



Phelps Dunbar LLP  
2001 Park Place North  
Suite 700  
Birmingham, AL 35203  
205 716 5200

CO2023-017  
**RECEIVED**  
**May 10 2023**  
STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

James F. Henry  
Partner  
jim.henry@phelps.com  
Direct 205 716 5257

May 10, 2023

**VIA EMAIL**

Emily Marsal, Esq.  
Executive Director  
State Health Planning  
And Development Agency  
100 North Union Street, Suite 870  
Montgomery, AL 36130

**Re: Revised Notice of Change of Ownership — Community Hospice Care**

Dear Ms. Marsal:

Our firm represents C & P Hospice, LLC, an Alabama limited liability company ("Provider"). On behalf of our client, we respectfully submit to the State Health Planning and Development Agency ("SHPDA") this letter as an attachment to the Notice of Change of Ownership form that we are filing pursuant to the Alabama Certificate of Need Program Rules and Regulations ("CON Rules") Chapter 410-1-7-.04. The change of ownership involves transferring the right to operate a hospice in Elmore, Tallapoosa, and Macon counties (the "Hospice Rights") to the below described joint venture. The following summarizes the transaction proposed to take place on or after July 1, 2023, and addresses SHPDA requirements under the CON Rules for a change of ownership.

1. Facts:

Provider is a newly formed affiliate of Community Hospital, Inc. (the "Hospital"). The Hospital operates hospice services in Elmore, Tallapoosa, and Macon counties, and wishes to operate them through the Provider as a separate entity.

Subject to certain terms and conditions of an agreement between the Hospital and Provider, including SHPDA approval and program certification by the Alabama Department of Public Health, the Hospital contemplates transferring the Hospice Rights to the Provider for the purpose of Provider operating as a hospice agency in the permitted counties of Elmore, Tallapoosa and Macon counties ("Hospice Services").

It is contemplated that, in the immediate future, the Hospital will convey up to 25% of its membership interests in Provider to Prime Home Health of Lee County, LLC, an Alabama limited liability company ("Prime") unrelated to the Hospital, and thereby create a joint venture with Prime

to operate the Hospice Services (the "Joint Venture"). The contemplated transaction would be subject to the following terms (the "Joint Venture Terms"):

- (a) The Hospital would maintain at least 50% of all voting rights in the decisions of the Joint Venture and, in the event there is a deadlock, the only remedy will be the dissolution of the Joint Venture;
- (b) the name C & P Hospice, LLC (designating Community Hospital and Prime) will be the Provider's legal name and the Provider will retain its current d/b/a of Community Hospice Care to operate the Hospice Services;
- (c) the Hospice Services operated by the Joint Venture will be prohibited from taking on duties and/or services that are otherwise reserved to the rural hospital by Alabama or federal law;
- (d) upon the dissolution of the contemplated Joint Venture; all regulatory authority to own and operate the Hospice will remain with the Hospital;
- (e) the day to day management of the Joint Venture will be conducted by a manager under the oversight and direction of a management committee (the "Management Committee"), on which the Hospital will have equal representation. The Management Committee will oversee and direct all clinical operations of the Hospice Services. The clinical operations shall include operational management, quality of care, provision of services, compliance, personnel, medical records, physical environment, and use of supplies. The Management Committee may not take or recommend any action which may negatively affect the hospice agency's licensure or Medicare certification or which would violate any state or federal law or regulation;
- (f) in the event the manager defaults in the performance of its duties under its management agreement and is not removed after a demand for removal by the Hospital, or the parties cannot agree on a new manager, the Hospital, at its option, may exercise its default option to purchase Prime's interest in the Joint Venture at fair market value or demand a dissolution of the Joint Venture;
- (g) the Hospice Services operated by the Joint Venture will be required to ensure continuity of care and further the mission of the Hospital and in the furtherance thereof, the Joint Venture will admit any patient for hospice services who is referred by the Hospital, as long as the patient's needs meet the eligibility criteria established by the Management Committee and the patient's payor source;
- (h) an authorized representative of the Hospital will have the reasonable right to access and examine records and information of the Joint Venture to ensure compliance with all of the provisions of the Joint Venture documents;

- (i) the Joint Venture will be limited to offering or providing hospice services, unless granted express consent by the Hospital; and
- (j) the office for the Joint Venture will be located within a 10-mile radius of the main campus of the Hospital.

2. SHPDA Requirements for Change of Ownership:

Financial Scope of Project: For fair market consideration, the Hospital is (i) transferring the Hospice Rights to the Provider (the "Hospice Transfer"), and (ii) subject to the Joint Venture Terms, for fair market consideration, contemplates conveying 25% of the Hospital's membership interests in Provider to Prime (the Joint Venture Establishment"), subject to the Joint Venture Terms. The closing for the Hospice Transfer is expected and the closing for the Joint Venture Establishment is expected to close on or after July 1, 2023. There will be no capital expenditures in excess of the spending thresholds set forth in Ala. Code § 22-21-263(a)(2) contemplated in conjunction with the above described transactions, nor is it anticipated that there will be any additional new annual operating costs in excess of the Certificate of Need spending threshold associated with the above-described capital expenditures.

No New Services: The proposed transaction will not involve creating any new health services.

No New Beds: There will be no addition or reduction of beds with respect to the proposed transaction.

No Conversion of Beds: The proposed transaction will not involve the conversion of beds.

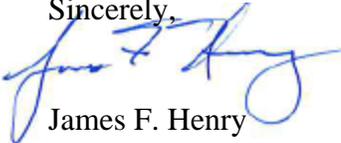
Nature of Transaction: The proposed transaction will involve the transfer of Hospice Rights, and, except for the conveyance of membership interests associated with the Joint Venture Establishment, does not involve the sale of stock.

Based on the above showing that there will be no change in health services, no conversion of beds or increase in bed capacity, or any capital expenditure in excess of the thresholds set forth in Alabama Code § 22-21-263(a)(2), we respectfully request that you exercise your authority under Chapter 410-1-7-.04(2) of the Rules and determine that a certificate of need is not required for the consummation of the above-described proposed transactions.

In accordance with the Rules, we are paying through the SHPDA portal the amount of \$2,500.00, and the executed change of ownership form.

Emily Marsal, Esq.  
May 10, 2023  
Page 4

If you have any questions or need further information, please feel free to contact me at (205) 716-5257.

Sincerely,  
  
James F. Henry

JFH/js  
Attachment

## NOTICE OF CHANGE OF OWNERSHIP/CONTROL

The following notification of intent is provided pursuant to all applicable provisions of ALA. CODE § 22-21-270 (1975 as amended) and ALA. ADMIN. CODE r. 410-1-7-.04. This notice must be filed at least twenty (20) days prior to the transaction.

- Change in Direct Ownership or Control (of a vested Facility; ALA. CODE §§ 22-20-271(d), (e))
- Change in Certificate of Need Holder (ALA. CODE § 22-20-271(f))
- Change in Facility Management (Facility Operator)

Any transaction other than those above-described requires an application for a Certificate of Need.

### Part I: Facility Information

SHPDA ID Number: 051-P2337  
(This can be found at [www.shpda.alabama.gov](http://www.shpda.alabama.gov), Health Care Data, ID Codes)

Name of Facility/Provider: Community Hospice Care  
(ADPH Licensure Name)

Physical Address: 1526 Gilmer Avenue  
Tallassee, AL 36078

County of Location: ELMORE ▼

Number of Beds/ESRD Stations: \_\_\_\_\_

CON Authorized Service Area (Home Health and Hospice Providers Only). Attach additional pages if necessary. Elmore, Tallapoosa and Macon

### Part II: Current Authority (Note: If this transaction will result in a change in direct ownership or control, as defined under ALA. CODE § 22-20-271(e), please attach organizational charts outlining current and proposed structures.)

Owner (Entity Name) of Facility named in Part I: Community Hospital, Inc.

Mailing Address: 805 Friendship Road  
Tallassee, AL 36078  
Community Hospice Care

Operator (Entity Name): \_\_\_\_\_

### Part III: Acquiring Entity Information

Name of Entity: C & P Hospice, LLC

Mailing Address: 1526 Gilmer Avenue  
Tallassee, AL 36078

Operator (Entity Name): Community Hospice Care

Proposed Date of Transaction is on or after: 07/01/2023

**Part IV: Terms of Purchase**

Monetary Value of Purchase: \$ 1,575,000.00

Type of Beds: NA

Number of Beds/ESRD Stations: \_\_\_\_\_

**Financial Scope:** to Include Preliminary Estimate of the Cost Broken Down by Equipment, Construction, and Yearly Operating Cost:

Projected Equipment Cost: \$ 0.00

Projected Construction Cost: \$ 0.00

Projected Yearly Operating Cost: \$ 0.00

Projected Total Cost: \$ 1,575,000.00

**On an Attached Sheet Please Address the Following:**

- 1.) The services to be offered by the proposal (the applicant will state whether he has previously offered the service, whether the service is an extension of a presently offered service, or whether the service is a new service).
- 2.) Whether the proposal will include the addition of any new beds.
- 3.) Whether the proposal will involve the conversion of beds.
- 4.) Whether the assets and stock (if any) will be acquired.

**Part V: Certification of Information**

**Current Authority Signature(s):**

The information contained in this notification is true and correct to the best of my knowledge and belief.

Owner(s): Jenni R. Blumhart

Operator(s): \_\_\_\_\_

Title/Date: CEO 5/5/2023

SWORN to and subscribed before me, this 5<sup>th</sup> day of May, 2023.

(Seal)

Walter Spirey  
Notary Public

My Commission Expires: May 11, 2024

**Acquiring Authority Signature(s):**

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): Archie J. Chan \_\_\_\_\_

Operator(s): \_\_\_\_\_

Title/Date: Owner \_\_\_\_\_

SWORN to and subscribed before me, this 4<sup>th</sup> day of May, 2023.

(Seal)

W. McCallen  
Notary Public

My Commission Expires: 10-15-2025

Author: Alva M. Lambert  
Statutory Authority: § 22-21-271(c), Code of Alabama, 1975  
History: New Rule