



State of New Jersey
DEPARTMENT OF HEALTH
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Commissioner

August 16, 2022

VIA ELECTRONIC & FIRST CLASS MAIL

Brian Rath, Esq.
Buchanan Ingersoll & Rooney PC
700 Alexander Park, Suite 300
Princeton, New Jersey 08540-6347

Re: Sunrise of Livingston
Request for Extension of Time
CN ER# 2016-0503-02
Total Project Cost: \$ 30,724,984
Expiration Date: June 14, 2023

Dear Mr. Rath:

Please be advised that the Department of Health (Department) is approving the Expedited Review Certificate of Need (ERCN) application submitted by Sunrise of Livingston (Sunrise), submitted on July 1, 2022, pursuant to N.J.A.C. 8:33-5.1(a)(6), for an extension of time to implement CN ER application 16-0503-07-37. Sunrise is a new Assisted Living (AL) facility, which will be licensed for 122 AL beds. The approval for the ERCN application to establish this facility was issued on December 14, 2016 and expired on December 14, 2021. In approving the extension of time to implement CN ER application 16-0503-07-37, the Department is waiving the provisions of N.J.A.C. 8:33-3.10(a)(2), which states that an application for extension of time shall be filed 60 days prior to the current expiration date of a certificate of need.

The facility is to be located at 290 South Orange Avenue in Livingston, Essex County. The licensed operator will be Sunrise of Livingston, LLC, a for-profit entity. As noted, the initial approval letter for the CN ER #16-0503-07-37 indicated an expiration date of December 14, 2021. Sunrise stated in its extension of time application that they

were focused on managing delays in construction and neglected to recognize the expiration of the initial CNER application approval until after it had passed. The current application was submitted to address that oversight.

The Department has reviewed and determined to approve Sunrise's ERCN application, which requests an extension of time to June 14, 2023. In accordance with this request, the certificate of need is now extended for one additional 18-month time period from the last expiration date of December 14, 2021. It is expected that this project will be fully implemented by the time this 18-month period has elapsed.

The decision to approve Sunrise's extension application is based on a review of the documents submitted. The reasons stated for the need for an extension of time were first, delays due to local land use litigation related to the facility property, which have been resolved. Municipal approval was finally received on December 17, 2019, so local zoning and building approvals for the project are in place. In addition, further significant delays in construction were due to the COVID-19 pandemic, and related governmental states of emergency. Completion of the facility construction is now projected to be November 30, 2022. However, completion is contingent upon any future construction delays and potential delays in local certificate of occupancy or other approvals, so the Applicant requested an extension to June of 2023. The current submission also confirmed that financing, both through third-party bank financing and Sunrise's own finances, remains in place for this project and will be sufficient to cover any increases in project costs.

Please be advised that this approval is limited to the proposal as presented and reviewed. The application, related correspondence and any completeness questions and responses are incorporated and made a part of this approval. An additional review by the Department may be necessary if there is any change in scope as defined in N.J.A.C. 8:33-3.9. However, in accordance with N.J.A.C. 8:33-3.9(a) 1-3, a change of cost of an approved certificate of need is exempt from certificate of need review but subject to the following:

1. The applicant shall file a signed certification as to the final total project cost expended for the project at the time of the application for license for the beds/services with the Certificate of Need and Healthcare Facility Licensure Program.
2. Where the actual total project cost exceeds the certificate of need approved total project cost and is greater than \$1,000,000, the applicant shall remit the additional certificate of need application fee due to the Certificate of Need and Healthcare Facility Licensure Program. The

required additional fee shall be 0.25 percent of the total project cost in excess of the certificate of need approved total project cost.

3. The Department will not issue a license for the beds/services until the additional fee is remitted in full.

The Department, in approving this application, has relied solely on the facts and information presented. The Department has not undertaken an independent investigation of such information. If material facts have not been disclosed or have been misrepresented as part of this application, the Department may take appropriate administrative regulatory action to rescind the approval or refer the matter to the Office of the New Jersey Attorney General.

Any approval granted by this Department relates to certificate of need and/or licensing requirements only and does not imply acceptance by a reimbursing entity. This letter is not intended as an approval of any arrangement affecting reimbursement or any remuneration involving claims for health care services.

This approval is not intended to preempt in any way any municipality's authority to regulate land use within its borders and shall not be used by the applicant to represent that the Department has made any findings or determination relative to the use of any specific property.

Pursuant to N.J.S.A. 26:2H-12.16 and N.J.A.C. 8:36.5.1(h), a new facility that is licensed to operate as an assisted living residence or comprehensive personal care home shall have a Medicaid occupancy level of 10 percent within three years of licensure. The 10 percent Medicaid occupancy level shall be met through conversion of residents who enter the facility as private paying persons and subsequently become eligible for Medicaid, or through direct admission of Medicaid-eligible persons. The 10 percent Medicaid occupancy level shall be continuously maintained by a facility once the three-year licensure period has elapsed. The Department will monitor that this condition threshold is met and maintained during the duration of licensure.

Please be advised that services may not commence until a license has been issued by the Certificate of Need and Healthcare Facility Licensure Program to operate this facility. A survey by Department staff will be required prior to commencing services.

The Department looks forward to working with the applicant to provide a high quality of care to the Assisted Living residents. If you have any questions concerning this Certificate of Need approval, please do not hesitate to contact Michael J. Kennedy, Executive Director, Division of Certificate of Need and Licensing at michael.kennedy@doh.nj.gov.

Sincerely,

Robin C. Ford

Robin C. Ford, MS
Deputy Commissioner
Health Systems

cc: Stefanie J. Mozgai, DOH (Electronic mail)
Michael J. Kennedy, J.D., DOH (Electronic mail)
Donna Koller, DOH (Electronic mail)
Luisa Alexopoulos, DOH (Electronic mail)
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