



North Carolina Department of Health and Human Services
Division of Health Service Regulation

Pat McCrory
Governor

Richard O. Brajer
Secretary DHHS

Mark Payne, Director
Health Service Regulation

December 20, 2016

James A. Dietz
7310 Turfway Road
Suite 210
Florence, KY 41042

No Review

Record #: 2120

Facility Name: Lake Norman Regional Medical Center- Home Care

FID #: 954744

Business Name: Almost Family, Inc.

Business #: 2536

Project Description: Change in Indirect Ownership

County: Iredell

Dear Mr. Dietz:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your letter of November 10, 2016 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

However, you need to contact the Agency's Acute and Home Care Licensure and Certification Section to determine if they have any requirements for development of the proposed project.

It should be noted that this determination is binding only for the facts represented in your correspondence. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by this office. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the



Healthcare Planning and Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-715-4413

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

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original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

Please contact this office if you have any questions. Also, in all future correspondence you should reference the Facility ID # (FID) if the facility is licensed.

Sincerely,



Gregory F. Yakaboski
Project Analyst



Martha J. Frisone
Assistant Chief, Certificate of Need

cc: Acute and Home Care Licensure and Certification Section, DHSR
Paige Bennett, Assistant Chief, Healthcare Planning, DHSR

James A Dietz
Member
859.817.5928 (t)
859.283.5902 (f)
jdietz@fbtlaw.com

November 10, 2016

VIA FEDERAL EXPRESS

Ms. Martha Frisone
North Carolina Department of Health and Human Services
Division of Health Service Regulation
Certificate of Need Section
809 Ruggles Drive
Raleigh, North Carolina 27603



Re: **Notice of Transaction; Request for Determination of Reviewability**

- **Mooreville Home Care Services, LLC d/b/a Lake Norman Home Health (Facility ID: 954744; License No. HC1325)**

Dear Ms. Frisone:

I am writing on behalf of our client, Almost Family, Inc. (“Almost Family”), to provide notice of a proposed transaction involving Almost Family and its wholly-owned subsidiary, National Health Industries, Inc. (“Buyer”); CHS/Community Health Systems, Inc. (“Seller”); and Seller’s wholly owned subsidiary, Community Health United Home Care, LLC (the “Company”). Through its various subsidiaries, the Company owns and operates home health agencies and hospices located throughout the country, including Mooreville Home Care Services, LLC (the “Operating Entity”), which owns and operates Lake Norman Home Health (the “Agency”).

The purpose of this letter is to request a formal determination regarding whether the proposed transaction is subject to certificate of need (“CON”) review under North Carolina law. As described more fully below, it is our understanding that the proposed transaction will not require CON review.

DESCRIPTION OF PROPOSED TRANSACTION

The proposed transaction is a stock transaction, in which Buyer will acquire eighty percent (80%) of the membership interests of the Company (the “Proposed Transaction”). The remaining twenty percent (20%) of the membership interests of the Company will be retained by Seller. As a result of the Proposed Transaction, Buyer will own a majority of the membership interests of the Company, but the Company’s ownership of the Operating Entity will not be

affected. For your reference, enclosed as Exhibit A is an ownership chart showing the ownership structure of the Operating Entity before and after the closing of the Proposed Transaction. As you can see, the Proposed Transaction will not result in any change in the direct ownership of the Operating Entity or the Agency. Instead, the Proposed Transaction will result in a change in the upstream ownership structure of the Operating Entity. The Operating Entity will retain all of its assets, and there will be no change in its business name, federal tax identification number, or Medicare provider number. Accordingly, the Proposed Transaction will not result in a change of ownership of the Agency for Medicare purposes. The parties currently anticipate that the Proposed Transaction will close effective as of **December 31, 2016**, though it may close at a later date depending upon the timing of certain necessary approvals.

APPLICABLE LAW

It is our understanding that the Proposed Transaction will not require CON review, and that no other filings will be required in connection with the Proposed Transaction. Under North Carolina law, a CON is required for an “acquisition by donation, lease, transfer, or comparable arrangement ... if the acquisition would have been a new institutional health service if it had been made by purchase.” N.C. Gen. Stat. § 131E-178(b). The term “new institutional health services” is defined to include “[t]he purchase, lease, or acquisition of any health service facility, or portion thereof, or a controlling interest in the health service facility or portion thereof, if the health service facility was developed under a certificate of need issued pursuant to [N.C. Gen. Stat. § 131E-180].” N.C. Gen. Stat. § 131E-176(16)(l).

As reflected in Exhibit A, the Proposed Transaction will involve the acquisition of stock of the parent company of the legal entity which owns and operates the Agency. The Proposed Transaction will result in a change in the indirect ownership of the Agency, but the direct ownership of the Agency will not change. Therefore, the Proposed Transaction will not result in the purchase, lease, or acquisition of the Agency, nor will it result in the purchase, lease, or acquisition of a controlling interest in the Agency. The CON Section has considered several similar transactions recently and determined that changes in the indirect ownership interests of a health service facility do not require CON review. *See, e.g.*, The Crossings at Wayside, February 4, 2016 (acquisition of indirect equity interests) and The Laurels of GreenTree Ridge, February 17, 2016 (acquisition of parent company of health service provider).

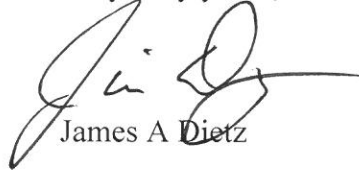
Although it is our understanding that the Proposed Transaction will not constitute an “acquisition” for purposes of North Carolina CON law, it should be noted that the acquisition of an existing health service facility is, in any event, exempt from CON review pursuant to N.C. Gen. Stat. § 131E-184(a)(8), provided that prior written notice is provided to the Department. In the event that the Department determines that the Proposed Transaction will constitute an acquisition of an existing health service facility, please allow this letter to serve as the notice required under N.C. Gen. Stat. § 131E-184(a) and a request for confirmation that the Proposed Transaction is exempt from CON review.

Ms. Martha Frisone
November 10, 2016
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REQUEST FOR DETERMINATION OF REVIEWABILITY

We respectfully request a determination from your office regarding whether the Proposed Transaction is subject to CON review under North Carolina law or will otherwise require action with the Department. Thank you for your consideration of this request. If you have any questions, or if you require any additional information, please do not hesitate to contact me.

Very truly yours,



James A Dietz

JAD:RPD

Enclosures

cc: Paige Miller (via e-mail – pmiller@bradley.com)

EXHIBIT A

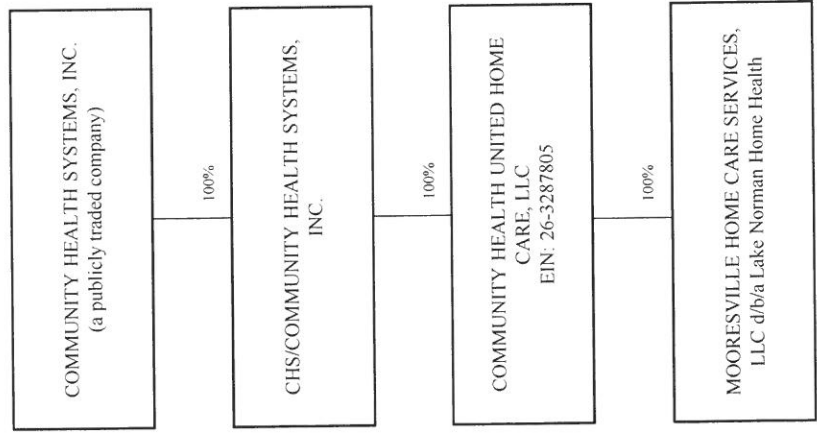
OWNERSHIP STRUCTURE CHART

Please see attached.

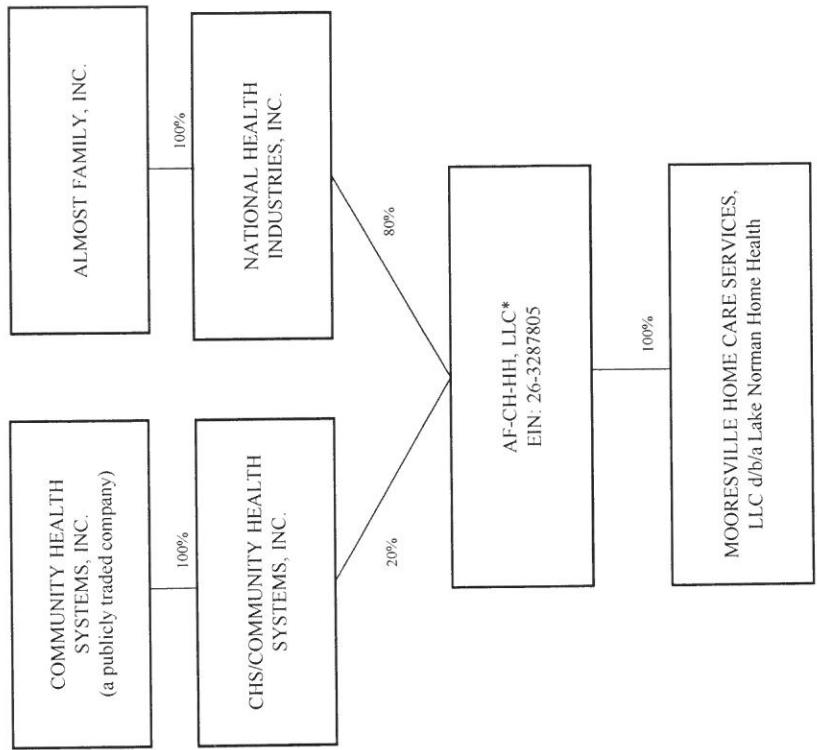
MOORESVILLE HOME CARE SERVICES, LLC

OWNERSHIP STRUCTURE CHART

BEFORE TRANSACTION



AFTER TRANSACTION



* AF-CH-HH, LLC is the same legal entity as Community Health United Home Care, LLC. In connection with the Proposed Transaction, the entity's name will be changed to AF-CH-HH, LLC. The federal tax identification number will remain the same.

