality care.” However, a 2% salary increase is the same percentage increase submitted in their CON application. Spring Street is familiar with the market and believe we offer competitive salaries.

YEAR 2022				
Occupancy	units	Occupancy	Rate Increase	Contract Adj
IL	268	95%		4%
AL	69	95%		4%
MC	32	90%		4%
SNF	68	90%		3% 5%
Medicare Rehab	32	83%	*****	*****
***Lifecare rate				4%
****SNF rate will be private pay under contract type				
*****Medicare rehab rate is calculated using current facility and surrounding area industry standards inflated consistently				
***** Medicare rehab revenue includes co-insurance, part B, and other rehabilitation revenue sources				
Increase in staffing payroll rates			2%	
Increase in other expenses			1% (or actual)	
FTE count			396	

RECORD OF THE APPLICANT

SECTION 802, CRITERIA FOR PROJECT REVIEW (13)

- a. Record should be one of successful operation with adequate management experience

Liberty purchased its first nursing home in 1990 and has worked tirelessly ever since to expand the company and provide nursing residents with high quality levels of care throughout the entire healthcare spectrum. Over the last three decades, Liberty has expanded its operations from a single nursing home to a fully integrated post-acute healthcare provider incorporating a family of companies to provide a full spectrum of care. Today, Liberty owns, operates, or manages thirty-five nursing homes, eight assisted living facilities, two independent living communities, five Continuing Care Retirement Communities, a home health and hospice company with twenty-nine locations, two pharmacies, a medical equipment and IV therapy company, a healthcare management company, and an HMO I-SNP health plan company.

As a nursing care provider, we are dedicated to the promotion of health and the advancement of growth for residents admitted to each facility, the personnel on our staff, and for all of the people in our community directly and indirectly. We believe in the dignity of the human person, recognizing that each person has physical, mental, emotional, and spiritual needs and rights and that these rights must be respected. This respect is reflected in the tireless efforts of each facility to serve and preserve life, and to prepare for its termination when death is inevitable through spiritual support, understanding, and empathy.



RECORD OF THE APPLICANT

SECTION 802, CRITERIA FOR PROJECT REVIEW (13)

- b. Demonstrated ability to obtain necessary capital financing

Spring Street Senior Housing PROPCO, LLC, the owner of the building, has already secured a construction loan agreement with South State Bank.

RECORD OF THE APPLICANT

SECTION 802, CRITERIA FOR PROJECT REVIEW (13)

- c. If no prior experience, sources of assistance should be specified

The Liberty organization includes extensive managerial and operational experience of nursing homes.

RECORD OF THE APPLICANT

SECTION 802, CRITERIA FOR PROJECT REVIEW (13)

- d. record of cooperation and compliance with State and Federal regulatory programs

The Liberty Organization has and will continue to cooperate and comply with State and Federal regulatory programs as it relates to nursing homes.

OTHER BISHOP GADSDEN OPPOSITION (COMMUNITY SUPPORT)

- Bishop Gadsden commented that Spring Street did not gain sufficient support through the community. As a part of the Application, Spring Street submitted support letters from the following individuals:
 - Medical University of South Carolina – Dr. Terrence Steyer, Professor, Department of Family Medicine
 - Medical University of South Carolina – Dr. Natalie Christian, Professor, Department of Family Medicine
 - City of Charleston – Mayor John Tecklenburg
 - South Carolina Senate – Senator Marlon Kimpson (42nd District)
 - South Carolina Senate – Senator George “Chip” Campsen (43rd District)

OTHER BISHOP GADSDEN OPPOSITION (COMMUNITY SUPPORT)

- Spring Street is happy to share the additional support it has received from the following individuals:
 - Charleston Southern University – Dr. Dondi Costin, President, Charleston Southern University
 - Roper St. Francis Healthcare – Dr. Christopher McLain, Senior Vice President, Chief Physician Officer, Roper St. Francis Healthcare
 - Bishop Gadsden has an on-site clinic affiliated with Roper St. Francis, so this support is important to note considering Bishop Gadsden has opposed the Spring Street application on Community Support.
 - Town of Mount Pleasant – Mayor Will Haynie
 - City of Charleston City Council – Jason Sakran, District Three Councilmember
 - Charleston County Council – Teddie Pryor, Chairman
- Please see Attachments 1, 2, and 3 regarding the additional letters of support received.

OTHER BISHOP GADSDEN OPPOSITION (FINANCIAL)

- Bishop Gadsden states the rates proposed are unrealistic projections. However, Spring Street’s proposed blended rate is less than that was proposed by Bishop Gadsden in their CON Application. Bishop Gadsden proposed a blended rate of \$429 for Year 1, \$442 for Year 2, and \$455 for Year 3 (BG CON Exhibit J). Liberty is comfortable with the revenue projections and payor sources used.

2021		Location	Private (Per Day \$)	Semi-Private (Per Day \$)
Skilled Nursing Facilities				
BISHOP GADSDEN EPISCOPAL RETIREMENT COMMUNITY		Charleston, SC	\$432.00	\$368.00

2022		Location	Private (Per Day \$)	Semi-Private (Per Day \$)
Skilled Nursing Facilities				
BISHOP GADSDEN EPISCOPAL RETIREMENT COMMUNITY		Charleston, SC	\$445.00	\$378.25

2023		Location	Private (Per Day \$)	Semi-Private (Per Day \$)
Skilled Nursing Facilities				
BISHOP GADSDEN EPISCOPAL RETIREMENT COMMUNITY		Charleston, SC	\$458.00	\$389.30

OTHER BISHOP GADSDEN OPPOSITION (FINANCIAL)

- Bishop Gadsden states Spring Street’s stabilized occupancy of 91% in Year 2 (55% in year 1) is contrary to occupancy trends within Charleston County. However, Bishop Gadsden proposed an occupancy of 88% in Year 2 of their CON application, which includes 50 additional SNF beds whereas Spring Street is only proposing 23. Additionally, there are no known factors which would jeopardize the stability of the revenue projections.

YEAR 2022				
Occupancy	units	Occupancy	Rate Increase	Contract Adj
IL	268	95%		4%
AL	69	95%		4%
MC	32	90%		4%
SNF	68	90%		3% 5%
Medicare Rehab	32	83%	*****	*****
***Lifecare rate				4%
****SNF rate will be private pay under contract type				
*****Medicare rehab rate is calculated using current facility and surrounding area industry standards inflated consistently				
***** Medicare rehab revenue includes co-insurance, part B, and other rehabilitation revenue sources				
Increase in staffing payroll rates			2%	
Increase in other expenses			1% (or actual)	
FTE count			396	

OTHER BISHOP GADSDEN OPPOSITION (FINANCIAL)

- The proposed budget, revenues, and operating costs found in the Application adequately and accurately project the Spring Street project in its entirety. The projections are reasonable and based upon accepted accounting procedures.

BISHOP GADSDEN OPPOSITION

- Bishop Gadsden's opposition to Spring Street's CON appears to contradict almost all info they had submitted in their very own approved CON from 2019.
- Bishop Gadsden opposition specifically contradicts representation made on page 13-14 of their application "any plans of other entities to provide and finance additional long-term services would be a welcome complement to our proposal."

OPPOSITION FROM LUTHERAN HOMES OF SOUTH CAROLINA

- Lutheran Homes of South Carolina opposed our Spring Street Health Center CON for the following (summarized) reasons:
 - a. Duplication of effort in market
 - b. Unrealistic projections relative to availability of the labor force
 - c. Lack of local support including lack of support letters or agreement from referral communities
 - d. Lack of quality indicator and survey history data
 - e. Listing of Franke at Seaside as a referral source

OPPOSITION FROM LUTHERAN HOMES OF SOUTH CAROLINA

- a. Lutheran Homes utilized incorrect SCHP methodologies and hypothetical disparities in their opposition. Nonetheless, they still calculated a 449 bed need for Charleston County, confirming the severe need for additional nursing home beds and that our project would not duplicate existing entities.
- b. Spring Street has provided a detailed illustration as to the staffing and recruitment expected. On top of attracting local staff, our network along with the prestigious location of Spring Street will allow the opportunity to attract staff from outside the area who are looking to relocate
- c. Liberty included ample support in the CON Application and has only gained additional support (See Attachments 1-3).

OPPOSITION FROM LUTHERAN HOMES OF SOUTH CAROLINA

- d. Spring Street provided extensive information as well as the proposed Quality Assurance and Performance Improvement Plan in the Application.
- e. Spring Street listed all assisted living centers in the area as potential referral sources. If any assisted living center also has an affiliated nursing facility (such as Franke at Seaside) and were to fill up, we would hope they would seek the services of a brand new, state-of-the-art facility such as Spring Street Health Center that will be able to provide top-class care for the resident's needs.

OPPOSITION FROM NHC CHARLESTON

- NHC Charleston opposed our Spring Street Health Center CON for the following (summarized) reasons:
 - a. Duplication in the market
 - b. Staffing shortage
 - c. Current low-occupancy in Charleston County
 - d. Financial feasibility

OPPOSITION FROM NHC CHARLESTON

- a. By 2025, there is expected to be an additional 15,000+ residents aged 65 and older residing in Charleston County (CON pg. 13).

Population and Growth among Charleston County Residents 65+				
Population by age	Spotlight pop-facts by Environics analytics, Charleston County			
	Population	% of Population	Additional People	Growth
2025 Estimated Total	444,165	100.00	29,330	6.60%
Age 65 - 74	55,404	12.47	10,816	19.52%
Age 75 - 84	22,692	5.11	3,730	16.44%
Age 85+	7,998	1.80	852	10.65%
Age 18+	353,362	79.56	21,910	6.20%
Age 21+	335,376	75.51	20,502	6.11%
Age 65+	86,094	19.38	15,398	17.89%

- a. Utilizing just the additional residents aged 65 and older along with the 2020 SCHP bed need methodology (SCHP Pg. 103), a 374 bed need exists.

Region IV	2025 Pop 65-74 (000)	Bed Need (Pop x 10)	2025 Pop 75+ (000)	Bed Need (Pop x 58)	Total # Beds to be Added
Charleston	10.816	108	4.582	266	374



OPPOSITION FROM NHC CHARLESTON

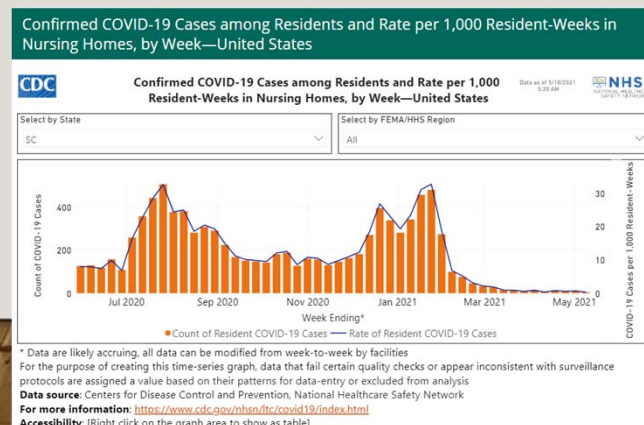
- a. Spring Street has exhaustively displayed the 2020 SCHP showing a long-term care bed deficit of 836 beds for Charleston County as well as our own need analysis using independent population data. Our project would help meet just a small part of this identified (documented) need for Charleston County.

OPPOSITION FROM NHC CHARLESTON

- b. Spring Street has provided a detailed illustration as to the staffing and recruitment expected. On top of attracting local staff, our network along with the location of Spring Street will allow the opportunity to attract staff from outside the area who are looking to relocate.

OPPOSITION FROM NHC CHARLESTON

- c.As discussed previously, Senior Housing occupancy has dropped nationwide due to the COVID pandemic. However, the success of the COVID-19 vaccine rollout is apparent, as COVID-19 cases among residents are the lowest they have been. This information is taken from the same system NHC Charleston references in their opposition letter (CDC's National Healthcare Safety Network (NHSN)). The success of the vaccine has initiated a positive increase in nursing home census.



OPPOSITION FROM NHC CHARLESTON

- c. Interestingly, NHC Charleston has stated their occupancy is 66% “based on 132 licensed beds.” However, while licensed for 132 beds, they only advertise to have a 115-bed skilled nursing center. This would mean the assumed operational occupancy was 76%.

NHC HealthCare Charleston's private and spacious campus is home to a 115-bed post-acute 24-hour skilled nursing Health Care Center. We see many individuals who need skilled nursing care after a stroke, joint replacement surgery, a cardiac procedure or a serious illness.

OPPOSITION FROM NHC CHARLESTON

- c. NHC Charleston's letter was dated March 26th and references Spring Street's affiliated operation of South Bay "currently operating at approximately 50% capacity". However, this is an incorrect statement, as South Bay was operating at 60% capacity as of March 26th. Moreover, South Bay is currently (as of May 21st) operating at 88% capacity.
- We have seen similar occupancy increases in our other affiliated operated nursing homes.
- This provides further evidence of the bounce back we are seeing for nursing home occupancy.

OPPOSITION FROM NHC CHARLESTON

- d. Spring Street has already commented on the proposed rates as well as the familiarity with the market and offering of competitive salaries. Spring Street is confident in the rates and salaries proposed.
- Spring Street again wants to reiterate the proposed budget, revenues, and operating costs found in the Application adequately and accurately project the Spring Street project in its entirety. The projections are reasonable and based upon accepted accounting procedures.

DIFFERENCE FROM OTHER OFFERINGS

- Bishop Gadsden and Lutheran Homes are both non-profit, faith-based continuing care retirement communities (CCRC). It is a South Carolina requirement that the CCRC contract “provide board or lodging together with nursing, medical, or other health-related services”. In our experience of operating CCRC’s, most residents transition through the continuum of care (independent living – assisted living/memory support – nursing).
- NHC Charleston is strictly a nursing home and does not offer any additional healthcare options (i.e., memory care or assisted living).

DIFFERENCE FROM OTHER OFFERINGS

- Spring Street's project is proposing to include memory care, assisted living, and skilled nursing. This project is different from Bishop Gadsden and Lutheran Homes since it does not include the independent living aspect. Our residents will be direct admits, whereas many CCRC residents are independent living transitioned residents.
- This project is different from NHC Charleston in that it offers additional levels of care in the form of assisted living and memory care.
- These distinctions are important, as our community may attract a different type of resident than to the services currently offered at these other communities.
- In fact, the only community in Charleston that would constitute an apples-to-apples contender would be Wellmore of Daniel Island. Spring Street will meet a need not currently provided.

CONCLUSION

- Spring Street has displayed in the CON Application as well as in this staff project review the compliance with the South Carolina Department of Health and Environmental Control Regulation No. 61-15, “Certificate of Need for Health Facilities and Services”. This application fully satisfies the stipulated criteria for this type of project and is fully consistent with the 2020 South Carolina Health Plan.
- Bishop Gadsden, Lutheran Homes (Franke at Seaside), and NHC Charleston’s opposition to Spring Street’s CON feels like anticompetitive practices to minimize nursing care access. Spring Street’s CON will help meet the large current need of nursing care in Charleston County.

ATTACHMENT I



125 Doughty Street, Suite 760, Charleston, SC 29403
www.rsfl.com

March 9, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

Dear Mr. Eubank:

I am a physician practicing in Charleston County and serve as the Chief Physician Officer for Roper St Francis Healthcare. I am writing this letter in support for the Certificate of Need application submitted by Spring Street Senior Housing OPCCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services.

I encourage your approval of this CON application for 23 public nursing home beds and as appropriate, I will refer patients to the nursing home in Charleston. If I can provide any other information, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "C. McLain", written over a horizontal line.

Christopher McLain MD, FACP
Senior Vice President, Chief Physician Officer
Roper St Francis Healthcare
125 Doughty Street, Suite 760
Charleston, SC 29403
(843)724-2070



ATTACHMENT 2



OFFICE OF THE PRESIDENT

April 14, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

Dear Mr. Eubank:

With this letter, I am expressing my support for the Certificate of Need application submitted by Spring Street Senior Housing OPKO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services. Additionally, Spring Street Health Center has the opportunity to provide nursing students at Charleston Southern University with clinical internships and jobs upon graduation.

I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dondi E. Costin".

Dondi E. Costin, Ph.D.
President
Charleston Southern University

Integrating Faith in Learning, Leading and Serving

3200 UNIVERSITY BOULEVARD • POST OFFICE BOX 118087 • CHARLESTON, SOUTH CAROLINA 29423-0087
WWW.CHARLESTONSOUTHERN.EDU • PHONE (843) 562-6000 • FAX (843) 562-6074

ATTACHMENT 3



April 16, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

Dear Mr. Eubank:

With this letter, I am expressing my support for the Certificate of Need application submitted by Spring Street Senior Housing OPCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services.

I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,

Will Haynie
Mayor
TOWN OF MOUNT PLEASANT

4/14/2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

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Sincerely,

Name (printed) WILL SARRAW
CITY OF CHARLESTON CITY COUNCIL
Organization
Address
City State Zip

Teddie E. Pryor, Sr. – Chairman
Anna B. Johnson – Vice Chairwoman
Henry E. Darby
Jenny Costa Honeycutt
Kylon Jerome Middleton
C. Brantley Moody
Herbert R. Saxe, III
Henry D. Schwiers
Robert L. Wehrman



CHARLESTON COUNTY COUNCIL
LONNIE HAMILTON, III PUBLIC SERVICES BUILDING
4045 BRIDGE VIEW DRIVE
CHARLESTON, SOUTH CAROLINA
29405-7464

Kristen L. Salisbury, Clerk
(843) 956-4090
1-800-224-7802
FAX (843) 956-8025
E-mail: ksalisbury@charlestoncounty.org

April 21, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

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I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,

Teddie E. Pryor, Sr.
Chairman
Charleston County Council
4045 Bridgeview Drive
North Charleston, SC 29405



2334 S. 41st Street • Wilmington, NC 28403
(910) 815-3122 • FAX: (910) 815-3111

June 1, 2021

Margaret P. Murdock
Director, Certificate of Need Program
Jennifer J. Hyman
Project Coordinator, Certificate of Need Program
S.C. Department of Health and Environmental Control
301 Gervais Street
Columbia, SC 29201

SUBJECT: Response Opposition Submissions at Project Review received by the Certificate of Need Program concerning CON #2827, Spring Street Health Center Application (the “Application”)

Dear Ms. Murdock and Ms. Hyman:

On behalf of Spring Street Senior Housing OPCO, LLC (the “Applicant”), I am writing as a follow up and in response to the submissions made by the four existing providers at the May 24th project review meeting concerning our pending CON Application. The CON Program heard opposition from the following organizations:

1. Bishop Gadsden Episcopal Retirement Center
2. Lutheran Homes of South Carolina
3. National Healthcare Corporation - Charleston
4. Johns Island Post Acute

Bishop Gadsden Episcopal Retirement Center

Spring Street has already detailed rebuttals to most of the points raised in the Bishop Gadsden presentation. We would advise the CON program to review the Spring Street documents prepared and submitted previously. Additional comments Spring Street wanted to add include:

- A. Liberty formed a development partnership with Southern CSL Land Investment, LLC (“Southern”) to build the Spring Street Health Center community. When Liberty joined, much of the building was already designed by Southern and a previous developer. The plans that were previously designed were institutionalized in nature and did not fit into Liberty’s standard approach of bringing an independent feel to the community. Liberty helped revise the drawings, which included enlarging resident rooms and adding common space areas. The plans and floor breakdown were designed and approved with the first floor

having administrative offices and common space; the second and third floors as Assisted Living (AL); and the fourth and fifth as Memory Care (MC).

The Project Plans were submitted to the Department with the intent that the Facility would be operated as a Community Residential Care Facility (“CRCF”). The 5th floor was designed to be compliant with I-1, Condition 2 memory care or I-2, Condition 1 skilled nursing. The Project Plans were reviewed on this basis and granted final approval from Elie Macaron, Jr, Director of Administration for Division of Health Facilities Construction/Office of Fire and Life Safety. We received DHFC Project Plan Approval for a 5-story Community Residential Care Facility. Please find attached that plan approval. That is the basis upon which construction was begun on the Facility. Community Residential Care Facilities (“CRCF”) do not require a Certificate of Need. The Applicants were open in our plans in our CON as well as with the Division of Health Facilities Construction (“DHFC”). The Project that is currently under construction is a CRCF facility. The 5th floor was designed in a way that would be compliant for a CRCF as well as skilled nursing. With the building designed to incorporate this potential conversion, there are not any material cost difference to construct to long-term care standards as opposed CRCF standards. In other words, what is currently being constructed is not dependent upon approval of the CON application for skilled nursing. As such, the Applicant is not in violation of the CON Act or any applicable regulations.

B. Bishop Gadsden states Spring Street lists standards not from the current 2020 South Carolina State Health Plan (“SCHP”). However, the standards listed by the applicant are indeed from the current 2020 SCHP. Spring has listed the following certificate of need projections and standards on pages 15-16 of the CON application:

1. *Bed need is calculated on a county basis. Additional beds may be approved in counties with a positive bed need up to the need indicated.*
2. *When a county shows excess beds, additional beds will not be approved, except to allow an individual nursing facility to add some additional beds in order to make more economical nursing units. These additions are envisioned as small increments in order to increase the efficiency of the nursing home. This exception for additional beds will not be approved if it results in a three bed ward. A nursing facility may add up to 16 additional beds per nursing unit to create either 44 or 60 bed nursing units, regardless of the projected bed need for the county. The nursing facility must document how these additional beds will make a more economical unit(s).*
3. *Some Institutional Nursing Facilities are dually licensed, with some beds restricted to residents of the retirement community and the remaining beds are available to the general public. The beds restricted to residents of the retirement community are not eligible to be certified for Medicare or Medicaid. Should such a facility have restricted beds that are inadvertently certified, the facility will be allowed to apply for a Certificate of Need to convert these beds to general nursing home beds, regardless of the projected bed need for that county.*

The Current 2020 South Carolina State Health Plan lists the following certificate of need projections and standards (pg. 103-104 of SCHP):

1. Based on observations of methodologies from other states operating a Certificate of Need regime, and recognizing that potential reliance on long-term skilled nursing services increases with age, bed need is calculated on a county basis using the following ratios:
 - a. 10 beds/1,000 population aged 65-74; and
 - b. 58 beds/1,000 population aged 75 and over
2. For each county, these needs are calculated separately. The individual age-group needs are then added together, and the existing bed count subtracted from that total to determine the deficit or (surplus) of beds.
3. When a county shows surplus beds, additional beds will not be approved, except to allow an individual nursing facility to add some additional beds in order to make more economical nursing units. These additions are envisioned as small increments in order to increase the efficiency of the nursing home. This exception for additional beds will not be approved if it results in a three bed ward. A nursing facility may add up to 16 additional beds per nursing unit to create either 44 or 60 bed nursing units, regardless of the projected bed need for the county. The nursing facility must document how these additional beds will make a more economical unit(s).
4. Some Institutional Nursing Facilities are dually licensed, with some beds restricted to residents of the retirement community and the remaining beds are available to the general public. The beds restricted to residents of the retirement community are not eligible to be certified for Medicare or Medicaid. Should such a facility have restricted beds that are inadvertently certified, the facility will be allowed to apply for a Certificate of Need to convert these beds to general nursing home beds, regardless of the projected bed need for that county.

Item 1 from Spring Street's CON (on page 15) is a summarized version of the items listed in Item 1 and 2 of the 2020 SCHP. Items 2 and 3 from Spring Street's CON (page 15-16) are verbatim listings of those found in item 3 and 4 of those listed in the 2020. There is no difference in the information provided. The analysis performed clearly reflects the Application was applying the Standards for in the 2020 SCHP.

- C. Bishop Gadsden verbally commented that the SCHP does not include the 50 additional beds approved at Bishop Gadsden or the 70 beds approved for North Charleston Post Acute. This was an incorrect statement, as both are included in the 1,483 existing bed inventory for Charleston County. The 2020 SCHP still displayed a bed need of 836 LTC beds.
- D. Spring Street presented the representation from Bishop Gadsden's 2019 CON Application that stated "Bishop Gadsden aims to alleviate the unmet need for skilled nursing and rehabilitative beds in Charleston County. With the current shortage, any plans of other

entities to provide and finance additional long-term care services would be a welcome complement to our proposal.” Bishop Gadsden later commented this additional long-term care service was met with the 70-bed community proposed by North Charleston Post Acute. However, North Charleston Post Acute was approved on December 21, 2017, before Bishop Gadsden even applied for their 50-bed expansion. There have not been any additional Charleston County nursing home CON’s applied for or approved since Bishop Gadsden’s 50-bed expansion. Therefore, Bishop Gadsden has again appeared to contradict themselves. By Bishop Gadsden’s own admission from their 2019 CON Application, Spring Street’s proposal “would be a welcome complement.”

- E. Bishop Gadsden questioned the impact of legislator support letters. However, pursuant to Part C(8) of the Application, “Endorsement from the community that the project is desirable. This may include but is not limited to members of the medical community, citizen's groups, governmental elected officials and other health and social service disciplines in the community.” Spring Street went above and beyond on getting endorsement from the community.

Lutheran Homes of South Carolina

Spring Street has already detailed rebuttals to most of the points raised in the Lutheran Homes presentation. We would advise the CON program to review the Spring Street documents prepared and submitted previously. Additional comments Spring Street wanted to add include:

- A. In a May 6th News & Press Release by The National Investment Center for Seniors Housing & Care (NIC), NIC MAP data powered by NIC MAP Vision show traditional Medicare revenue per patient day was steady at \$555, higher than the projected Medicare rate proposed by Spring Street. The link to this news release can be found in the NHC Charleston section below.

Furthermore, a review of all of Liberty’s skilled nursing managed facilities found an average April 2021 Medicare revenue per patient day of \$550.11, which is also higher than the projected Medicare rate proposed by Spring Street.

Liberty is confident with the revenue projections and payor sources used.

- B. Lutheran Homes has referenced Five Star Senior Living’s transition out of the skilled nursing spectrum as being caused by the pandemic. However, the article they reference confirms this transition was telegraphed back in the summer of 2018. The article details Five Star’s shift toward independent living and active adult properties. Furthermore, our affiliated Shem Creek location has already had active discussion with The Palms (Five Star’s Charleston SNF facility) and transitioned over their LTC SNF residents. We believe this speaks to the quality of care Liberty currently provides – Five Star chose to relocate their residents to our operating facility.

NHC Healthcare Charleston

Spring Street has already detailed rebuttals to most of the points raised in the NHC Charleston presentation. We would advise the CON program to review the Spring Street documents prepared and submitted previously. Additional comments Spring Street wanted to add include:

- A. Shem Creek has not had 18 beds open since late March. At that time utilization was still down throughout the long term care industry as COVID was still active and vaccine rollout was just beginning. We have already presented at Project Review that Shem Creek's occupancy had risen to 88%. We have also confirmed NHC Charleston is only operating as a 115-bed building (instead of the 132-bed capacity). Therefore, their operational occupancy is up to 84%. NHC chose to report the Q1 data instead of its most current up to date occupancy data. This reflects that there is a high likelihood they are seeing what we are seeing – now that the COVID-19 vaccine has been rolled out, nursing homes are seeing increased census to those seen before the pandemic.

Furthermore, in a May 6th News & Press Release by The National Investment Center for Seniors Housing & Care (NIC), the release states “more than four in five operators in senior housing and skilled nursing are reporting an increase in lead volume since the beginning of the year.” Additionally, Beth Burnham Mace (NIC's Chief Economist) is quoted saying “February's NIC MAP data underscores what some skilled nursing facility operators have been saying the past few months: they are starting to see occupancy stabilization.”

That news release can be found here: <https://www.nic.org/news-press/occupancy-at-u-s-skilled-nursing-facilities-shows-signs-of-stabilization/>

Johns Island Post Acute / Providence Group

Based on the comments from Johns Island Post Acute, it does not appear they have reviewed the Application. Spring Street is proposing to include skilled nursing along with assisted living and memory care all in one community. This will be a combination community, not separate facilities. Their statement of “...as the two facilities require different staff” is confusing and presents as if Johns Island Post Acute believes the project is two different facilities. Spring Street believes a combination facility to be a benefit as it relates to staffing as many employees can be cross-utilized for the complete building.

All Opposition – Need Projections

The existing providers have complained that the 2020 SCHP need methodology is inaccurate. However, the CON Act requires the Department to prepare a South Carolina Health Plan, with the advice of the Health Planning Committee, for use in the administration of the Certificate of Need Program. The Health Planning Committee reviews the South Carolina Health Plan and submits it to the Board of Health and Environmental Control for final revision and adoption. The SCHP has been approved by the Health Planning Committee and DHEC after vigorous review and is enforceable and must be followed by the Department.

The process of approval includes a Public Comment Period and the Health Planning Committee conducts Public Hearings across the State which is designed to provide existing providers ample opportunity to comment or raise any concerns regarding the Draft SCHP, including any need methodology or standards contained therein. Spring Street is informed and believes that none of

the existing providers who are opposing our Application and complaining of the bed need methodology contained in the SCHP raised any concern during review process for the current SCHP. Therefore, after careful review from the Health Planning Committee and DHEC to approve the 2020 SCHP, there is no reason to believe the methodology chosen by the State does not accurately depict the bed need in Charleston County.

All Opposition – Staffing Concerns

We have previously detailed that on top of attracting local available staff, our network, along with the prestigious location of Spring Street, will allow the opportunity to attract staff from outside the area who are looking to relocate to a prime location like Charleston, SC.

Additionally, through our affiliation of Shem Creek Health Center (at South Bay at Mount Pleasant), we will establish relationships with area colleges and community colleges to act as a clinical site for their nursing, nurse aide, activities and therapy programs as well as offer to reimburse training costs for staff to further their healthcare education through Liberty's education assistance program. We have already received support from Charleston Southern University and have been in discussion with Trident Technical College. We have previously detailed the support from MUSC.

Additionally, our Shem Creek site is currently pursuing to become a South Carolina Nurse Aide Training Program. We would pursue this Program at Spring Street as well, should the CON be approved. This program would allow Spring Street the opportunity to offer a Nurse Aide Training Program to anyone interested. Once an individual has passed the training program, we would assist them with finding employment. This would be a resource that supports all Charleston County nursing homes, not just Spring Street.

The Spring Street CON Application complies with all of the requirements set forth in the CON Act, the South Carolina Health Plan and the applicable review criteria set forth in SC Reg. 61-15. Therefore, Spring Street is requesting that the Department proceed with issuing a Staff Decision granting the subject CON Application.

Thank you for your attention to this matter.

Best Regards,



Timothy Walsh
Senior Financial Analyst
Liberty Senior Living
TWalsh@libertyseniorliving.com
(910) 332-1982



February 27, 2020

Plan Approval - DHFC

Facility Information	Audit Information
Facility License Number: CRC-2012	Audit Name: DHFC Project Plan Approval 20140407
Facility Name: POINSETTE SENIOR LIVING	Type: L20 Construction Project
Facility Address 1: 194 SPRING ST	End Date: 25 Jun 2019
Permit Type: HL- Community Residential Care Facility	DHFC Staff Name: Elie Macaron
Facility City/State/Zip: CHARLESTON, SC 29403 Charleston	
Phone 1: 843-838-0067	
Email: GFREEMAN@ASTORIAPROPERTY.COM	

Health Regulation Memorandum

This office has completed a final check of the above referenced project; based on the applicable codes and minimum standards, the construction documents are approved. Elie Macaron, DHEC, Division of Health Facilities Construction (DHFC).

Notice PPA

Plan Approval Information	Plan Approval Data
Division of Health Facilities Construction 2600 Bull St Columbia SC 29201-1708 PROJECT PLAN APPROVAL: This office has completed a final check of the below referenced project; based on the applicable codes and minimum standards, the construction documents are approved. The examination of the submitted documents does not relieve the Owner, Architect/Engineer, and Contractor, or their representatives from individual or collective responsibility to comply with the applicable codes and regulations. This review is not to be construed as a check of every item in the submitted documents and does not prevent authorities from hereafter requiring corrections of errors in plans or construction. Please keep this office informed in writing of the start of construction, progress of construction (at each 10% completion point), and to any developments (e.g. addendums, change orders, etc.). Inspections are required for this project. Please post the Construction Project Information Form(s) in a conspicuous location. If you have any questions concerning construction of your facility, please do not hesitate to contact me at (803) 545-4215.	Report Notice

Project Plan Approval

Plan Approval Information	Plan Approval Data
DHFC Project Number:	582625
Does the Client have their own unique Project Number?	NO

Design Professional (Name, Firm, Address, Contact Info):	mcmillan pazdan smith 121 calhoun st charleston sc 29401 843 566 0771
Project Information:	New 100 beds with a max of 114 occupants Community Residential Care Facility 61-84 (5 floors) also approved is a 5th floor future conversion of crcf to nursing home with 21 beds.

Record Retention

Plan Approval Information	Plan Approval Data
DHEC 0282 (05/2010) AUDIT - [Records Retention 16327]	Retention

March 9, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

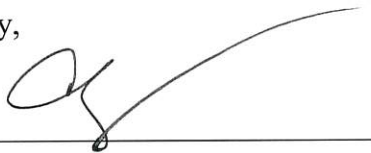
Dear Mr. Eubank:

I am a physician practicing in Charleston County and serve as the Chief Physician Officer for Roper St Francis Healthcare. I am writing this letter in support for the Certificate of Need application submitted by Spring Street Senior Housing OPCO, LLC to construct a 23-bed nursing home in Downtown Charleston. Spring Street's community will include assisted living and memory care units and a nursing home.

With the tremendous growth in Charleston County and the overall aging of the population in the current *SC Health Plan*, DHEC has identified a severe need for additional public nursing home beds in the county. Spring Street wishes to help meet this need and provide comprehensive range of long-term care services.

I encourage your approval of this CON application for 23 public nursing home beds and as appropriate, I will refer patients to the nursing home in Charleston. If I can provide any other information, please let me know.

Sincerely,



Christopher McLain MD, FACP
Senior Vice President, Chief Physician Officer
Roper St Francis Healthcare
125 Doughty Street, Suite 760
Charleston, SC 29403
(843)724-2070



Will Haynie
Mayor

April 16, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

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Mayor
TOWN OF MOUNT PLEASANT

Teddie E. Pryor, Sr. – Chairman
Anna B. Johnson – Vice Chairwoman
Henry E. Darby
Jenny Costa Honeycutt
Kylon Jerome Middleton
C. Brantley Moody
Herbert R. Sass, III
Henry D. Schweers
Robert L. Wehrman



Kristen L. Salisbury, Clerk
(843) 958-4030
1-800-524-7832
FAX (843) 958-4035
E-mail: ksalisbury@charlestoncounty.org

CHARLESTON COUNTY COUNCIL
LONNIE HAMILTON, III PUBLIC SERVICES BUILDING
4045 BRIDGE VIEW DRIVE
CHARLESTON, SOUTH CAROLINA
29405-7464

April 21, 2021

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I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "TSP", is written over the word "Sincerely,".

Teddie E. Pryor, Sr.
Chairman
Charleston County Council
4045 Bridgeview Drive
North Charleston, SC 29405

4/14/2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

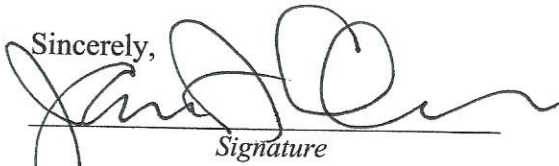
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Sincerely,



Signature

JASON SAKRAN

Name (printed)

CITY OF CHARLESTON CITY COUNCIL

Organization

Address

City

State

Zip

April 14, 2021

Louis Eubank, MSW, MPH
Director, Certificate of Need Program
S.C. Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

SUBJECT: Spring Street Health Center - Nursing Home

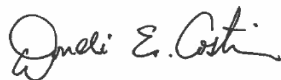
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I encourage your approval of this CON application for 23 public nursing home beds. If I can provide any other information, please let me know.

Sincerely,



Dondi E. Costin, Ph.D.
President
Charleston Southern University

Integrating Faith in Learning, Leading and Serving



2334 S. 41st Street • Wilmington, NC 28403
(910) 815-3122 • FAX: (910) 815-3111

June 10, 2021

Margaret P. Murdock
Director, Certificate of Need Program
Jennifer J. Hyman
Project Coordinator, Certificate of Need Program
S.C. Department of Health and Environmental Control
301 Gervais Street
Columbia, SC 29201

SUBJECT: Response to Bishop Gadsden regarding the Certificate of Need concerning CON #2827, Spring Street Health Center Application (the “Application”)

Dear Ms. Murdock and Ms. Hyman:

Spring Street Senior Housing OPCO, LLC (the “Applicant”) respects the time and effort needed to review a Certificate of Need Application. After the Project Review meeting held on May 24, 2021, Ms. Hyman detailed clearly the dates requested to have responses back. The Applicant was asked to submit any additional comments by June 1, 2021, which we did. The Opposition was asked to submit any responsive comments by June 8, 2021. Despite the clear direction, Bishop Gadsden chose not to submit any comments until June 9, 2021. The Bishop Gadsden comments are primarily a summary of arguments already raised. However, there was a serious and reckless allegation that Liberty Senior Living (Spring Street’s parent corporation) has a history of ignoring regulations. We respect the Department’s need to have finality to the review but felt compelled to respond to this misinformation.

Shem Creek (approved as South Bay at Mt. Pleasant via Project SC-16-154) received its Certificate of Need effective December 6, 2016. Shem Creek was granted final approval from Elie Macaron, Jr, Director of Administration for Division of Health Facilities Construction/Office of Fire and Life Safety on February 27, 2017 for the full healthcare building, which included ALF and SNF. The healthcare building was a part of a larger CCRC community to be built in phases. The ALF and SNF healthcare building was designated as Phase III and received its building permit approval via permit number CN-17-132323 on April 24, 2017. Construction of the building began soon thereafter.

Bishop Gadsden’s assertion that Liberty Senior Living has a history of ignoring CON regulations is wholly unsupported and not accurate. Liberty Senior Living’s development of Shem Creek was performed in a transparent manner with DHEC fully involved and approving every aspect of the development required by the CON Program and the Division of Health Facilities Construction and Health Licensing.

All other comments from Bishop Gadsden have been addressed in the Spring Street CON as well as documents prepared and submitted previously.

The Spring Street CON Application complies with all of the requirements set forth in the CON Act, the South Carolina Health Plan and the applicable review criteria set forth in SC Reg. 61-15. Therefore, Spring Street is requesting that the Department proceed with issuing a Staff Decision granting the subject CON Application.

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink that reads "Timothy J. Walsh". The signature is written in a cursive style with a large initial "T" and "W".

Timothy Walsh
Senior Financial Analyst
Liberty Senior Living
TWalsh@libertyseniorliving.com
(910) 332-1982

