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January 29, 2018

VIA EMAIL (donna.jerry@vermont.gov)

VIA OVERNIGHT DELIVERY

Senior Health Policy Analyst
Green Mountain Care Board
144 State Street
Montpelier, Vermont 05620

RE: Proposed Purchase of Birchwood Terrace, GMCB 014-17con

Dear Ms. Jerry:

On behalf of BIRCHWOOD OPERATIONS LLC and BIRCHWOOD PROP LLC, I am submitting the following documents for filing in the above matter:

- Revised Certificate of Need Narrative (including Attachments 1 through 48) (original and 2 copies (1 copy hole-punched)) and Verification Under Oath; and
- Applicants' Responses to the Green Mountain Care Board's December 8, 2017 First Set of Requests for Information (including Attachments) (original and 2 copies (1 copy hole-punched)) and Verification Under Oath.

In addition to sending you the above documents via e-mail in .pdf format, I am emailing you, Attachment 11, Financial Tables: Table 1, Table 2, Table 6A, Table 6B, Table 6C, Table 7 and Table 9, as an Excel document.

Thank you for your ongoing assistance with this matter.

Sincerely yours,

Shireen T. Hart
Encs.

cc: Commissioner Monica Hutt, DAIL
Andrew Voss (via email)

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

**IN RE: PROPOSED PURCHASE OF) GMCB 014-17con
BIRCHWOOD TERRACE)**

REVISED CERTIFICATE OF NEED NARRATIVE

Introduction

BIRCHWOOD OPERATIONS LLC and BIRCHWOOD PROP LLC (the “Applicants”) submit this revised narrative in support of their original application for a certificate of need (“CON”) to purchase the operations and real estate of Kindred Transitional Care and Rehabilitation - Birchwood Terrace (the “Facility”), submitted electronically on November 20, 2017. The Applicants acknowledged the Green Mountain Care Board’s (the “Board”) CON jurisdiction in a letter to the Board dated July 7, 2017.

BIRCHWOOD PROP LLC is the proposed new owner of the real estate via an assignment of a leasehold interest in the Facility’s ground lease, and the license and operations will be in the name of BIRCHWOOD OPERATIONS LLC.

To effectuate this transaction, BIRCHWOOD PROP LLC entered into an Amended and Restated Assignment and Assumption Agreement with BM Eagle Holdings, LLC (“Blue Mountain”) wherein BIRCHWOOD PROP LLC became an assignee of Blue Mountain’s rights and obligations under an Asset Purchase Agreement between Blue Mountain and Kindred Healthcare Operating, Inc. and/or its affiliates (“Kindred”) to sell the land, furniture, fixtures and improvements of the Facility to Blue Mountain and or its designated assignee (the “APA”). Under the terms of the APA, the current owner of the real property (under a long term leasehold interest), will assign its leasehold interest to BIRCHWOOD PROP LLC. Separately, BIRCHWOOD OPERATIONS LLC entered into an operations transfer agreement directly with Kindred Nursing Centers East LLC, the current licensed operator, as the proposed new operator of the Facility.

Kindred recently submitted a letter seeking a “no jurisdiction” determination to the Green Mountain Care Board, a copy of which is included herewith as **Attachment 48**, with respect to an internal corporate reorganization. As part of that restructuring, the Facility would continue to be held by Kindred throughout the corporate reorganization, but the structure would change as detailed in Kindred’s letter to the Board.

I. Project Details

1. Current Ownership and Operations

The current owner of the real property (under a long term leasehold interest) is KND Real Estate Escrow Holdings, LLC., a Delaware limited liability company (“KND”) and an affiliate of Kindred Nursing Centers East LLC, the current operator of the Facility. The land under the Facility is divided into three parcels that are addressed in two leases. The duration and rental terms of the leases are as follows:

Ground Lease Term:

Lease A (two parcels): commenced on July 5, 1963 and expires on June 30, 2062

Lease B (one parcel): commenced on July 5, 1963 and expires on June 30, 2062

Ground Lease Rent:

Lease A: \$1,800.00 per annum payable in one installment on January 15th of each year

Lease B: \$200.00 per annum payable in one installment on January 15th of each year

The Applicants have been informed that, on December 21, 2017, Ventas L.P., the previous owner of the leasehold interest, assigned its rights under the Facility’s ground lease to KND. KND currently leases the property to Kindred Nursing Centers East LLC which is the current licensed operator of the Facility. Except for the change to the lessee entity (Ventas L.P. to KND), there were no other changes to the terms of the current leases. At closing, KND will assign their leasehold interests to the Applicants who will pay the same annual rent for the duration of the term. **Attachment 11**, Table 1 (CON Financial Tables), and **Attachment 35** (Projected Financial Statements) have been updated to reflect this rent payment.

The Applicants are in negotiations with the ground lessor for an extension of the term of the ground lease, but have not finalized the same. If and when such terms are finalized, the Applicants will update the Board.

2. Facility Contact Information

Address:

43 Starr Farm Road
Burlington, Vermont 05408

Phone:

802-863-6384

Fax:

802-865-4516

County:

Chittenden

3. Facility Location

The Facility is located in the City of Burlington, Chittenden County.

4. Building

The Facility was built in 1963 with 2 distinct units, comprised of 36 rooms, for a total of 72 beds. In 1964, 7 rooms were added, gaining 14 additional beds. In 1965, 12 rooms were added, gaining 24 additional beds. In 1970, 26 rooms were added, gaining an additional 50 beds. In 1973, the Laundry/Services area was added, and in 1985, the lobby was added.

5. Recent Upgrades

The following table reflects recent large scale upgrades made to the Facility:

Improvements	Year(s)
Security Access and Surveillance	2013
Carpet Provide And Install	2013
Phone System	2013
HVAC	2014
Flooring	2014
Bathroom Flooring	2015
HVAC	2015
ADA Compliant Entryway to Rehab	2015
Replace Room Furniture and Mattresses	2016
Section B completely rehabbed with new wall guards, doors, paint,	2016

6. Licensed Beds

The Facility has 144 licensed beds, which include a fifty bed Alzheimer's special care unit. There are eighteen private rooms and sixty-three semi-private rooms.

7. Referral Sources for 2016

- University of Vermont Medical Center (Burlington);
- Northwestern Medical Center (St. Albans); and
- The University of Vermont Health Network - Central Vermont Medical Center (Barre).

8. Organizational Chart

A current organizational chart for the Facility is attached as **Attachment 1**.

9. Key Personnel

The Facility's current organizational structure is through departments. The department heads are as follows:

Title	Name	C.V. and Licensure/Certification as appropriate
Administrator	Alecia DiMario	<u>Attachment 2</u>
Medical Director	Zail Berry MD	<u>Attachment 3</u> (see note below)
Director of Nursing	Susan Fortin, RN	<u>Attachment 4</u> (see note below)
Dietary Supervisor	Andrew Merklinger	<u>Attachment 5</u>
Maintenance Supervisor	Todd LaBombard	<u>Attachment 6</u>
Housekeeping Supervisor	James Cameron (HSG)	<u>Attachment 7</u>
Activities Director	Linnie Aubin	<u>Attachment 8</u>
Social Services Director	Janice Hall, MSW	<u>Attachment 9</u>
Dietician	Allen Beier	<u>Attachment 10</u>

It is anticipated that the Facility's organizational structure will remain the same in terms of departments. At present, there are no anticipated changes to the individuals identified above, except for the Director of Nursing position who recently gave notice of her retirement, effective in or around March 2018. The Facility has not yet hired a replacement for this position but when the position is filled, the Applicants will update the

Board.

It should also be noted, that Dr. Zail Berry, the Medical Director of the Facility, is an employee of the University of Vermont Medical Center (“UVMMC”) and currently provides medical director services pursuant to a contract between the current operator and UVMMC. The Applicants have reached out to UVMMC with an expressed interest in assuming the contract and/or continuing the Facility’s relationship with UVMMC and will update the Board when and if the Applicants and UVMMC finalize such terms. As a result, **Attachment 1** represents the organizational chart for the foreseeable future under the Applicants’ ownership and operations with an indicated note of the above-mentioned qualification in regards to the positions of Susan Fortin and Dr. Zail Berry.

10. Staffing

The current staffing list for the Facility, which includes all employees (FTE/per diem), is:

Job Title	Number of Positions
Administrator	1
Receptionist	.5
Office Manager	1
Maintenance Supervisor	1
Maintenance Staff	1
Dietary Supervisor	1
Cook	2.8
Dietary Aide	8.2
Laundry	2.8
Housekeeping Supervisor	1
Housekeeper	7.6
DON	1
RN	13.6
RN/MDS Coordinator	1.75
LPN	19.8
LNA	52.4
Activities Coordinator	1
Social Service	2.5

Because the census is expected to remain steady, the Applicants do not project any staffing changes. See **Attachment 11**, Table 9, Staffing Projections, which includes all contracted personnel and employees.

11. Description of Services

- Long term care: medical, social work, recreational services;
- Physical therapy services (provided via third-party RehabCare);
- Short term rehabilitation: physical, occupational, speech/language therapy, and respiratory therapy;

- Fifty bed secured Alzheimer's specialty unit that focuses on quality of life; and
- Hospice and Palliative Care Services: As of January 15, 2017, there was one resident receiving hospice care, and there were three residents receiving palliative care at the Facility.

12. Medicare Wing

The Facility has a unit which focuses on short term care for residents.

13. Pharmacy Services

The Facility currently utilizes the national long term care pharmacy provider, Omnicare. The Applicants anticipate continuing to utilize Omnicare.

14. Mental Health and Psychiatric Services

Deer Oaks Mental Health Associates, PC, Lauren B. Axelrod, LCSW (counseling for residents, strictly non-pharmacological).

Limited telemedicine: Psychiatrist Dr. Paul Newhouse, Vanderbilt University (1x per-week or more as needed).

15. Survey History

All surveys performed by the Department of Disabilities, Aging and Independent Living, Division of Licensing and Protection and the Facility's Plans of Correction for the past one-year period are submitted as **Attachment 12**.

16. Financial Statements

Financial Statements for the Facility for each of the past three years is submitted as follows:

Audited Financials for year ending December 31, 2014, **Attachment 13**;

Audited Financials for year ending December 31, 2015, **Attachment 14**; and,

Audited Financials for year ending December 31, 2016, **Attachment 15**.

II. Applicants' Information

1. Individuals

Three individuals, Ariel Erlichman, Milton Ostreicher, and Isaac Rubin, have formed two separate corporate entities to purchase the real estate and operations of the Facility. To the extent these individuals have used more or less formal names, such as Ari Erlichman or Alter Y. Isaac Rubin, any representations herein or in other submissions to the Green Mountain Care Board apply to any and all names used by these individuals.

2. Corporations

BIRCHWOOD PROP LLC will assume the leasehold interest in the ground lease for the Facility and will purchase the Facility's buildings and equipment and BIRCHWOOD OPERATIONS LLC is the proposed licensed operator of the Facility. Copies of the Articles of Organization for BIRCHWOOD OPERATIONS LLC and BIRCHWOOD PROP LLC are submitted as **Attachment 16** and **Attachment 17**, respectively.

3. BIRCHWOOD PROP LLC - Eagle Birchwood Investor LLC

Eagle Birchwood Investor LLC (“EBI LLC”) is an affiliate of BM Eagle that will hold a 50% membership interest in BIRCHWOOD PROP LLC, the entity that will own the leasehold interest, buildings, and equipment in the proposed transaction. Although EBI LLC will not be involved in the operations of the Facility, it will bring an additional level of financial acumen and wherewithal to the proposed transaction. EBI LLC is an affiliate of BlueMountain Capital Management LLC (“BlueMountain”). BlueMountain is a leading alternative asset manager and, as of December 31, 2017, manages assets in excess of \$21 billion. Funds and affiliates managed by BlueMountain have invested over \$1 billion in healthcare-related sectors in recent years, with a large footprint across skilled nursing and rehabilitation facilities, assisted living and memory care facilities, acute care hospitals, long term acute care hospitals, inpatient rehab facilities, integrated medical facilities, and other more specialized healthcare-related assets. BlueMountain’s affiliate BM Eagle most recently acquired the skilled nursing assets of Kindred Healthcare Inc. in a \$700 million transaction.

An organizational chart showing the relationship among the entities is submitted herewith **Attachment 37**.

4. Ownership Interests

Erlichman and Rubin will hold a forty percent interest and Ostreicher, a twenty percent, interest in BIRCHWOOD OPERATIONS LLC. Erlichman and Rubin will hold a twenty percent interest and Ostreicher will hold a ten percent interest in BIRCHWOOD PROP LLC, with the remaining fifty percent held by Eagle Birchwood Investor LLC (“EBI LLC”), an affiliate of Blue Mountain. An organizational chart for EBI LLC is submitted as **Attachment 37**.

	Erlichman	Ostreicher	Rubin	EBI LLC
Interest in Real Estate	20%	10%	20%	50%
Interest in Operations	40%	20%	40%	0%
Equity Contribution	\$171,235.60	\$85,617.80	\$171,235.60	\$428,089

5. Curriculum Vitae

Curriculum vitae are submitted for each of the individual applicants, as follows:

- Ari Erlichman, **Attachment 18**;
- Milton Ostreicher, **Attachment 19**; and
- Isaac Rubin, **Attachment 20**.

6. Personal Financial Statements

A Personal Financial Statement, and accompanying Verification Under Oath, is submitted confidentially under separate cover for each individual:

- Ari Erlichman, Personal Financial Statement, **Attachment 21**;
- Milton Ostreicher, Personal Financial Statement, **Attachment 22**; and
- Isaac Rubin, Personal Financial Statement, **Attachment 23**.

The Personal Financial Statements referenced above include all personal, health care, and non-health care interests, assets, and liabilities.

7. Holdings and Operational Experience

The Applicants have the following current holdings and/or operations experience with long-term care facilities:

Milton Ostreicher	Ownership Interests
Highland Care Center 91-31 175th St Jamaica, NY 11432	23% interest in operations. 23% interest in real estate. Purchased in January, 1990.
Achieve Rehabilitation and Nursing Center 70 Lake Street Liberty, NY 12754	45% interest in operations. 45% interest in real estate. Purchased in June, 2003.
Beacon Nursing and Rehabilitation 140 Beach 113th St Rockaway Park, NY 11694	35% interest in operations. 35% interest in real estate. Purchased in April, 2001.
Ariel Erlichman	Ownership Interests
Highland Care Center 91-31 175th St Jamaica, NY 11432	9% interest in operations. 9% interest in real estate. Purchased in April, 2016.
Eagle Birchwood Investor LLC	Ownership Interests
Kindred Transitional Care and Rehabilitation- Smith Ranch 1550 Silveira Parkway San Rafael, CA 94903	0% interest in operations. 100% interest in real estate (via a leasehold interest). Purchased in August, 2017.

The three most recent surveys conducted for Birchwood Terrace and the Highland, Achieve and Beacon facilities are submitted as follows:

- Birchwood, **Attachment 40** (this overlaps with **Attachment 12**);
- Highland, **Attachment 41**;
- Achieve, **Attachment 42**; and
- Beacon, **Attachment 43**.

8. Special Focus Facilities

None of the facilities identified above is designated as a Special Focus Facility per CMS data, as of January 15, 2018.

9. Managing Members for Facility Operations

Erlichman and Rubin will serve as the managing members for facility operations at the Facility, working collaboratively with the Nursing Home Administrator and Directors of Quality Assurance and Clinical Operations.

The Applicants have retained Thomas Depoy, a past president of the Vermont Health Care Association, as their Director of Quality Assurance and Sharon Martin, Kindred’s former Regional Director of Clinical Operations for their northeast operations, as their Director of Clinical Operations. Copies of Mr. Depoy’s and Ms. Martin’s curriculum

vitae are submitted as **Attachment 24**.

Depoy and Martin will offer support to the Licensed Nursing Home Administrator, Alecia DiMario, who will report directly to Erlichman and Rubin. DiMario is the current LNHA of the Facility and has committed to remain the LNHA of the Facility during and after the transition. DiMario is a current VHCA board member and has been in the long term care industry for over 17 years, acting in the capacity of the Director of Social Services in a skilled nursing facility, prior to becoming an LNHA. She has been an LNHA in California since 2004 and an LNHA in Vermont since 2015. Quality of care and service are her first priority, with the understanding that hospitality is an integral part of the healthcare system and industry. DiMario has reduced employee turnover facility wide to 25% in her tenure, and re-hospitalization rates have remained under 15% percent over the past 3 years. Under DiMario's leadership, the facility has increased its 5-Star rating and had a deficiency free survey in 2017.

Erlichman and Rubin are in the process of transitioning their current positions to be able to provide oversight of, and support to, the Facility. Each one of them expects to spend, on alternating weeks, approximately two days a week at the Facility, while they transition ownership. This will change as needed. In other words, if two days per week are not adequate, then they will add additional days. That, of course, will depend on how long it takes to improve the areas they identify upon change in ownership.

Rubin will focus on admissions and marketing initiatives as well as reimbursement and reduction of re-hospitalizations. He will form working collaborations with the local and regional hospitals, physicians, and with OneCare Vermont. In addition, Rubin will be on the ground and ensuring that the residents continue to feel at home with the best possible care and overseeing the anticipated capital improvements as well as well as overseeing clinical strategies and operations.

Erlichman will oversee the risk management of the Facility including its compliance program and managing workers compensation, EPLI or liability claims as well as will focus on labor management and relations.

a. Milton Ostreicher's Background and Relevant Experience

Milton Ostreicher has in excess of twenty-five years of nursing home experience with turn-arounds to his credit. Ostreicher has purchased underperforming and mismanaged facilities, recruited highly experienced and reputable nursing home administrators and managers and provided them with incentive programs for both financial and regulatory compliance and driven revenue by maximizing quality case mix.

Ostreicher has and continues to invest millions of dollars towards renovations and remodeling of his facilities and has plans to spend additional amounts in the next few years in additional capital improvements. His constant communication with his administrators, managers and staff, and his "on the ground" approach to operations allow him to immediately provide his facilities with the tools they need to give the utmost care to their residents.

b. Ari Erlichman's Background and Relevant Experience

Ari Erlichman, who is also an owner of Highland Care Center, a 320-bed skilled nursing facility in Queens, New York, is involved in the day to day operations of that facility. In addition to his work for Highland, Erlichman, a Georgetown Law graduate, maintains a successful health care law practice with clients that include skilled nursing and assisted living facilities, four home health care companies, New York State's largest ambulance provider, urgent care centers, pharmacies, and a managed long term care insurance company.

Erlichman works both as a consultant and general counsel to his clients, assisting them and their employees with compliance (creation and implementation of corporate compliance programs, federal and state government audits and investigations, HIPAA policies and training), risk management (oversee and track claims as well as implementation of programs to reduce claims), transactional work (purchase and sales of SNFs and other health care facilities as well as obtaining regulatory approval from state to operate), and representation in litigation.

c. Isaac Rubin's Background and Relevant Experience

Isaac Rubin is the Vice President of Business Development and Managed Care Initiatives as well as Corporate Director of the Delivery System Reform Incentive Payment (DSRIP) Program for a leading post-acute care provider in the Northeast. In this capacity, Mr. Rubin is at the forefront of the rapidly evolving healthcare landscape and the national trends towards quality and value. Rubin is driven by the belief that high quality care is not only a provider's duty, but also an opportunity. Accordingly, Rubin appreciates the challenges of preparing a skilled nursing facility for the post-fee-for-service environment. While quality is by definition 'qualitative,' he understands that outcomes must be benchmarked against his peers, and he will accept nothing short of excellence in this regard.

Rubin has leveraged high quality care to secure innovative partnerships across the care continuum with hospitals, physicians and managed care plans. He sits at the forefront of healthcare reform initiatives involving Accountable Care Organizations and bundled payment programs; always leading the discussion with documented outcomes and resident satisfaction surveys. These initiatives have driven referrals and validated his approach.

Rubin excels at leading 'troubled' facilities to excellence and has directed historically 'one star' providers to market leading status. Indeed, many of the regional administrators from Centers Health Care report to Rubin. He is a fixture 'on the floors' of the facilities in his charge, and epitomizes the qualities required to succeed in the new world order of healthcare reform. He has successfully implemented value base programs such as the BPCI Model 2, New York State's DSRIP (Delivery System Redesign Incentive Payment) program, and CMS's "Initiative to Reduce Avoidable Hospitalizations among Nursing Facility Residents". These programs have helped reduce unnecessary hospitalizations and led to a better quality of life. Additionally, while acting in his role at Centers Health Care from 2013 to the present, Rubin helped raise the overall census at Centers Health Care affiliated facilities from approximately 92% to 94% and the overall return to hospital rate decreased from 22% to 16%. A list of facilities that Rubin has been involved with since June 2013 are set forth on **Attachment 44**.

d. Plans, including any staffing changes or additions, to improve quality at the Facility.

It is admittedly difficult to fully explain plans to improve quality at the Facility in advance of a change in ownership. However, the Applicants hope that they will succeed in expanding the Facility's partnership with University of Vermont Medical Center and its physicians and specialists. The Applicants hope to use that partnership, modern medicine (telemedicine, EMR etc.), and participation in OneCare Vermont to be able to bring additional services that are not provided with the current operator. For example, the Facility was unable to participate in the OneCare Vermont ACO due to a limitation of the current ownership. Post-closing, however, the Applicants plan to participate in the same. Additionally, the Applicants plan to expand on-site psychological services that will greatly impact the residents with reduced cognitive functions. Further examples of changes that are anticipated to lead to improvements in quality are to add clinical programs for behavioral health, renal failure and total parenteral nutrition.

Importantly, the Applicants retained as their Director of Quality Assurance, Thomas Depoy, a past president of the Vermont Health Care Association. Depoy spent the last 25 years as a Regional Vice President and Senior Executive Director of skilled nursing centers in New England and the states of New Jersey and Washington. Depoy will drive operational improvements and key initiatives including improved quality patient care and higher customer, patient, and employee satisfaction. The Applicants have also retained the services of Sharon Martin, Kindred's former Regional Director of Clinical Operations for their northeast operations (which included the Facility). Martin will continue to provide regulatory guidance and leadership to ensure the Facility is successful and maintains the highest standards of clinical compliance. Martin will provide daily consulting as needed for adverse events, assistance with root cause analysis and action planning. She will assist with regulatory visits and requests (DLP, APS etc.), and compliance questions and conduct weekly conference calls to review in-house acquired pressure ulcers, falls with injuries (or non-fall related injuries), patients with multiple falls, re-hospitalizations, status of staffing issues and survey preparedness. Martin will be available to assist in implementing new clinical programs as well.

The Applicants do not otherwise have plans at this time to make any material changes to staffing.

e. EBI LLC

EBI LLC's affiliate, Smith Ranch Prime Tenant, LLC ("SRPT"), is the owner of a leasehold interest in the Kindred Transitional Care and Rehabilitation- Smith Ranch facility in San Rafael, California ("Smith Ranch Facility"). Pursuant to their sublease with the operator of the Smith Ranch Facility, SRPT has no involvement in the operations of the facility (a copy of the sublease between SRPT and the Smith Ranch Facility operator is submitted as **Attachment 38**). Similarly here, EBI LLC will not be involved in, nor have any authority to direct, the operations of the Facility.

f. Consulting Agreement

Pursuant to a Consulting Agreement (a copy of which is submitted as **Attachment 47**) between Kindred and the Applicants, and effective presumably upon approval from this Board, the Applicants will act as a consultant, advising and supporting the Facility, subject to the ultimate authority of Kindred. Kindred is and will continue to be responsible to provide all day-to-day, fiscal and clinical services necessary to operate the Facility. Specifically, Kindred will remain the licensed operator of the Facility and will maintain its existing licenses, provider numbers and accreditations, tax identifications number, insurance policies and will continue to furnish its residents with all the services it is currently furnishing. The Facility's administrator and staff will all remain in place as employees of the Facility. Kindred's corporate office will also continue to provide all administrative and back-office services to the Facility.

On the Facility level, no service is being eliminated. On a corporate level, however, Kindred currently provides the Facility with access to certain members of their corporate clinical team who assist the Facility administration and staff on a weekly basis and/or as needed with regulatory guidance and leadership to ensure the Facility is successful and maintains the highest standards of clinical compliance. Pursuant to the Consulting Agreement, the Applicants will now provide such support to the Facility in place of Kindred.

The individual Applicants will be responsible for providing the consulting services. Specifically, on a daily basis these services will be provided by Ari Erlichman, Isaac Rubin, Sharon Martin (Kindred's Northeast Regional Director of Clinical Operations including the Facility until December 1, 2017) and Thomas Depoy.

10. Ratings and Data for Birchwood and Facilities Owned and/or Operated by Applicants

For each of the facilities identified above in Section I. 6., the Applicants are providing the following data in table format with the facilities listed in the *y* axis and the requested information (from the CMS website) in the *x* axis, indicating the date or time period covered, with the Facility appearing at the top of the list:

- The overall CMS star ratings (1-5 stars) for the previous six months, see **Attachment 25**;
- The CMS star ratings (1-5 stars) for health and fire safety inspections for the previous six months, **Attachment 26**;
- The CMS star ratings for staffing for the previous six months, see **Attachment 27**;
As stated above, the Applicants do not anticipate making any material staffing changes at the Facility. The Applicants are committed to raising the overall quality of care at the Facility and, after consultation with the current administrator, understand that the current staffing levels are appropriate for the resident population at the Facility.

In regards to the star ratings for staffing at Achieve, Beacon and Highland, the Applicants do not believe that this category properly reflects the quality of care that is

delivered at these facilities. As set forth in the star ratings data, these facilities score between 3 and 5 stars for Health Inspection and Quality of Care; clearly indicating a sufficient level of staffing to ensure the delivery of stellar care to their respective resident populations. Moreover and as indicated through their surveys, these facilities have had excellent annual surveys including deficiency free surveys. (Attachments 41-43).

Instead, these facilities might have received lower staffing scores due to the fact that they service a higher acuity resident population than most facilities; leading to a less accurate analysis due to CMS's current scoring methodology for this category. The Applicants also believe that the low scores may be due to the fact that the staffing ratings are currently based on self-reported data not always accurately reported by some facilities as opposed to the Applicants' related facilities which always reported their data accurately. Indeed, CMS has announced plans to modify their current methodology and reporting structure partially in response to the foregoing.

- The CMS star ratings for RN staffing for the previous six months, see Attachment 28;
- The CMS quality measures for short-stay and long-stay residents (for each measure where the facility scores below the state average for the state where the facility is located, Applicants have indicated the percentage below average, leaving measures that are at, or above the state average blank), see Attachment 29;
- CMS data on federal fines and penalties in the past 3 years, see Attachment 30;
- The occupancy rates for the most recent 12-month period, by month, for Birchwood, Highland, Achieve, and Beacon are submitted in Attachment 45.
- Whether on-site, offsite or tele-health for mental health services and psychiatry, see Attachment 31.

11. Pending Litigation Against Facilities Owned and/or Operated by Applicants and Applicants

There is no pending litigation against any of the Applicants' facilities above and no pending litigation against any of the individual applicants or EBI LLC.

12. Philosophy of Applicants on Facility Operations

The Applicants have as their focus the improvement of quality of care for residents and their families by staff who are dedicated to the principles of kindness, compassion, service, and excellence.

The Applicants' goal is to do whatever is necessary to raise the quality of care in the Facility, leading to positive outcomes and satisfied residents and family members. This may include the implementation of new initiatives (like expanded programs for behavioral health, renal failure and parenteral nutrition; expanded on-site psychological services; more aggressive program for the Alzheimer Unit; and revised admission policy to accept residents now ineligible for admission) and the hiring of additional and appropriate qualified staff to support the same. However, because they are not yet operating the Facility, they have not been able to conduct a

proper analysis of which of these are necessary and feasible to implement at the Facility. Accordingly, they did not include the cost of implementation of these services in their financial projections. Still, based on current projections, the Facility profits should allow Applicants to roll out these and/or other initiatives at the Facility.

Based on preliminary consultations with the Facility, below is some detail on the above-mentioned initiatives and why Applicants specifically included these as potential areas on which to focus at the Facility.

Behavioral/Mental Health: This is the third most significant diagnosis in the Facility. As such, Applicants need to ensure that the Facility is able to provide these residents with the highest level of care. If necessary and feasible, Applicants will expand the current program to include additional onsite services and/or tele-medicine.

Renal: The Facility currently services a high volume of dialysis patients (approx. 6-8), despite the cost of transportation to off-site dialysis centers (\$70-\$90/day). Applicants will explore the possibility of peritoneal dialysis. However, they will need to first ensure that all regulatory requirements, staff education, and new policies and procedures are in place prior to implementation.

Total Parenteral Nutrition (“TPN”): Birchwood is one of only two facilities in Vermont that accept TPN patients. The Facility, however, can only admit TPN patients who are fairly stable, as its pharmacy can only service labs twice a week (in the event formula changes are required). The Applicants will meet with the Facility’s pharmacy to explore the potential to accommodate additional TPN patients.

Expansive Programming for the Alzheimer’s Unit: The Applicants hope to create a sensory space with better suited furniture and tactile stimulation.

Revised Admission Policy: Applicants will explore whether it is feasible for the Facility to admit bariatric residents. They would need to procure the necessary equipment and ensure the Facility has adequate staff to meet the needs of this population prior to admission.

The Facility falls below the state average in 12 of 24 CMS quality measures. Attachment 39 identifies each quality measure that falls below the state average and explains how the Applicants will seek to improve each.

13. Health Care Reform

The Applicants intend to participate in health care reform at the Facility. As Rubin is a leader in this area, he will bring his expertise to the Facility. The specifics will be determined once they begin operating the Facility and are best able to identify appropriate reform initiatives, such as value-based purchasing. However, it is the Applicants’ understanding that the Facility was unable to participate in the OneCare Vermont ACO due to a limitation of the current ownership. Post-closing however, the Applicants plan to actively participate.

14. Patient Admission Criteria

The Facility’s current admissions criteria include medical appropriateness of placement and reliability of payment source. The same criteria will be used by the Applicants. Upon review

of a potential admission, Applicants will ensure that they are able to meet the resident's needs, whether isolation needs, high flow oxygen needs or dementia care. To the extent necessary, Applicants will train the Facility staff to meet the needs of cognitively impaired residents with dementia training and video trainings to ensure that annual competencies are completed for nurses and nursing assistants as well as other staff members. A copy of the Kindred Admission Policy for Birchwood is included as **Attachment 46**.

15. Residents

Applicants' goal is to create and maintain a homelike environment at the Facility and to take a patient centered approach to each individual resident. Conducting assessments of each resident upon admissions fosters strong relationships between the residents and their caregivers allowing them to learn each other's preferences, routines, etc. This enhances the quality of life of the residents and ensures that their choices are known and honored consistently.

In addition to individualized clinical care plans for each resident, Applicants believe that each resident is entitled to the highest quality of life practicable. The Applicants will work to ensure the Facility is a place for the community to gather and for those who need short term rehabilitation as well as those who have long term care needs, to gain function and enjoy as much as possible family-like comforts, such as flat screen TVs, telephones in all rooms, updated furnishings, and a fresh, clean, and homey decentralized environment, with strong activity and therapy programs and excellent nursing and other clinical care.

The Applicants also believe in establishing and strengthening connections, when possible, to the outside world—whether it be events at the Facility, implementing programs with the students from the neighboring Flynn Elementary School, bringing in entertainment, or making cozy spaces for family and friends to visit.

Additionally, for those residents with behavioral struggles or those in the Facility's Alzheimer's unit, the Applicants intends to offer a more aggressive program with its pharmacy consultant and psychiatrist for reductions in antipsychotic medications as the CMS scores in this area indicate that there is room for improvement. The goal with this class of resident, who may have been more confined elsewhere, is to enable them to enjoy a better quality of life by being in the Facility. It is clear that there is a need to provide such care to this class of residents in the State of Vermont and we look forward to filling that role in the least restrictive way possible.

16. Families

Applicants will maintain an active Resident Council and Family Council at the Facility. These councils provide family members an opportunity to communicate with staff and allow staff to relay important information about the Facility and their loved ones to them. Additionally, for any concerns, the Facility will have a 24/7 staffed anonymous compliance hotline, hosted by a third-party, ensuring all communications, constructive or otherwise, are heard and acted upon.

Post-transition, the Applicants will host open meetings with residents and their families to learn the needs of the residents and their families, from their perspective, so as to create a blueprint that is facility and/or program-specific. The Applicants will also send a letter to

current residents and their families notifying them of the change of ownership as well as indicating the Applicants' contact information for any potential questions and/or concerns. Additionally, staff will be trained on how to answer questions related to the transition and will notify the more involved family members in person. The Applicants know that although we possess proven systems that have led to high-quality outcomes, there are always concerns and reservations when there is a change of governance so must be sensitive to those concerns and allow open dialogue to address them

17. Staff

The Applicants are especially committed to ensuring a smooth transition for the Facility employees because it is our experience that workforce disruption will negatively influence resident and patient satisfaction and care. Indeed, the Applicants have already met with the majority of the department heads at the Facility who have accepted offers of post-transition employment.

The Applicants are also cognizant of the fact that whenever there is a change in ownership, employees are very concerned about any potential restructuring or changes in staffing levels. For this reason, the Applicants believe that stable leadership along with open and transparent communication is essential to reassure employees that changes will only be made when due diligence indicates that the change is absolutely necessary for the well-being of our residents or the financial viability of the institution. Therefore, the Applicants will adopt a very conservative approach to making any unnecessary salary, benefit or staffing changes within the first twelve to twenty-four months of ownership.

The Applicants have instituted a number of innovative ideas and programs to attract and retain high quality employees at their other facilities. Examples of such programs include, flexible and employee-centered scheduling so that employees can create customized schedules based on their availability, offering reimbursed CNA/LPN training to locals and/or untrained staff, local housing and transportation and "untapped" out of state recruitment programs. These programs, amongst others, contribute to a positive working environment for staff and will help attract talented employees and retain current employees.

The Applicants will also work very closely with the staff to offer continuous training in the latest clinical, social and recreational approaches to establish best practices. The Applicants believe that all employees, from the Administrators to the Aides, are a team and everybody needs to have the knowledge and skill set in order to succeed.

The Applicants goal is to retain staff. Indeed, Applicants believe it is the longevity of the staff, along with their dedication and caring, that makes residents feel at home. Accordingly, we will do our best to ensure all current Facility employees are retained post-transition. To date, we have coordinated with Kindred to reach out to key department heads and learned from Kindred that, except as provided below, most of these individuals intend to continue to work at the Facility following the closing. The charts below provide the key employee information obtained from Kindred. This continuity will contribute strongly to maintaining quality services and oversight.

Title	Name	Commitment to Stay Post-Transition
Administrator	Alecia DiMario	Yes
Medical Director	Zail Berry MD	Not yet (Applicants will negotiate contract with UVMMC)
Director of Nursing	Susan Fortin, RN	No (due to retirement)
Dietary Supervisor	Donna Dumas	Yes
Maintenance Supervisor	Todd LaBombard	Yes
Housekeeping Supervisor	James Cameron (HSG)	Yes
Activities Director	Linnie Aubin	Yes
Social Services Director	Janice Hall, MSW	Yes
Dietician	Allen Beier	Yes

III. **Scope of Project**

1. **Purchase Agreements**

A copy of the Operations Transfer Agreement by and among BIRCHWOOD OPERATIONS LLC and Kindred Nursing Centers East LLC is submitted as **Attachment 32**.

A copy of the Amended and Restated Assignment and Assumption Agreement between BIRCHWOOD PROP LLC and BM Eagle Holdings LLC, is submitted as **Attachment 33**.

2. **Purchase Price**

The Purchase Price is Three Million Three Hundred Thirty Eight Thousand Seven Hundred Eighty Five Dollars (\$3,338,785) and will be allocated as follows:

Buildings:	\$3,038,785
Furnishings, Fixtures, & Other Equipment:	\$ 300,000
Total Purchase Price:	\$3,338,785

See **Attachment 11, Table 2**.

3. **Project Costs**

The total project cost of purchasing the Facility, including associated costs, is estimated to be \$3,527,206. The purchase price is \$3,338,785, and there are the following anticipated additional costs:

Debt financing expenses:	\$113,421
Administrative Fees:	\$ 75,000

See **Attachment 11, Table 1**

4. **Project Financing**

The Applicants will finance the purchase of the Facility as follows:

Equity Contributions from LLC members:	\$ 856,178
Amount to be financed:	\$2,671,028

The interest rate will be LIBOR plus 3.25%, which, at the time of the projections, equated to 4.81%. See **Attachment 11, Table 2**.

A copy of a term sheet from Customers Bank (“Customers”) is submitted as **Attachment 34**.

5. First Year Operations

Any cash shortfall in the first year of operation will be covered by a \$1,500,000 line of credit from Customers. The Applicants are also willing to advance any amounts that may be needed which will be paid back as cash flow allows. **Attachments 21, 22 and 23** support the Applicants’ financial ability to provide cash advances if needed.

6. Census

Overall census numbers are projected to remain constant from the first quarter of 2017 census annualized each year as detailed in the table below. The patient mix is also expected to remain at approximately the same ratio as the first quarter 2017 annualized resident mix between private, Medicaid and Medicare utilization.

Projected Census – Birchwood	2018	2019	2020
Private days	2,663	2,663	2,663
Medicaid days	35,763	35,763	35,763
Medicare days	6,852	6,852	6,852
VA & Other Insurances	3,227	3,227	3,227
Total days	48,505	48,505	48,505
Occupancy Percent	92.29	92.29	92.29

The patient census information is based on the seller’s historical numbers. See Combined Financial Statements for Years Ending December 31, 2014 through 2016 (Historical) and 2017 (Forecasted) and December 31, 2018 through 2020 (Projected). **Attachment 35**, at p6 n4.

7. Private Rate

Private rates are anticipated to increase \$5 per day annually to cover normal inflationary costs. See Combined Financial Statements for Years Ending December 31, 2014 through 2016 (Historical) and 2017 (Forecasted) and December 31, 2018 through 2020 (Projected), **Attachment 35**, at p7 n4.

8. Medicaid Rate

The 2018 Medicaid rates are projected at the October 2017 rate of \$218, plus an estimated \$2.25 per day increase in the property rate for a stepped up basis adjustment at the time of purchase. Each year includes an expected 2% increase annually to cover normal inflationary costs. The seller’s historical rate was used as the base point and was adjusted forward in order to calculate the Medicaid revenues. See Combined Financial Statements for Years Ending December 31, 2014 through 2016 (Historical) and 2017 (Forecasted) and December 31, 2018 through 2020 (Projected), **Attachment 35**, at p7 n4.

9. Medicare Rate

Medicare rates are expected to increase annually to cover normal inflationary costs starting

with the current average Medicare rate of \$535.33 per day and increasing 2% each year. Level III rates are based on the seller's 2016 average rates. Private and Part B ancillaries are expected to increase 2% per year using the current owner's revenues as a base. The seller's historical rate was used as the base point and was adjusted forward in order to calculate the Medicare revenues. *See* Combined Financial Statements for Years Ending December 31, 2014 through 2016 (Historical) and 2017 (Forecasted) and December 31, 2018 through 2020 (Projected), **Attachment 35**, at p7 n4.

10. Contingency Plan for Rate Reductions

The Applicants are confident about the census and reimbursement rate assumptions underlying their projections. In fact, they approached their projections conservatively. However, assuming that there are shortfalls in their projected census or reimbursement rates, the individual prospective buyers are willing to fund shortfalls. The Applicants have the capability (as seen in their Personal Financial Statements) and commitment to provide funding to get through difficult times while improving quality.

11. Management Fee

A management fee of 5% of revenues per year will cover administrative, accounting, and oversight by a related management company.

12. Accounts Receivable Allowance

The projections related to the accounts receivable allowance start with the seller's historical information as the base and reflect the accounts receivable, net of allowance for doubtful accounts. *See* Combined Financial Statements for Years Ending December 31, 2014 through 2016 (Historical) and 2017 (Forecasted) and December 31, 2018 through 2020 (Projected), **Attachment 35**, at p7 n4. The projections then assume that accounts receivable (net of the allowance) will track with the historical information and increase by the same 2% inflationary increase that is throughout the projections to represent the natural inflationary rate. As a result, the accounts receivable are projected to increase 2% each year, along with the allowance which is projected to increase 2% each year.

13. Projected Increase in Costs

All Nursing, Rehabilitative, Pharmacy, Resident Services, Diagnostic and Dietary costs, along with related payroll taxes and benefits, are anticipated to increase at the same ratio as the 2% annual inflation increase.

14. Operating Lease

BIRCHWOOD PROP LLC will lease the facility to BIRCHWOOD OPERATIONS LLC through a triple net lease. The lease payments will be based on the annual debt service. As a triple net lease, BIRCHWOOD OPERATIONS LLC will be responsible for the operating costs of the building (real estate taxes, insurances and maintenance).

15. Treatment of Lease in Projections

Because this application is being filed jointly by the proposed realty owner/lessor and the proposed operator/lessee, the projections are combined. The lease payments are eliminated (both the expense side and the revenue side) to get the combined results. The combined projections therefore reflect the actual debt and the actual operations, as if the facility is one combined entity. It is important to note that the operations will be paying the lease

payment.

16. Projected Cash Flow

The cash flow statements in the Applicants' projections for 2018-2020, *see* Combined Financial Statements for Years Ending December 31, 2014 through 2016 (Historical) and December 31, 2018 through 2020 (Projected), **Attachment 35**, at p.4, indicate positive cash flow provided by operating activities:

\$267,236 in Projected 2018 (Year One);
\$231,387 in Projected 2019 (Year Two); and
\$253,786 in Projected 2020 (Year Three).

17. No Change in Services

There are no plans to change any of the current services.

18. No Change in Staffing

The Applicants do not plan to make any material changes to staffing or services, except that Applicants will contract with a management company to provide the clinical and administrative services currently being provided by the existing operator's corporate team.

The Applicants do not plan to go through a rehiring process for the current staff. The Operations Transfer and Surrender Agreement (**Attachment 32**) references terminating the employment of all employees providing services at the facility, as of the closing date. This is strictly done on the books and does not mean that the employees actually cease employment. They are nominally terminated and immediately rehired for the purpose of terminating any potential liability for benefits that is the obligation of the sellers.

19. No Change in Employee Benefits

The Applicants do not plan to make any material changes in benefits for staff. The projections set forth in the Combined Financial Statements (**Attachment 35**) do not assume any changes in benefits.

20. No Immediate Renovations

No immediate renovations or upgrades have been identified. However, the Applicants anticipate needing to spend on an annual basis approximately \$150,000, to be allocated as follows: \$100,000 for improvements; and \$50,000 for equipment. The Applicants will also explore the possibility of capital upgrades over the coming months and, if necessary, update the Board. The Applicants have received preliminary approval for \$1,000,000 capital expenditure line of credit from Customers subject to Customers review and approval of any plans.

IV. Satisfaction of Applicable Criteria

Section 9437 of Title 18 contains criteria that must be satisfied before the Board may issue a certificate of need to an applicant. The Applicants submit that they meet the applicable criteria for the purchase of the Facility, as follows:

A. Institution of Healthcare Improvement Triple Aims

1. Improving the individual experience of care.

It is the Applicants' goal to create a homelike environment and to take a patient centered approach to each individual resident. Conducting assessments of each resident upon admissions fosters strong relationships between the residents and their caregivers allowing them to learn each other's preferences, routines, etc. This enhances the quality of life of the residents and ensures that their choices are known and honored consistently.

To effectuate this, residents are provided with privacy and private and shared-occupancy rooms. Common space, including lounge areas, provides opportunities for socialization, recreation and interaction. Residents and their family members are encouraged to decorate and personalize their rooms to their taste with personal items such as furniture, pictures, etc. Residents are given choices as to their preferred times for waking in the morning, bathing, going to bed as well as the activities in which they can participate (throughout the day and evening).

While Applicants will provide a full range of organized dining options including full dietary services and all meals and snacks (with a menu allowing resident choice), community refrigerators and pantries will be made available as well to store personal food items that residents or their families and visitors may bring in from the outside. This storage area will be monitored by Facility staff to ensure that the food items are consistent with the resident's dietary restrictions and that all items are labeled and disposed of timely, as needed.

A comprehensive activities program and schedule is prepared well in advance and residents are made aware of and encouraged to attend the various group activities that they enjoy most or that will be most beneficial to them. Should a resident prefer solitary activities- materials for this including, television, books, movies, puzzles, card games, etc. are always available as well. Activities Department personnel will also visit Residents who choose to remain in their rooms to enhance their stay and activities as well.

Resident laundry will stay on-site ensuring residents will have timely access to their favorite clothes. Access to outdoors will be available to residents with seating areas on the patio, terrace and balcony.

2. Improving the health of populations.

Upon transition, Applicants' goal is to immediately identify the needs of the Facility's residents and their families in order to implement specialized initiatives and programs to improve the health of our residents. Some examples of the foregoing that Applicants have already successfully implemented at their current facilities are: an increase in MD/NP coverage at the Facility to enhance care as well as lead to the early detection of potential issues, alleviating the need for re-hospitalization; implementation of a wound care protocol and formulary to ensure proper treatment of wounds as well as an upgrade to the quality of mattresses and chairs at the Facility; identifying successful interventions to reduce falls; implementation of a wander guard system; and monthly (at the minimum) mock surveys with participation of all department heads to identify potential concerns so that they may be addressed and corrected.

Implementation of the above will allow for the ultimate goal- a smooth, safe transition back to the resident's home.

3. Reducing the per capita costs of care for populations.

As health care providers transition to a Value Based Purchasing world, our goal is to eliminate waste and focus on preventative care. Applicants will conduct root cause analysis to eliminate wasteful and unnecessary spending and utilization at the Facility. The Applicants will implement the above-mentioned preventative programs to raise the level of care, reduce re-hospitalizations and lower the costs of care at the Facility.

B. The Proposed Project is Consistent with the Health Resource Allocation Plan (HRAP), 18 V.S.A. § 9437(1) (Criterion 1)

1. CON STANDARD 1.6:

Applicants seeking to develop a new health care project shall explain how the applicant will collect and monitor data relating to health care quality and outcomes related to the proposed new health care project. To the extent practicable, such data collection and monitoring shall be aligned with related data collection and monitoring efforts, whether within the applicant's organization, other organizations or the government.

The 2017 QAPI (Quality Assurance and Performance Improvement) Plan for the Facility is submitted as Attachment 36. The Applicants have reviewed the current QAPI Plan and intend to continue with the QAPI Plan as established at the Facility.

The QAPI plan is designed and conducted in accordance with State and Federal regulations and facilitates a systematic approach to monitor and assess the quality and appropriateness of care. All QAPI activities are an integral part of the Facility's management structure and have, as their primary goal, the identification of problems and fostering of opportunities to improve resident care.

It is the Applicants' philosophy that each Resident deserves care that meets the highest expectations. Only with a comprehensive QAPI plan can such care be provided.

2. CON STANDARD 1.7

Applicants seeking to develop a new health care project shall explain how such project is consistent with evidence-based practice. Such explanation may include a description of how practitioners will be made aware of evidence based practice guidelines and how such guidelines will be incorporated into ongoing decision making.

The Applicants will provide educational training to all levels of staff, from the administrator to the aides to ensure that all are up to date in their respective disciplines. Additionally, Applicants utilize the services of an outside consultant who specializes in the creation and implementation of the most recent policies and procedures as recommended by CMS. Accordingly, the Facility will ensure that such policies are timely rolled out to the Facility as well as ensure that relevant in-services are provided.

3. CON STANDARD 3.12:

Any applicant seeking to expand services for potentially terminally ill patients shall explain what efforts the applicant has taken or will undertake which support high quality, patient centered palliative and end of life care. Such efforts should include training and collaboration with other health care and hospice providers to facilitate high quality, patient centered end of life care.

The Applicants intend to continue the hospice and palliative care currently provided by the Facility. After transition, the Applicants will be better able to determine whether such services should be expanded.

4. CON STANDARD 4.7:

Applicants seeking to establish, expand or otherwise modify services available to elderly Vermonters shall establish how those services will support the mental health and well-being of this population, including addressing how the applicant supports or otherwise integrates with mental health services currently available.

The Applicants intend to expand on-site psychological services which will greatly impact the residents with reduced cognitive functions. The Applicants will staff at least three MSWs; continue to utilize Deer Oaks for counseling opportunities and Dr. Newhouse for psychiatric services. They will also continue the monthly Alzheimer's support groups at the Facility. Additionally, the Applicants intend to continue and build on the Facility partnerships with Howard Center, Age Well, Choices for Care, VNA, SASH Coordinators, etc. and others to ensure the needs of those with plans to return to the community are met.

5. CON STANDARD 5.1:

Applicants seeking a certificate of need relating to long-term care services shall demonstrate how they support the . . . goal of ensuring that Vermonters who need long-term care services will receive the services that reflect their personal values and preferences in the least restrictive environment possible.

The Applicants' goal is to ensure that long term care services are provided in a homelike environment and that a patient centered approach is taken for each individual resident. As mentioned in more detail above, the Facility will conduct an assessment of each resident upon admissions to build a relationship between the residents and their caregivers allowing them to learn each other's preferences, routines, etc. This enhances the quality of life of the residents and ensures that their choices are known and honored consistently.

Additionally, for those residents with behavioral concerns or those in the Facility's Alzheimer's unit, the Applicants intend to offer a more aggressive program with its pharmacy consultant and psychiatrist for reductions in antipsychotic medications as the CMS scores in this area indicate that there is room for improvement at the Facility. The goal with this class of resident, who may have been more confined elsewhere, is to enable them to enjoy a better quality of life by being in our Facility. It is clear that there is a need to provide such care to this class of residents in the State of Vermont and we look forward to filling that role in the least restrictive way possible.

6. CON STANDARD 5.2:

Nursing homes or similar entities seeking to replace or increase beds shall show the beds are needed. Such showing of need shall be confirmed by the Department of Disabilities, Aging and Independent Living.

The proposed purchase does not include any change in the number of licensed beds at the Facility. The Applicants will seek confirmation from the Department of Disabilities, Aging and Independent Living that such beds continue to be needed to provide long-term care to residents in their service areas following the submission of this application.

7. CON STANDARD 5.3:

Nursing homes or similar entities seeking a certificate of need shall provide a written recommendation from the Department of Disabilities, Aging and Independent Living supporting the new health care project proposal.

The Applicants are submitting a copy of this application and attachments to the Department of Disabilities, Aging and Independent Living to request DAIL's written recommendation supporting the new health care project.

8. CON STANDARD 5.4:

Nursing homes or similar entities seeking a certificate of need shall demonstrate the applicant is sufficiently capitalized and insured to protect residents against substandard care and to provide for sufficient protection in the event of legal liability of the facility or the facility's operators.

The personal financial statements provided by the individual applicants under separate cover show that they have sufficient liquid assets or easily liquidated assets to cover the equity contribution, to retain sufficient insurance to cover the Facility in the event of legal liability, and to run the Facility's day-to-day operations. There are sufficient assets from which to draw if an infusion of capital is required to maintain or upgrade the Facility's physical plant, staffing or programs.

The Applicants will carry Property, Liability and Professional Liability insurance to ensure sufficient protection.

9. CON STANDARD 5.12:

Applicants seeking to restructure nursing home ownership that triggers the need for a new license from DAIL shall demonstrate the ability to meet all reasonably anticipated financial and quality obligations imposed by the operation of the nursing home.

The Applicants' financial information shows sufficient liquid assets or easily liquidated assets to cover anticipated financial obligations for the purchase and operation of the Facility. The Applicants likewise submit that the projected Medicaid rates reflected in the CON application are acceptable estimates of future Medicaid rates, and that the projected occupancy estimates for the facility are reasonable.

As to quality, the Facility has a four-star (above average) CMS quality rating. The Applicants are confident in their ability to maintain and even improve the quality. The records of their existing facilities support this. They are confident that through their approach to individualized care the personal experience for each resident will improve. Not surprisingly, the Applicants intend to focus most closely and immediately on improving the individual experience reflected by those quality measures which have lower than state average CMS ratings at the time of change in ownership.

The Applicants will prioritize the individual experience, quality of care, and trained, adequate, and appropriate staffing.

C. The Applicants Have Met Their Burden to Show that the Cost of the Project is Reasonable pursuant to 18 V.S.A. § 9437(2) (Criterion 2).

Criterion 2 requires that the applicant demonstrate that the cost of the project is reasonable by meeting the following three (3) statutory requirements:

1. The Applicants can Sustain the Financial Burden Likely to Result from Completion of the Project.

The Applicants have a term sheet from Customers (Attachment 34). As long as the Applicants are successful in securing the funds they plan to use to finance this transaction, they have sufficient funds to purchase the Facility and make capital improvements and upgrades, as deemed appropriate. The Applicants have submitted financial information showing they have sufficient cash flow to cover the debt obligation and maintain operations.

2. The Project will not Result in an Undue Increase in the Cost of Medical Care.

The proposed transaction does not increase the cost of health care. The Applicants are seeking to maintain the current number of beds. The Applicants are seeking confirmation from the Commissioner for the Department of Disabilities, Aging and Independent that there appears to be a need for beds in the Burlington area. In addition, the projected Medicaid rates are modest estimates of future Medicaid rates.

3. Less Expensive Alternatives are not Feasible or Appropriate

The Applicants seek to purchase a skilled nursing facility which is currently in operation with nursing beds that are needed in Vermont. The current operator no longer wishes to own or operate the Facility. No less expensive alternative exists.

D. The Applicants have Demonstrated that there is an Identifiable, Existing, or Reasonably Anticipated Need for the Proposed Project which is Appropriate for the Applicants to Provide (Criterion 3).

The existing facility has been in operation in Burlington, Vermont for more than fifty years. The Facility is a licensed 144 bed nursing home facility.

The Facility provides in-house restorative nursing and contracts with RehabCare for physical therapy, occupational therapy and speech therapy which RehabCare provides in the Facility. The Facility also provides dementia care, palliative care and short-term respite care.

The Applicants project daily census rates to be 92.29% over the next three years.

E. The Applicants have demonstrated that the Proposed Project will Improve the Quality of Health Care in the State or Provide Greater Access to Health Care for Vermont's Residents, or Both (Criterion 4).

The Applicants' purchase will improve health care quality and will ensure that sufficient and needed nursing home beds will be available to Vermonters. The Applicants plan to improve the current services and programming by expanding mental health services. They expect to improve quality by getting residents better access to mental health services and they also hope to improve access to health care by broadening the admissions policy.

F. The Applicants have Demonstrated that the Proposed Project will not have an Undue Adverse Impact on Any Other Existing Services Provided by the Applicants (Criterion 5).

The proposed project will not have an adverse impact on any other services provided by the Applicants. The project allows for the continued operation of the Facility. There is nothing to suggest that any of the current services provided by the Applicants in their other interests and involvements will suffer. These other interests and involvements are via separate corporate entities with individual tax identification numbers, bank accounts and liability insurance policies. The Applicants assert that unforeseen financial problems with the Facility should not adversely affect any other facilities in which the Applicants' managing members hold ownership interests. The Applicants have good business relationships with various lenders.

G. The Applicants have Demonstrated that the Proposed Project will Serve the Public Good (Criterion 6).

The Applicants plan to submit confirmation from the Commissioner for the Department of Disabilities, Aging and Independent Living that there appears to be a need for beds in the Burlington area. The project will enable the Facility to continue to help meet the needs of the community's population. The Applicants hope to put in place mental health services for those current or future residents so needing. Likewise, this would enable them to care for residents with greater needs who have difficulty finding beds due to concerns about behavior management.

Not only will the Applicants not place a cap on Medicaid census, but also the Applicants hope to work with the Green Mountain Care Board and others to reduce the costs of care, while improving care and access to care.

H. If the Application is for the Purchase or Lease of New Health Care Information Technology, It Conforms with the Health Information Technology Plan Established under Section 9351 of this Title (Criterion 8).

This criterion is not applicable, as the application does not include the purchase or lease of new health care information technology.

Based on the foregoing, the Applicants submit that the purchase and continued operation of the Facility meet the applicable statutory criteria.

Attachment	Document Description
Attachment 1	Birchwood Organizational Chart
Attachment 2	Administrator Alecia DiMario, CV and license
Attachment 3	Medical Director Zail Berry MD, CV and license
Attachment 4	Director of Nursing Susan Fortin, RN, CV and license
Attachment 5	Dietary Supervisor Andrew Merklinger, CV
Attachment 6	Maintenance Supervisor Todd LaBombard, CV
Attachment 7	Housekeeping Supervisor James Cameron, CV
Attachment 8	Activities Director Linnie Aubin, CV
Attachment 9	Social Services Director Janice Hall, MSW
Attachment 10	Dietician Allen Beier, CV and license
Attachment 11	CON Required Financial Tables
Attachment 12	Birchwood Surveys last 12 months
Attachment 13	Birchwood Audited Financials for year ending December 31, 2014
Attachment 14	Birchwood Audited Financials for year ending December 31, 2015
Attachment 15	Birchwood Audited Financials for year ending December 31, 2016
Attachment 16	Articles of Organization, BIRCHWOOD OPERATIONS LLC
Attachment 17	Articles of Organization, BIRCHWOOD PROP LLC
Attachment 18	Ari Erlichman, CV
Attachment 19	Milton Ostreicher, CV
Attachment 20	Isaac Rubin, CV
Attachment 21*	Ari Erlichman, Personal Financial Statement
Attachment 22*	Milton Ostreicher, Personal Financial Statement
Attachment 23*	Isaac Rubin, Personal Financial Statement
Attachment 24	Thomas Depoy and Sharon Martin, CVs
Attachment 25	CMS Star Rating Spreadsheet, Overall
Attachment 26	CMS Star Rating Spreadsheet, Health and Safety Inspections
Attachment 27	CMS Star Rating Spreadsheet, Staffing
Attachment 28	CMS Star Rating Spreadsheet, RN Staffing
Attachment 29	CMS Quality Measures
Attachment 30	CMS data on federal fines and penalties
Attachment 31	Data re mental health services and psychiatry
Attachment 32	Operations Transfer Agreement
Attachment 33	Amended and Restated Assignment and Assumption Agreement
Attachment 34	Customers Term Sheet
Attachment 35	Combined Financial Statements for Years Ending December 31, 2014 through 2016 (Historical) and December 31, 2018 through 2020 (Projected)
Attachment 36	2017 QAPI (Quality Assurance and Performance Improvement) Plan
Attachment 37	BlueMountain organizational chart
Attachment 38	Sublease between BME and the Smith Ranch Facility operator
Attachment 39	Birchwood Below Average Quality Measures/Applicants' Plan of Action
Attachment 40	Birchwood – 3 most recent surveys

Attachment 41	Highland – 3 most recent surveys
Attachment 42	Achieve– 3 most recent surveys
Attachment 43	Beacon– 3 most recent surveys
Attachment 44	Rubin facilities
Attachment 45	Occupancy rates, 12-month period
Attachment 46	Birchwood Admissions Policy
Attachment 47	Consulting Agreement
Attachment 48	Letter from Thomas Dowling Esq. to GMCB

*Attachments to be filed under separate cover

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

**IN RE: PROPOSED PURCHASE OF) GMCB 014-17con
BIRCHWOOD TERRACE)**

**VERIFICATION UNDER OATH
REVISED CERTIFICATE OF NEED NARRATIVE**

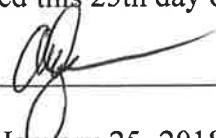
Ariel Erlichman, being duly sworn, states on oath as follows:

1. My name is Ariel Erlichman. I have reviewed the REVISED CERTIFICATE OF NEED NARRATIVE and attachments to be filed on January 29, 2018 (the "Submission").
2. Based on my personal knowledge, after diligent inquiry, I attest that the information contained in the Submission is true, accurate and complete, does not contain any untrue statement of a material fact, and does not omit to state a material fact necessary to make the statement made therein not misleading, except as specifically noted herein or as otherwise specifically noted in the Submission.
3. My personal knowledge of the truth, accuracy and completeness of the information contained in the Submission is based upon either my actual knowledge of the subject information or, where identified below, upon information reasonably believed by me to be reliable and provided to me by the individuals identified below who have certified that the information they have provided is true, accurate and complete, does not contain any untrue statement of a material fact, and does not omit to state a material fact necessary to make the statement made therein not misleading.
4. The following certifying individuals have provided information or documents to me in connection with the Submission, and such individuals have certified, based on their actual knowledge of the subject information or, where specifically identified in such certification, based on information reasonably believed by the certifying individual to be reliable, that the information or documents provided are true, accurate and complete, do not contain any untrue statement of a material fact, and do not omit to state a material fact necessary to make the statement made therein not misleading:

Milton Ostreicher, BIRCHWOOD PROP LLC and BIRCHWOOD OPERATIONS LLC
Isaac Rubin, BIRCHWOOD PROP LLC and BIRCHWOOD OPERATIONS LLC
Andrew Bachand CPA, Tomas Depoy, Sharon Martin, Alecia DiMario LNHA.

5. In the event that the information contained in the Submission becomes untrue, inaccurate or incomplete in any material respect, I acknowledge my obligation to notify the Green Mountain Care Board, and to supplement the Submission, as soon as I know, or reasonably should know, that any information or document has become untrue, inaccurate or incomplete in any material respect.

Dated this 25th day of January, 2018.



On January 25, 2018, Ariel Erlichman appeared before me and swore to the truth, accuracy and completeness of the foregoing Verification Under Oath.

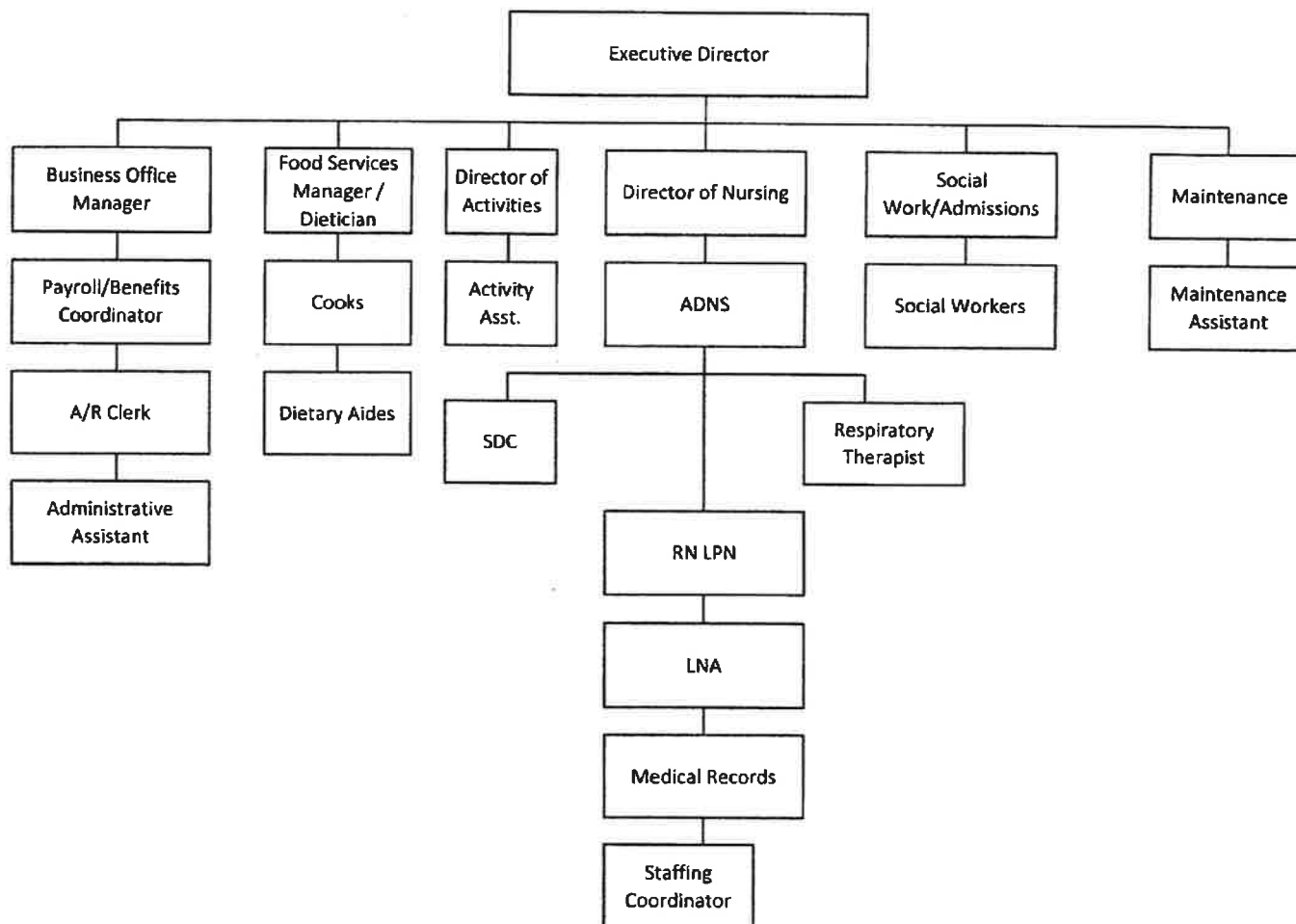


Notary public

My commission expires: _____

YEHUDA ALPERT
NOTARY PUBLIC
ID: 02AL6361908
Expires: 07/17/2021

ATTACHMENT 1



ATTACHMENT 2

ALECIA DIMARIO

242 Sanderson Rd. Milton, VT 05468 United States (619) 218-5965 acurrier2@yahoo.com

EXECUTIVE PROFILE

High-performing Executive with 17 years of Healthcare experience. In-depth knowledge of healthcare operations at all levels. Demonstrated proficiency in management, training and development, budgeting and programming.

PROFESSIONAL EXPERIENCE

Kindred Transitional Care and Rehabilitation
Birchwood Terrace

Executive Director, Jan 2015 – Present

- Managed 144-bed Skilled Nursing facility
- Deficiency free survey 2017
- Decreased nursing overtime by 8% with implementation of 4/2 scheduling

Windsor Gardens of San Diego
Skilled Nursing Care

Administrator, Jan 2013 to Jan 2015

- Manage a 98-bed Skilled Nursing facility
- Increased skilled case mix from 10% to 40%
- Successfully managed the implementation of electronic medical records
- Decreased the re-hospitalization rate from 25% in 2012 to under 10% in 2014

Premier Management
Skilled Nursing and Sub-Acute Care

Administrator, April 2012 -- Jan 2013

- Managed 148 bed Skilled Nursing, Sub-Acute and Assisted Living facility
- Reduced labor costs roughly \$20,000 monthly by right sizing the staffing structure and managing overtime expenses
- Oversight of major construction/renovation projects with the implementation of a fire sprinkler and nurse call system
- Contract negotiation with managed care organizations
- Proven success with State and Federal survey, both with the California Dept. of Public Health and the Department of Social Services

Life Care Services, Des Moines, Iowa United States
Specializes in the development and management of senior living communities

Administrator, Jan 2009 – Mar 2012

- Managed daily health care operations of 500 resident not-for-profit Continuing Care Retirement Community in San Diego, comprising of Independent Living, Assisted Living, Assisted Living Memory Care, and Skilled Nursing
- Effectively supervised over 350 employees, while promoting personal and professional growth through career development
- Background in financial management, including budget preparation, cash flow management and analysis of financial reports
- Worked effectively and diplomatically with the public, including residents, Board of Directors, community groups, and government agencies
- Broad understanding of State and Federal laws and regulations related to the operation of the facility
- Improved efficiency and productivity through the development and implementation of organizational policies and procedures for the facility
- Promoted and assured the highest level of dignity, independence and quality of life for all residents served

Associate Administrator, Nov 2005 – Jan 2009

- Assisted in oversight of daily operations of a 500 resident Continuing Care Retirement Community in San Diego
- Prepare activity reports to inform management of the status and implementation plans of programs, services, and quality initiatives
- Establish and implement departmental policies, goals, objectives, and procedures, conferring with board members, organization officials, and staff members as necessary
- Direct, supervise and evaluate work activities of medical, nursing, technical, clerical, service, maintenance, and other personnel
- Direct or coordinate the supportive services department of a business, agency, or organization
- Prepare and review operational reports and schedules to ensure accuracy and efficiency

Evergreen Healthcare, Vancouver, Washington United States
Management and Consulting service for Assisted Living and Skilled Nursing facilities

Administrator in Training/Interim Administrator, Sep 2004 – Nov 2005

- Provide overall leadership and management of a long-term care facility, ensuring delivery of the highest level of health services and quality of care that is responsive of the customer's needs in a 99 -bed facility
- Assisted with Financial Management, Quality Management, Human Resource Management, and Marketing/Community Relations
- Knowledge of State and Federal regulatory requirements
-

Director of Social Services, Nov 2000 – Dec 2004

- Attain/maintain resident's highest practical physical, mental and psychosocial wellbeing in 142-bed facility
- Work independently and cooperatively with residents, families, rehab personnel, physicians, home health agencies, managed care providers, and other health care professionals in discharge planning

EDUCATION

Lyndon State College, Lyndonville, Vermont United States
Bachelor's of Science, Human Services/Counseling

ADDITIONAL SKILLS

- RCFE Administrator
- CA Nursing Home Administrator
- Qualified Skilled Nursing Preceptor in California

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Address Changes – MUST be reported to the Office of Professional Regulation office within 30 days:

- Submit the Change of Information form available on our website
- You can also change your address at our website using your User ID and Password at no charge.
- Renewal notices are sent to the address the office has on file and are not forwarded to a new address

Email Address – Future correspondence from this Office will come to you by email. Please be sure to keep your information current using your User ID and Password by adding us to your "safe senders" list.



License Renewal – Each profession renews on a set two year renewal schedule. Please take note of your license expiration date. You will receive an email renewal notification from us approximately 6 weeks prior to your license expiration date, sent to your email address we have on file.

Verification of Licensure – All verification of licensure can be done through our website or by submitting a verification form to the Office and enclosing a \$20.00 fee

If you are convicted of a crime in Vermont or another State, you must report it within 30 days

- Address changes or convictions not reported to the Office within 30 days can be considered unprofessional conduct and may result in disciplinary action


Replacement License – Go online to www.vtprofessionals.org, login with your User ID and Password and select Print License in the left hand menu box, and print your own copy at no charge.



State of Vermont

Nursing Home Administrator



Alecia R. DiMario
13 Birch St
South Burlington, VT 05403-6321



Credential #: 027.0109529
Status: ACTIVE
Effective: 04/01/2016
Expires: 03/31/2018

James C. Condes
Secretary of State


For the most accurate and up to date record of licensure, please visit www.vtprofessionals.org



State of Vermont

Nursing Home Administrator

Alecia R. DiMario
13 Birch St
South Burlington, VT 05403-6321



James C. Condes
Secretary of State

027.0109529	ACTIVE	03/31/2018
Credential #	Status	Expires

For the most up to date record, visit www.vtprofessionals.org

ATTACHMENT 3

ZAIL S. BERRY, M.D., M.P.H., F.A.C.P.

3 Hagan Drive
Essex, VT 05452
(802) 878-4489

EDUCATION AND TRAINING

B.A. University of California, San Diego; Revelle College
Bachelor of Arts *cum laude* in Biochemistry and Cell Biology, 1981.

M.D. University of California, San Francisco
School of Medicine, 1988.

Residency University of California, San Francisco
Internship and Residency in Primary Care Internal Medicine, 6/88-6/89.

Fellowship George Washington University Medical Center Department of Health Care Sciences
Fellow in Primary Care Internal Medicine, 7/89-6/91.

M.P.H. George Washington University
School of Medicine and Health Sciences, 1991.

PROFESSIONAL LICENSURE AND CERTIFICATION

Board Certified, American Board of Internal Medicine, September, 1989.
Board Certified, American Board of Internal Medicine Added Qualification in Geriatric Medicine, April, 1994.
Board Certified, American Board of Hospice and Palliative Medicine, November 2004.
Board Certified, American Board of Internal Medicine, Hospice and Palliative Medicine, November 2008.

Licenses: California 1987-1989.
District of Columbia 1989-1996.
Vermont 1996-present.

Drug Enforcement Administration registration, 1987-present.
Diplomate, National Board of Medical Examiners, 1987.

PROFESSIONAL POSITIONS

8/04-present Private Practice
Palliative Medicine Consultation and Home Medical Services

1/97-present Associate Clinical Professor
University of Vermont College of Medicine

8/10-8/2012 Medical Director
PACE-Vermont (Program of All-Inclusive Care of the Elderly)

2/97-12/08 Co-Medical Director
Hospice of the Champlain Valley

5/88-7/04 (Founding) Medical Director, Palliative Care Program
Fletcher Allen Health Care, Burlington, VT

10/86-7/04 Attending Physician
Aesculapulus Medical Center, Fletcher Allen Health Care

7/91-9/98 Assistant Professor
George Washington University Medical Center Department of Health Care Sciences
40% Division of Adult Medicine, 30% Division of Aging Studies and Services,
30% Nurse Practitioner Programs

5/91-6/98 Medical Director, Hospice of Washington
7/89-5/91 Assistant Medical Director, Hospice of Washington

HONORS

Vermont Health Care Association Physician of the Year, 2007
AOA Faculty Inductee, University of Vermont College of Medicine, 2005.
Commencement Speaker, University of Vermont College of Medicine, 2004.
Fellow, American College of Physicians-American Society of Internal Medicine, 2002.
AAMC Humanism in Medicine Award nominee (University of Vermont College of Medicine), 1999.
Delta Omega National Public Health Honorary Society, 1995.
Outstanding Teaching Award, GWU Department of Health Care Sciences, 1993.
Outstanding Service Award, Revelle College, 1981.

PROFESSIONAL MEMBERSHIPS

Vermont Medical Society, 1986-present
Society of General Internal Medicine (SGIM), 1988-present.
• Annual Meeting Abstract Reviewer, 1994.
• Annual Meeting Workshop Reviewer, 1993, 1994, 1996, 2010.
• Annual Meeting Precourse Reviewer, 2001, 2003.
• Annual Meeting Poster Session Award Judge, 1994.
• Coordinator, Pre-Meeting Symposium, 1996:
"Care of the Dying: What We Need to Know, What We Need to Teach"
• Chair, End-of-Life Interest Group, 1999-2001.
• Co-Coordinator, Pre-Meeting Symposium, 2000:
"Quality End-of-Life Care: Overcoming Barriers and Effecting Change"
• Coordinator, Pre-Meeting Symposium, 2001:
"End of Life Care: Cultural and Political Aspects of Hastening Death"
• Coordinator, Pre-Meeting Symposium, 2002:
"Sharpening Skills in End-of-Life Communication"
• Finance Committee Member, 2002-2007.
American College of Physicians, 1986-present.
American Academy of Hospice and Palliative Medicine, 1992-present.
• Ethics Committee Member, 2005-2010.
American Association of University Women, 1981-present.
Physicians for a National Health Plan, 2002-present.

EDITORIAL BOARDS

The Hospice Journal, 1995 - 2000.
Reviewer for: *Annals of Internal Medicine*
Journal of the American Medical Association
Journal of General Internal Medicine
Journal of Palliative Medicine
Journal of the American Geriatrics Society
End-of-Life Physician Education Resource Center (EPEC)
The Western Journal of Medicine
American Journal of Managed Care

SERVICE

FAHC Medical Staff Executive Committee Member-at-large (4 year term), 4/2012 to present.
 Vermont Managed Care Board of Directors (4-year term), 2011 to present.
 Visiting Nurses Association End of Life Professional Advisory Committee, 2000 – present.
 American Academy of Hospice & Palliative Medicine Ethics Committee, 2005 – 2010.
 FAHC Clinical Ethics Consultant, 2002- 2009.
 Advisor, VT Dept of Health Electronic Death Registration System, 9/08 – 2010.
 Member, VT Dept of Health Prescription Monitoring Medical Affairs Committee, 4/08 – 2010.
 ExCEL (End of Life Project Committee of VT Program for Quality in Health Care) Co-Chair, 9/03 – 8/05.
 FAHC Organizational Ethics Council, 10/00 - 2005.
 FAHC Medical Staff Ethics Advisory Committee, 5/97 – 8/10.
 FAHC Medical Staff Executive Committee, 10/99 - 10/03.
 VNA Friends for Life Professional Committee, 2002 - 2005.
 Ethics Committee, Vermont Medical Society, 5/97 - 2003.
 Essex Town School Board Strategic Planning Committee (Co-Chair) 8/01-4/02.
 FAHC Pain Initiative Committee, 2000-'01
 FAHC Medical Staff Committee on End of Life Care (chair), 5/97 - 10/98.
 FAHC Ad Hoc Committee for Palliative Care Program, 3/97 - 6/98.
 George Washington University Medical Center Ethics Committee, 8/95 - 9/96.
 GWU School of Medicine Outstanding Teaching Award Selection Committee, 1992(chair), 1995.

RESEARCH AND PUBLICATIONS**PEER-REVIEWED JOURNALS**

Berry, Z.S. "Responding to Suffering: Providing Options & Respecting Choice". *Journal of Pain and Symptom Management* vol 38:5, 797-800, 2009.
 Berry, Z.S. and Lynn, J. "Hospice Medicine". *Journal of the American Medical Association* vol 270:2, 221-223, 1993.
 Berry, Z.S., Hirsch, R, Lynn, J. "Terminal Care Needs of AIDS and Cancer Patients: A Comparison Study". (abstract) *Clinical Research* 40:552A, 1992.

OTHER PUBLICATIONS

Berry, Z.S. and Segal, B. "Palliative Care and End of Life Decision Making". In *Hematology Oncology Secrets*, 3rd edition, M. Wood & G. Phillips, editors, Hanley & Belfus, Inc., pp. 277-81, 2003.
 Berry, Z.S., Segal, B., McCabe, J.M. "Hospice Care". In *Hematology Oncology Secrets*, 3rd edition, M. Wood & G. Phillips, editors, Hanley & Belfus, Inc., pp. 282-86, 2003.
 Brogan, M., Kelso, K., Berry, Z. The Prevalence of Pain Among Noncommunicative Nursing Home Residents (abstract). *Journal of General Internal Medicine* vol 10 (suppl):4, 54, 1995.
 Berry, Z.S. and Nist, J. "Welcome to Our Health Care Reformation: How Hospice is Already Changing Medicine for the Better". *Hospice* vol 5:1, 8-7, 1994.
 Berry, Z.S. "Managing Dying At Home". In *Ambulatory Geriatric Care*, Yoshikawa et. al., editors, Mosby-Year Book, St. Louis, pp. 80-89, 1993.
 Berry, Z.S. "A Physician's Thoughts On Dying". *GW Forum* 42, 56-60, 1993.
 Berry, Z.S. and Greenberg, L. "The National Health Care Debate: The Canadian System Is Not The Only Alternative", *SGIM News* 14:10, p.8 October 1991.

GRANTS OBTAINED

"HIV Testing of Washington Area Physicians"; Principle Investigator; GWU Department of Health Care Sciences seed grant, 1991.
 "Pain Management Education for Health Professionals"; GWU Gill Fellowship received to support work with medical student research assistant, 1993.

PRESENTATIONS, NATIONAL MEETINGS

- 5/81 The Primary Care Physician and the Dying Patient
Society of General Internal Medicine, Seattle, WA
- 6/81 Withdrawing Feedings: Social, Cultural and Ethical Issues
National Hospice Nurses Association, Rockville, MD
- 4/93 Care of the Dying I: The Role of the Physician
Care of the Dying II: Management of Pain and Other Symptoms
Society of General Internal Medicine, Washington, DC
- 6/96 Talking With Physicians About Hospice
(Panelist) National Hospice Organization Annual Conference, Washington, DC
- 5/95 "You Promised Me I Wouldn't Die Like This": Physicians and Requests for Assisted Suicide
(with T.Quill & R.Brody)
Society of General Internal Medicine, San Diego, CA
- 3/98 Pain Management in Advanced HIV Disease
American Academy of Osteopathic Family Physicians, Orlando, FL
- 5/96 Nutrition and Hydration at the End of Life: Talking With Patients and Families
SGIM Annual Meeting Pre-Meeting Symposium on Care of the Dying, Washington, DC
- 6/96 Nutrition & Hydration at the End of Life: Talking With Patients and Families
American Academy of Hospice & Palliative Medicine, Snowbird, UT
- 3/97 Pain Management: Putting Principles into Practice
American College of Physicians, Philadelphia, PA
- 11/99 Hospice and Palliative Care
American Music Therapy Association World Congress, Washington, DC.
- 6/03 Opiates in Chronic Pain: A Review of the Evidence
SGIM Annual Meeting Pre-Meeting Symposium on Chronic Pain

GRAND ROUNDS AND INVITED PRESENTATIONS - (since 2008)

- 5/08 Pain Management at the End of Life
C.I.D.E.R. Flashlight Workshop, No. Hero, VT
- 6/08 Pain Management in the Home Care Setting
VNA of Chittenden and Grand Isle Counties, VT
- 9/08 Pain and Symptom Management at the End of Life
VT Collaborative on End of Life Care, Montpelier, VT
- 9/08 Palliative Care for Dementia
Dementia & Neuropsychiatry Conference, Burlington, VT
- 10/08 Overcoming Barriers to Best Practices at the End of Life
Northern New England Clinical Oncology Society, Whitefield, NH
- 11/08 Addressing Pain at the End of Life
North Country Hospital Medical Grand Rounds, Newport, VT
NE Kingdom Palliative Care Initiative, Newport, VT
- 4/09 Ethical Issues in Dementia
Alzheimer's Association Education Conference, Burlington, VT
- 4/09 Treating Pain in the Elder Patient
AHEC Geriatrics Conference, Burlington, VT
- 6/09 Treating Pain in the Elder Patient
Ethical Issues in Dementia
Vermont Health Care Association, Lake Morey, VT
- 11/09 Pain Management in Challenging Situations
Central Vermont Medical Center, Barre, VT
- 4/10 Housecalls: Rediscovering the Joy in Doctoring
AHEC Geriatrics Conference, Burlington, VT

- 4/10 Making Medical Decisions for a Loved One
AHEC Geriatrics Conference, Burlington, VT
- 8/10 Palliative Care: Defining the Role of the Primary Care Physician
UVM Family Practice Review Course, Burlington, VT
- 11/10 Completing and Revising Advance Directives
Elder Enrichment Education, S. Burlington, VT
- 4/11 Pain Management at the End of Life
Vermont Ethics Network Conference, Montpelier, VT
- 6/11 Start Thinking Now: Medical Decisions for Ourselves & Others
AARP Vermont, Burlington, VT
- 10/12 Valuable Tools for Coping with Breast Cancer & Treatment: The Role of Palliative Care
Vermont Cancer Center Breast Cancer Conference, Burlington, VT
- 10/12 Finding the Words: Integrating Palliative Care into Oncology Practice
Northern New England Clinical Oncology Society, Rockport, ME
- 5/13 Living Well with Serious Illness: The Role of Palliative Care
UVM COM Women's Health Conference, Burlington, VT
- 5/13 Choppy Waters or Smooth Sailing? Exploring the Causes of Difficult Healthcare Communication
Northern New England Clinical Oncology Society, Manchester, NH
- 8/13 Palliative Care: Essentials & Pearls for the Primary Care Clinician
UVM COM Family Medicine Review Course, Burlington, VT
- 8/13 Palliative Care Online Training Modules:
Intro to Care at the End of Life
The Role of the Caregiver at End of Life
Pain Management
Symptom Management in Comfort Care
Vermont Ethics Network and Vermont Health Care Association
- 10/13 Palliative Care Symposium: Guiding Patients & Families through Transitions in Care
Northern New England Clinical Oncology Society, Stowe, VT
- 10/13 The End of Life: A Process, Not a Destination
Coverys Northeast Regional Risk Management Seminar, Mashantucket, CT
- 10/13 Pain Management Practices: Implications & Strategies for Chronic & Serious Illnesses
Coverys Northeast Regional Risk Management Seminar, Mashantucket, CT
- 10/13 Pain Management in Long Term Care
Vermont Health Care Association, Burlington, VT

LOCAL TEACHING – University of Vermont College of Medicine / Fletcher Allen Health Care (since 1996)

- 2004 – present Cases in Pain Management
Medicine Acting Interns; 1 hr. monthly
- 2009 – present Clinical Correlation: Muscular Dystrophy
UVM COM Foundations: Cell & Molecular Biology; 1.5 hr. annually
- 2005 – present The Other Side of the Stethoscope: Patient/Family Panel on Life with Serious Illness
UVM COM Palliative Care Week; 1 hr. annually
- 10/2013 Pain Management for Palliative Care Practitioners (In 3 parts)
UVM/FAHC Palliative Care Fellowship (3 hr.)
- 4/2013 Addiction and the Treatment of Chronic Pain
UVM/FAHC Family Practice Residency (1 hr.)
- 1998 – 2011 Pain Management
Internal Medicine Residents; 1 hr. monthly.
- 1998 – 2006 End of Life Care
Internal Medicine Residents; 1 hr. monthly
- 1999 – 2005 Palliative Care and ICU Care at the End of Life
ICU RN Internship; 1.5 hr. semi-annually

2000 - 2003 Pharmacology CPC: Pain Management
UVM COM MSII Pharmacology; 1 hr. annually

2002 - 2005 Care at the End of Life
UVM COM MSI Pathology; 1 hr. annually

2002 - 2005 Bridge III: Care at the End of Life
UVM COM MSIII Core Curriculum
(Curriculum designer, coordinator and instructor; 2.5 days, annually)

12/08 - 2/09 Addressing Code Status
Medicine Acting Interns; 1 hr. monthly

2004 - 2009 The Physician's Role in End of Life Care
VIC Generations, 1 hr. annually

1/09 Palliative Care in Advance Diabetes
FAHC/UVM Endocrine Education Conference, 1 hr.

4/10 Pain Management
ELNEC Curriculum for Nurses, 1.5 hr.

4/10 Hospice and Palliative Care at End of Life
UVM Community Medical School, 2 hr.



Vermont Board of Medical Practice

Lookup Detail View

Name and Address

Name	Public Address	Actions
Zail Suzanne Berry	353 Blair Park Road Williston, VT 05495	None

Registration Information

License Type	License	Status	First Date Licensed	Issue Date	Expiration Date
Physician	042.0009386	ACTIVE	09/09/1996	10/06/2016	11/30/2018

Specialties

Specialty
Geriatric Medicine
Hospice and Palliative Medicine
Internal Medicine

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ATTACHMENT 4

Susan M. Fortin
48 Half Moon Terrace
Colchester, VT 05446
(802) 862-5402
Sue.Fortin@kindred.com

EDUCATION

Physical Assessment of Adults
Saint Michael's College, Colchester, VT
Spring of 1988

Counseling Skills for Non-Counselors
University of Vermont, Burlington, VT
Spring of 1976

Registered Nurse, Associates Degree
Castleton State College, Castleton, VT
Graduation date: May 1973

**PROFESSIONAL
EXPERIENCE**

Kindred Transitional Care and Rehabilitation Birchwood Terrace
Director of Nursing, RN
2001-Present

- Responsible for all aspects of nursing department for 144 bed skilled nursing facility
- Responsible for Recruitment and Retention of nursing staff

Assistant Director of Nursing, RN
1988-2001

- Responsible for clinical operations on day to day basis
- Responsible for scheduling and staffing for nursing dept.

Registered Charge Nurse
1973-1987

- Charge nurse 50 bed long term care unit

References available upon request

The Vermont Secretary of State, Office of Professional Regulation considers the information contained on this website to be a secure, primary source for license verification. The Office certifies this information is current as of the date and time noted below.



For conduct decisions concluded after the year 2000, a scanned copy of the disciplinary action may be viewed online by clicking here (<http://www.sec.state.vt.us/professional-regulation/professional-conduct.aspx>). If you require further information, please contact the docket clerk (<mailto:liz.amaral@sec.state.vt.us>). If no discipline is listed below, we have no disciplinary records on file.

Cases indicating "Charges Filed" or "Pending Hearing" are allegations only and must be proved at a hearing held by the licensing authority to be considered unprofessional conduct.

Lookup Detail View

Name and Address

Name	City/Town	State	Zip Code	Country
Susan M. Fortin	Colchester	VT	05446-9638	United States

Licensee Information

License	License Type	Original Issue Date	Current Effective Date	Expiration Date	Status	Endorsements
026.0010095	Registered Nurse	08/07/1973	04/01/2017	03/31/2019	ACTIVE	

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ATTACHMENT 5

Andrew Merklinger CDM, CFPP

495 Monmouth Ave ♦ Brick, New Jersey 08723 ♦ (732) 865-2332 ♦ Andrewmerklinger@yahoo.com

Hospitality/ Healthcare Management

An accomplished hospitality manager with a combination of culinary experience and management skills coupled with menu preparation and creation background. Extensive experience in food inventory planning, procurement and management on both a restaurant and healthcare level. Background in providing exceptional leadership and customer service. Areas of expertise include:

- Restaurant Operations/ Healthcare Management
- Menu Creations
- Staff Training/ Development
- Personnel Oversight/ Management
- Specials Events Development
- Cost Containment
- Customer Service
- Quality Assurance

Education

September 2007- September 2008

New England Culinary Institute

Associate Degree in Culinary Arts/ Restaurant & Hospitality Management- completed 21.5/30 credits

May 2011- April 2012

University of Florida

Dietary Manager Training- completed with 87% passing rate

September 2001- June 2005

St. Rose High School

General Education

Professional Experience

Corporate Executive Chef/Regional Director of Food and Nutrition, Pinnacle Dietary

November 2015-Current

Corporate Chef

- Responsible for monthly P&L reports for all 28 accounts
- Responsible for creating, costing and nutritional values of the menus
 - In charge of the Menu Committee
- Training cooks, FSD's & Chef Manager at all 25 Pinnacle Dietary Locations
- Held Culinary Training Seminar's quarterly for 15 Cooks/Chef Managers/FSD's at a time
 - Held the lead role in the Purchasing Department for interim of 6 months
- Met with vendors to secure pricing, set up new vendor accounts, brought in 100k per year in rebates, saved 8% on total sales from our meat proveyoy, brought our rebate through dairy proveyoy from 2% to 4%

Regional Director of Foodservice & Operations

- Part of the marketing team for new accounts
- Deemed the most productive, compliant and leading region
- Responsible for Medicare/Medicaid Annual Survey compliance
- Maintain food cost and labor budgets for 6 accounts in NYC
- Produced "deficiency free" survey's for all 6 of the accounts

Andrew Merklinger CDM, CFPP

495 Monmouth Ave ♦ Brick, New Jersey 08723 ♦ (732) 865-2332 ♦ Andrewmerklinger@yahoo.com

Regional Director of Food and Nutrition, CareOne Management

January 2014-November 2015

- Responsible for survey readiness, P & L reports, daily compliance and proper labor structure with 10 accounts located in Northern and Central New Jersey
- Head of Menu Committee; In charge of creating Fall/Winter & Spring/Summer menus with US Foods
 - Have produced "deficiency free" survey's for all accounts
 - Brought spending down a total of \$300,000 since January 2014
 - Responsible with overseeing all catered events for the 10 buildings
 - Daily mentoring and support for the Foodservice Director's

Director of Dining Services, District Manager, Pinnacle Dietary

July 2010-December 2013

- Managed kitchens at several long term care facilities located in central, northern New Jersey, New York State, New York City and Pennsylvania.
- Took care of the ordering/receiving and kept a consistent food cost at \$4.80 ppd, along with receiving an award for "#1 Budget at Pinnacle Dietary" for more than a year.
 - Trained and in-serviced several staff's of up to 50 employee's.
- After hard work and dedication was promoted from *Assistant Director of Foodservice* to *Director of Foodservice* in 6 months and after taking over as Director of Foodservice, received a perfect state survey.
- Was the first Pinnacle employee to become *District Manager* and was in charge of all operations for 5 buildings at once.
- Trained staff about compliance and state regulations that correspond with an assisted living and long term care/rehabilitation home.
 - Member of the Senior Menu Committee

Head Cook, Healthy Living Natural Foods Market

June 2008-August 2010

- In charge of the staff in mornings and making sure they executed all tasks necessary.
 - Created daily specials for the café.
 - Helped create the 2010 spring café menu.
- Trained other kitchen employee's on knife skills, basic and advanced cooking concepts.
- Assisted customer in planning their catering events and executing their exact desires.

Internship/Line Cook, Pulcinella's, Burlington, Vermont

February 2007-July 2008

- Served as a Line Cook and would create daily specials
- Planned and organized special events with the Chef Sam.
- Oversee banquet events to meet every customer need.
 - Helped plan seasonal menu's.

Andrew Merklinger CDM, CFPP

495 Monmouth Ave ♦ Brick, New Jersey 08723 ♦ (732) 865-2332 ♦ Andrewmerklinger@yahoo.com

Professional References

Lisa Coffee
Regional Director of Foodservice
Pinnacle Dietary
(845) 926-8037

Jill Monahan
Administrator
Care One at Wall
(732) 556-1060

Brian Dorick
Director of Culinary
Pinnacle Dietary
(732) 300-3617

Tonja Werkman
VP of Clinical Services
Pinnacle Dietary
(732) 267-0490

Certifications

CCC
Certified Chef de Cuisine
Anticipated November 2017
Written Examination Score: 97

CDM, CFPP
Certifying Board of Dietary Manager
Member # 245509

ServSafe Certification
Valid: 2012-2017

Dietary Manager Training
University of Florida

American Culinary Federation
Professional Member # 270538



Presents this certificate of completion to

Andrew Merklinger

Who has satisfactorily completed the requirements for the course

**DMT - DIETARY MANAGER TRAINING FOR PRE-CERTIFICATION
(online)**

Awarded April 26, 2012

A handwritten signature in cursive script that reads 'Brian K. Marchman'.

Brian K. Marchman, Ph.D.
Director, Distance Learning

A handwritten signature in cursive script that reads 'Kirby P. Puckett'.

Kirby P. Puckett
Program Director

This verifies that on 07/31/2017

Mr Andrew T. Merklinger, # 245509 is currently a
Certified Dietary Manager, Certified Food Protection Professional (CDM, CFPP)
and is credentialed by the Certifying Board for Dietary Managers

Carole Ann L. Williams CDMCFPP

CBDM Chair, 2017 - 2018



National Commission for Certifying Agencies



777 Mariners Island Blvd, Suite 200
San Mateo, California 94404
Telephone: (800) 947-4228
FAX: (650) 692-9307
www.comiratesting.com

AMERICAN CULINARY FEDERATION
Computer Test Report

Name: Andrew T Merklinger
ACF ID Number: 270538
Test Date: 09/11/2015
Test Site: NEX07701

Test Level: Certified Chef de Cuisine - CCC

Passing Score: 70
Your Score: 97
Grade: Pass

Dear Chef,

This report represents official documentation of your exam score. If you did not pass the exam, you may retake it by registering with Comira at 1-800-947-4228 or online at www.comiratesting.com. A passing grade on this test is necessary for all initial certifications and for individuals who are upgrading from one level to another. When applying for initial certification or an upgrade, send a photocopy of this report with your certification paperwork.

Your written exam score is valid for ACF certification for two years from the test date noted above. If you have any questions about ACF certification, please contact the ACF National Office at 1-800-624-9458.

Thank You.

Issued by Comira Testing Center, San Mateo, CA

Fraudulent alteration of this form by any person is a basis for certification denial of the person noted above.

ServSafe
National Restaurant Association

ServSafe® CERTIFICATION

ANDREW MERKLINGER

for successfully completing the standards set forth for the ServSafe® Food Protection Manager Certification Examination, which is accredited by the American National Standards Institute (ANSI) Conference for Food Protection (CFP).

15025830

IDENTIFICATION NUMBER

5266

EXAM FORM NUMBER

4/20/2022

DATE OF EXPIRATION

Local laws apply. Check with your local health department for recertification requirements.

4/20/2022

DATE OF EXPIRATION

Local laws apply. Check with your local health department for recertification requirements.



#0855

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Contact us with questions at 175 W Jackson Blvd, Ste 1500, Chicago, IL 60604 or ServSafe@restaurant.org

The Certifying Board for Dietary Managers®

HEREBY VERIFIES THAT

Andrew T. Merklinger, CDM, CFPP

HAS SUCCESSFULLY PASSED THE CREDENTIALING EXAMINATION
AND HAS MET THE QUALIFICATIONS OF A

Certified Dietary Manager® | Certified Food Protection Professional®

CDM® | CFPP®

Certification Date: 10/27/2012



ATTACHMENT 6

TODD M. LABOMBARD
3139 NORTH AVENUE EXTENSION
BURLINGTON, VT 05401
(802) 864-6419

EDUCATION

High School Diploma
Burlington High School
Burlington, VT
1985

PROFESSIONAL
EXPERIENCE

Maintenance Manager
Kindred Transitional Care and Rehabilitation
Burlington, VT
1994-Present

- Adherence to State and Federal requirements
 - (7 years deficiency free)
- Management of Preventative Maintenance Program
- Capital Project management
- Budget Management

Maintenance

Bank of Vermont
Burlington, VT
1988-1994

- All aspects of building maintenance and repair
 - Interior construction and oversight of outside contractors
 - Preventative maintenance
 - Inspections
 - Painting and HVAC
 - Furniture and office equipment repair
 - Overall facility upkeep

Gas Station Attendant

Jim Messier's Mobil
Burlington, VT
1987-1988

- General service station functions
- Pumping gas and changing oil and tires

T.A. Muir Building Contractor Worker

Burlington, VT
1985-1987

- All aspects of building constructions
- Framing, sheeting and roofing

References available upon request

ATTACHMENT 7

James Cameron
54 Avenue C
Burlington, VT 05408
(802) 238-9665
Jamcam802@aol.com

PROFESSIONAL
EXPERIENCE

Environmental Services Director
Health Care Services Group
Kindred Transitional Care and Rehabilitation
Burlington, VT
2008-Present

- Supervises the laundry and housekeeping services
- Budget management

Auto Mechanic
Jim Messures Shell
Burlington, VT
2015-Present

- Vehicle Repair and Maintenance

Auto Mechanic
Ethan Allen Citgo
Burlington, Vt
2006-2008

- Vehicle Repair and Maintenance

Auto Mechanic
Maintenance Plus, Phil Maxon
Williamstown, Vt
1993-2006

ATTACHMENT 8

Linnie Aubin

5225 Main Road
Huntington, Vermont
05462
802-434-4737 H
802-233-9045 C

Direction

To utilize my skills and knowledge to their fullest in a creative, conscientious atmosphere.

Interests

Music, Gardening, birds, & flowers

Personal

Born November 10, 1963. Married, and have a teenage daughter.

Education

Attended Drawing/design course of study at North Country Community College while attending high school at Willsboro Central School.

Awarded Bachelor of Fine Arts degree May 1985, Rochester Institute of Technology, Rochester, New York. Skilled in the following areas: Graphic Design, Painting, Typography, Color Theory, Print Production and photography.

Home Study Activity Director Course, recognized by NAAP and NCCAP. Rowlett & Laker, Inc. Fort Wayne Indiana.

On-going continuing Education units received- Vermont Health Care Association.

Honors

New York State Capital High School Art show, representing the Lake Placid Olympics, 1980, Albany, New York

Mezzanine Gallery Exhibit, 1984, Rochester Institute of Technology, Rochester, New York.

Vice President of Art House, 1983-1984, Rochester Institute of Technology, Rochester, New York.

Student Honors Show of Fine and Applied Arts, 1982. Bevier Gallery, Rochester Institute of Technology, Rochester, New York.

Recipient of the VHCA "Activity Director of the Year" 1998.

Employment

4/1994-

Enrichment/ Activities Director, Birchwood Terrace Healthcare, Burlington, Vermont.

Enrichment/ Activity Advisory Board; Kindred Healthcare 2 year term.

4/1993-3/1994

Only Once Graphics, Burlington, Vermont. Art Director for National Screen Printing Operation, specializing in Museum prints.

7/1992

Sales Representative and Customer Service Representative for a major Screen Printing Operation. Inprints/Versatile Graphics. Ethan Allen Drive, South Burlington, Vermont.

Free Lance Graphic Design, Sign, and Banner painting

7/1987

Art Director for a major screen printing operation. Inprints/Versatile Graphics/Northern Sun, Ethan Allen Drive, South Burlington, Vermont.
Freelance Design, hand painted fabric design.

10/1985-7/1987

Professional screen printer for a major Screen Printing Operation. Inprints/ Paul Kazza Associates. 1 Mill Street, Chace Mill East, Burlington, Vermont.
Freelance graphic design, hand painted fabric design.

6/1985-8/1985

Arts/Craft Instructor and Youth Director, Town of Essex Youth Commission, Essex, New York.

6/1984-8/1984, 5/1983-7/1983, 6/1982-8/1982

Activities Aide/Painting instructor, Horace Nye Nursing Home, Elizabethtown, New York.



Rochester Institute of Technology

Office of the Registrar

One Lomb Memorial Drive
P. O. Box 9887
Rochester, New York 14623
Registration: 716-475-2821
Records: 716-475-2825

Dear Graduate:

This letter is to extend our congratulations to you on your graduation from Rochester Institute of Technology.

One symbol of your accomplishment is your diploma, and another important document is your official transcript. We have enclosed a complimentary copy of your transcript along with your diploma. Please carefully review this document, as it is the official certified record of your academic achievement. In the event that an error is found, report it to the Registrar's Office at your earliest convenience. You may request additional transcripts for a nominal fee.

We applaud your effort in completing all degree requirements, and wish you continued success in your future endeavors.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daniel P. Vilenski".

Daniel P. Vilenski
Registrar

Rochester Institute of Technology

by authority of the Board of Trustees and on the recommendation
of the faculty hereby confers upon

Linnie Lee Sharrow

the degree of

Associate in Applied Science

upon satisfactory completion of the course of study in the

School of Art and Design

College of Fine and Applied Arts

In evidence whereof this diploma is awarded and attested by the
seal of the Institute and the signatures authorized by the Trustees.



President


Chairman of the Board of Trustees

Rochester, New York, May 19, 1984



ATTACHMENT 9

JANICE KAY HALL

161 Austin Dr. #38
Burlington, VT

E-mail: jkhal915@yahoo.com
Telephone: (802)863-8469 Cell: (802)999-4924

EDUCATION

UNIVERSITY OF CONNECTICUT SCHOOL OF SOCIAL WORK, Storrs, Connecticut

- Masters of Social Work, August 1998
- Primary concentration in group work; Secondary concentration in case work
- Substantive area of studies in aging

RUSSELL SAGE COLLEGE, Troy, New York

- Bachelor of Arts, May 1969
- Primary concentration in biology and liberal arts.
- Who's Who in American Colleges and Universities, 1969

RELEVANT WORK EXPERIENCE

BIRCHWOOD TERRACE HEALTHCARE, Burlington, Vermont

Director of Social Services January 2003 – Present

- Managed two full time social workers and part time staff as needed
- Provided admissions/discharge planning for residents
- Assessed/documented/wrote plan of care as part of interdisciplinary team
- Supported residents and family regarding changes in lifestyle and health
- Provided psychosocial, behavioral and mood assessment of residents
- Offered support to residents and families at end of life
- Planned and provided in-services to staff regarding resident's rights
- Provided support to staff as needed
- Member of facility management staff for performance improvement
- Created psychosocial group for long term residents
- Planned and facilitated Alzheimer's caregiver group

HOSPICE INC. Serving Davis and Wapello Counties, Ottumwa, Iowa

Bereavement Services Coordinator, July, 1999 – June, 2002

- Created a bereavement program serving Hospice families and residents of Wapello and Davis Counties
- Provided individual grief counseling to Hospice families and county residents
- Created and facilitated grief support groups quarterly for bereaved in community
- Created and facilitated grief and loss groups in middle school
- Planned and facilitated social support groups
- Planned community workshop on grief in the workplace
- Directed volunteers to help where appropriate to serve bereavement program
- Created memorial services for Hospice families and deceased in the county
- Spoke at many community events to educate on Hospice and grief process
- Provided education for Hospice Volunteers on bereavement
- Participated in Hospice weekly planning team to plan and establish management goals and implementation of suggestions
- Directed Hospice Bereavement Committee
- Member of Hospice Education and Quality Assurance Committees

*MANSFIELD WELLNESS CENTER, Mansfield, Connecticut
Staff Intern, January 1998- July 1998*

- Created and facilitated educational and support groups for elderly at the Senior Center, Wellness Center and local assisted living facility
- Groups included:
 - Low vision group
 - Urinary health group
 - Alternative health informational series
 - Reiki group
 - Reminiscence group
 - "Aging Outrageously" a Women's Support group
 - Pain relief group
 - Caregiver's support group
- Provided support and case management for seniors referred to the Wellness Center
- Provided individual counseling for elderly regarding municipal social services
- Attended and completed Connecticut Department of Social Services training as Municipal Agent for the Elderly.

*RIVEREAST DAY HOSPITAL & TREATMENT CENTER, Vernon, Connecticut
Staff Intern, September 1996 – June 1999*

- Facilitation and co-facilitation of adult outpatient intensive group therapy for the chronically mentally ill
- Facilitation and co-facilitation of intensive adult outpatient substance abuse and dual-diagnosis groups
- Provided individual psychotherapy for adult outpatient clients
- Participated in bi-weekly patient treatment planning meetings
- Maintained a client case load, advocating for clients and provided community referrals for other services

*MANSFIELD CENTER FOR NURSING AND REHABILITATION, Mansfield, Connecticut
Volunteer in Social Services doing intake assessment 1995*

OTHER EMPLOYMENT EXPERIENCE

*Attorney David C. Ruppe: Secretary, part time 1991-1995.
Town of Coventry, Connecticut: Registrar of Voters 1987-1996.*

MEMBERSHIPS AND CERTIFICATIONS

- Vermont Coalition on Aging
- Vermont Association of Social Workers
- Licensed Master of Social Work, State of Iowa
- Studies in Aging Certification, University of Connecticut, August 1998
- Municipal Agent for the Elderly, Dept. of Social Services, CT 1998
- National Association of Social Workers
- Iowa Association of Social Workers. Member
- La Leche League: Leader including District Advisor 1976 – 1995
- Girl Scouts of America: Leader 1982-1992
- Coventry Board of Health: 1973 – 1978

University of Connecticut

We it know that

Janice Kay Noren Hall

having satisfied the requirements for the Degree of

Master of Social Work


in

The Graduate School

has been admitted to that degree with all the
related honors, privileges, and obligations.

In recognition we present the seal of the University and the signatures
as authorized by the Board of Trustees.

Given at Storrs, in the State of Connecticut,
on the Thirty-First day of August, Nineteen
Hundred Ninety-Eight.


Robert V. Smith

Dean, Graduate School

Quinn Austin

President of the University

John G. Rowland

President of the Board of Trustees

STATE OF CONNECTICUT
 Board of Governors for Higher Education
UNIVERSITY OF CONNECTICUT
SCHOOL OF SOCIAL WORK
 1800 ASYLUM AVENUE
 WEST HARTFORD, CT 06117-2698



Carolyn Butler
 Campus Registrar

PAGE 01 OF 01

DATE PRINTED: 09-02-98

STUDENT NAME HALL, JANICEKAY NOREN

STUDENT NUMBER: 048-40-2776

CURRENT MAJOR SOCIAL WORK

This official transcript is printed on SCRIF-SAFE security paper with the name of the university printed in white across the face of the document. When photocopied the word COPY should appear. A raised seal is not required. A BLACK AND WHITE OR A COLOR COPY SHOULD NOT BE ACCEPTED!

AN OFFICIAL SIGNATURE IS WHITE WITH A BLUE BACKGROUND

ISSUED TO STUDENT

SUM2 1992 SOCIAL WORK CRD EXT DSEL 312 FAMILY THERAPY I ZELISKO R	2	A	SPRG 1997 SCHOOL OF SOCIAL WORK CSWK 312 CASEWORK II HELLER N	2	A-
FALL 1992 SOCIAL WORK CRD EXT BASC 361 HBSE:INDIV,FAM,GR BLOOM M	2	B	GRWK 332 GROUPWORK II ALISSI A	2	A
SPRG 1993 SOCIAL WORK CRD EXT BASC 340 SOCIAL & ETHICAL SCOTT D	2	A-	GRWK 352 FIELD ED GRWK II KUTNER S	5	A #
FALL 1993 SOCIAL WORK CRD EXT HBEL 352 DEATH AND DYING LYNCH	2	A	HBEL 340 GROUP PROCESSES KUTNER S	2	A+
SPRG 1994 SOCIAL WORK CRD EXT BASC 300 HUMAN OPPRESSION MORALES J	2	A	FALL 1997 SCHOOL OF SOCIAL WORK CSWK 382 CLINICAL ADULT DE CONKLIN J	2	A
FALL 1994 SOCIAL WORK CRD EXT BASC 360 HBSE:GROUP,ORG,CO MARTIN M	2	A-	HBEL 357 SOC GERONTOLOGY RICHARD C	2	A+
SPRG 1995 SOCIAL WORK CRD EXT BASC 330 SW RESEARCH METHO KLEIN W	2	A-	SPRG 1998 SCHOOL OF SOCIAL WORK GRWK 344 GROUP WORK IV WAYNE/COMER	2	A
FALL 1995 SOCIAL WORK CRD EXT BASC 350 ANLY SOC WELFARE NEWMAN J	2	A	SWEL 359 SEM LG TERM CARE DICKSTEIN H	2	A
SPRG 1996 SOCIAL WORK CRD EXT BASC 331 SW RESEARCH METHO HESSELBROCK M	2	A	SEM N 300 SEM AGING KLEIN W	2	A #
FALL 1996 SCHOOL OF SOCIAL WORK BASC 370 INTRO SW PRACTICE NOL J	2	S	SUM4 1998 SCHOOL OF SOCIAL WORK GRWK 333 GROUP WORK III ALISSI A	2	A
CSWK 311 CASEWORK I HELLER N	2	A	GRWK 355 FIELD GRWK BLOCK ALISSI A	10	A
GRWK 331 GROUP WORK I ALISSI A	2	A			
GRWK 351 FIELD ED GRWK I KUTNER S	5	A #			

DEGREE: MASTER OF SOCIAL WORK

FIELD: SOCIAL WORK

CONFERRED: AUGUST 31, 1998

*****END OF TRANSCRIPT*****

ATTACHMENT 10

Allen Beier
16 East Randall Street
Baltimore, MD 21230
609-972-6313

Professional Summary

Registered Dietitian

- Highly skilled career professional with more than 7 years practical experience in Acute Care, Long-Term Care, and Out-Patient Counseling.
- Utilization of various data entry systems, such as Meditech, Electronic Clinical Works, C-Board, Siemen Soarian, and Point Click Care.
- Understand of various diet modifications, as well as alternate feeding methods, such as, enteral feeding and parental nutrition.
- Able to educate on various diet methodologies.

Credentials

Commission on Dietetic Registration (#1004395)

NPI (#1083914030)

Maryland Dietitian License (#DX4018)

Education

Slippery Rock University 08/2002 to 06/2004
Slippery Rock, PA

Drexel University 08/2004 to 06/2007
Bachelors in Dietetics
Philadelphia, PA

Inspira Healthcare Dietetic Internship 08/2008 to 06/2009
Vineland, NJ

Experience

Mercy Medical Center (Metz Culinary Management) 05/2016 to Present
240 Bed Acute Care Hospital
Baltimore, MD

- Initial and follow up assessments documented through electronic medical record (meditech)
- Working collaboratively with a multi-disciplinary health team, including physicians, nurses, and other dietitians.
- Management of TPN: Macronutrient calculations and adjustment of electrolytes
- Consulted for enteral nutrition recommendations
- Educating patients and families on various diets and food/medication interactions

Burlington Health and Rehab
120 Bed Sub-Acute/Long Term Care
Burlington, VT

04/2015 to 05/2016

- Initial and follow up assessments documented through Point Click Care.
- Input of MDS data into Point Click Care.
- Development and implementation of care plans.
- Documentation on weight changes, wounds, and dialysis.
- Attending interdisciplinary care-plan meetings in conjunction with family and/or residents to identify concerns and resolutions.

Atlanticare Medical Center
Atlanticare Center for Surgical Weight Loss and Wellness
Egg Harbor Township, NJ

02/2012 to 03/2015

- Perform pre-surgical nutritional evaluations of bariatric surgical candidates.
- Worked with a broad treatment team consisting of surgeons, a therapist, medical assistants, and insurance coordinator.
- Identify pre-surgical patients maladaptive behaviors to formulate a plan for improvement.
- Counseled non-bariatric patients on non-surgical weight loss.
- Documented progress within E-Clinical Works (Electronic Medical Record).

Innova Nursing and Rehab
130 Bed Sub-Acute/Long Term Care Facility
Hammonon, NJ

08/2011 to 02/2012

- Initial and follow up assessments documented with facility forms and documented in resident/patients chart.
- Development and implementation of care plans.
- Interviewed residents/patients for food preferences and intake
- Documenting on weight changes, wounds, tube feeding, and dialysis.

Inspira Healthcare
Vineland, NJ

10/2009 to 08/2011

- Assessing patients nutritional needs, diet restrictions, etc.
- Development and implementation of dietary care plans
- Provided nutritional counseling.
- Developed measurable short and long-term nutritional goals and evaluated to desired outcomes.
- Ensured the accurate calculation of nutritional needs based upon individual therapeutic need.

Cape Regional Medical Center
Cardio-Pulmonary Rehab
Cape May Court House, NJ

06/2009 to 08/2011

- Assessing nutritional needs for patients with cardiac or respiratory disease.
- Providing education centered on cardiac or respiratory disease.
- Participated in the Congestive Heart Failure action committee.



Commission on Dietetic Registration

the credentialing agency for the
Academy of Nutrition and Dietetics



CDR certifies that
Allen G Beier

has successfully completed
requirements for dietetic registration.

Signature
Registration I.D. Number: 1004395

Registered Dietitian Nutritionist™ (RDN™)
Registered Dietitian™ (RD™)

Registration Payment Period:
09/01/2016 - 08/31/2017

PhD, RD, LD
Chair, Commission on Dietetic Registration

The Vermont Secretary of State, Office of Professional Regulation considers the information contained on this website to be a secure, primary source for license verification. The Office certifies this information is current as of the date and time noted below.



For conduct decisions concluded after the year 2000, a scanned copy of the disciplinary action may be viewed online by clicking here (<http://www.sec.state.vt.us/professional-regulation/professional-conduct.aspx>). If you require further information, please contact the docket clerk (<mailto:liz.amaral@sec.state.vt.us>). If no discipline is listed below, we have no disciplinary records on file.

Cases indicating "Charges Filed" or "Pending Hearing" are allegations only and must be proved at a hearing held by the licensing authority to be considered unprofessional conduct.

Lookup Detail View

Name and Address

Name	City/Town	State	Zip Code	Country
Allen Beier	Burlington	VT	05401	United States

Licensee Information

License	License Type	Original Issue Date	Current Effective Date	Expiration Date	Status
074.0111548	Dietitian	05/08/2015	04/10/2017	05/31/2018	ACTIVE

Generated on: 7/31/2017 3:41:38 PM

ATTACHMENT 11

NOTE: When completing this table make entries in the shaded fields only.

**Birchwood Operations, LLC and
Birchwood Prop, LLC
TABLE 1
PROJECT COSTS**

Construction Costs		
1. New Construction	\$	-
2. Renovation		-
3. Site Work		-
4. Fixed Equipment		-
5. Design/Bidding Contingency		-
6. Construction Contingency		-
7. Construction Manager Fee		-
8. Other (please specify)		-
Subtotal	\$	-
Related Project Costs		
1. Major Moveable Equipment	\$	-
2. Furnishings, Fixtures & Other Equip.		300,000
3. Architectural/Engineering Fees		-
4. Land Acquisition		-
5. Purchase of Buildings		3,038,785
6. Administrative Expenses & Permits		75,000
7. Debt Financing Expenses (see below)		113,421
8. Debt Service Reserve Fund		-
9. Working Capital		-
10. Other (please specify)		-
Subtotal	\$	3,527,206
Total Project Costs	\$	3,527,206

Debt Financing Expenses		
1. Capital Interest	\$	-
2. Bond Discount or Placement Fee		-
3. Misc. Financing Fees & Exp. (issuance costs)		113,421
4. Other		-
Subtotal	\$	113,421
Less Interest Earnings on Funds		
1. Debt Service Reserve Funds	\$	-
2. Capitalized Interest Account		-
3. Construction Fund		-
4. Other		-
Subtotal	\$	-
Total Debt Financing Expenses	\$	113,421
<small>feeds to line 7 above</small>		

NOTE: When completing this table make entries in the shaded fields only.

**Birchwood Operations, LLC and
Birchwood Prop, LLC**

**TABLE 2
DEBT FINANCING ARRANGEMENT, SOURCES & USES OF FUNDS**

Sources of Funds			
1. Financing Instrument			
a. Interest Rate	4.8%		
b. Loan Period	Jan 2018	To: Dec 2023	
c. Amount Financed			\$ 2,671,028
2. Equity Contribution			856,178
3. Other Sources			
a. Working Capital			-
b. Fundraising			-
c. Grants			-
d. Other			-
Total Required Funds			\$ 3,527,206

Uses of Funds			
<u>Project Costs (feeds from Table 1)</u>			
1. New Construction			\$ -
2. Renovation			-
3. Site Work			-
4. Fixed Equipment			-
5. Design/Bidding Contingency			-
6. Construction Contingency			-
7. Construction Manager Fee			-
8. Major Moveable Equipment			-
9. Furnishings, Fixtures & Other Equip.			300,000
10. Architectural/Engineering Fees			-
11. Land Acquisition			-
12. Purchase of Buildings			3,038,785
13. Administrative Expenses & Permits			75,000
14. Debt Financing Expenses			113,421
15. Debt Service Reserve Fund			-
16. Working Capital			-
17. Other (please specify)			-
Total Uses of Funds			\$ 3,527,206

Total sources should equal total uses of funds.

NOTE: When completing this table make entries in the shaded fields only

**Birchwood Operations, LLC and
Birchwood Prop, LLC**
TABLE 6A
REVENUE SOURCE PROJECTIONS
WITHOUT PROJECT

	Latest Actual 2016	% of Total	Budget 2017	% of Total	Proposed Year 1 2018	% of Total	Proposed Year 2 2019	% of Total	Proposed Year 3 2020	% of Total
Gross Inpatient Revenue										
Medicare	\$ 3,222,856	16.7%	\$ 3,287,313	16.7%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Medicaid	13,662,464	70.9%	13,935,713	70.9%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Commercial	1,316,657	6.8%	1,342,990	6.8%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Self Pay	1,141,650	5.9%	1,164,493	5.9%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Free Care / Bad Debt	(64,825)	-0.3%	(66,122)	-0.3%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Other	-	0.0%	-	0.0%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
	\$ 19,278,802	100.0%	\$ 19,664,378	100.0%	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Gross Outpatient Revenue										
Medicare	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Medicaid	-	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Commercial	-	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Self Pay	-	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Free Care / Bad Debt	-	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Other	-	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Gross Other Revenue										
Medicare	\$ 328,442	79.2%	\$ 335,011	79.2%	#DIV/0!	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Medicaid	-	0.0%	-	0.0%	#DIV/0!	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Commercial	80,095	19.3%	81,697	19.3%	#DIV/0!	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Self Pay	5,904	1.4%	6,022	1.4%	#DIV/0!	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Free Care / Bad Debt	-	0.0%	-	0.0%	#DIV/0!	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Other	-	0.0%	-	0.0%	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
	\$ 414,441	100.0%	\$ 422,730	100.0%	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Gross Patient Revenue										
Medicare	\$ 3,551,298	18.0%	\$ 3,622,324	18.0%	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Medicaid	13,662,464	69.4%	13,935,713	69.4%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Commercial	1,396,752	7.1%	1,424,687	7.1%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Self Pay	1,147,554	5.8%	1,170,505	5.8%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Free Care / Bad Debt	(64,825)	-0.3%	(66,122)	-0.3%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Other	-	0.0%	-	0.0%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
	\$ 19,693,243	100.0%	\$ 20,087,108	100.0%	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Deductions from Revenue										
Medicare	\$ (540,395)	-7.0%	\$ (551,203)	-7.9%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Medicaid	6,858,088	100.0%	6,995,250	100.0%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Commercial	487,951	7.1%	497,710	7.1%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Self Pay	30,662	0.4%	31,275	0.4%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Free Care / Bad Debt	-	0.0%	-	0.0%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Other	-	0.0%	-	0.0%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
	\$ 6,836,306	100.0%	\$ 6,973,032	100.0%	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Net Patient Revenue										
Medicare	\$ 4,091,693	31.6%	\$ 4,173,527	31.6%	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Medicaid	6,804,376	52.9%	6,940,464	52.9%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Commercial	908,801	7.1%	926,977	7.1%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Self Pay	1,116,892	9.7%	1,139,230	9.7%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Free Care / Bad Debt	(64,825)	-0.5%	(66,122)	-0.5%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Other	-	0.0%	-	0.0%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
DSP*	-	0.0%	-	0.0%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
	\$ 12,856,937	100.0%	\$ 13,114,076	100.0%	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!

Latest actual numbers should tie to the hospital budget process:

* Disproportionate share payments

NOTE When completing this table make entries in the shaded fields only.

**Birchwood Operations, LLC and
Birchwood Prop, LLC**
TABLE 6B
REVENUE SOURCE PROJECTIONS
PROJECT ONLY

	Latest Actual 2016	% of Total	Budget 2017	% of Total	Proposed Year 1 2018	% of Total	Proposed Year 2 2019	% of Total	Proposed Year 3 2020	% of Total
Gross Inpatient Revenue										
Medicare	N/A		\$ -	#DIV/0!	\$ 2,556,824	14.0%	\$ 2,591,084	14.2%	\$ 2,625,344	14.0%
Medicaid	N/A		\$ -	#DIV/0!	\$ 13,344,963	74.3%	\$ 13,523,778	74.3%	\$ 13,702,593	74.3%
Commercial	N/A		\$ -	#DIV/0!	\$ 1,204,155	6.7%	\$ 1,220,290	6.7%	\$ 1,236,425	6.7%
Self Pay	N/A		\$ -	#DIV/0!	\$ 993,698	5.5%	\$ 1,007,013	5.5%	\$ 1,020,328	5.5%
Free Care / Bad Debt	N/A		\$ -	#DIV/0!	\$ (140,774)	-0.8%	\$ (143,524)	-0.8%	\$ (146,326)	-0.8%
Other	N/A		\$ -	#DIV/0!	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
	N/A		\$ -	#DIV/0!	\$ 17,958,867	100.0%	\$ 18,198,642	100.0%	\$ 18,438,365	100.0%
Gross Outpatient Revenue										
Medicare	N/A		\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Medicaid	N/A		\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Commercial	N/A		\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Self Pay	N/A		\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Free Care / Bad Debt	N/A		\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Other	N/A		\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
	N/A		\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Gross Other Revenue										
Medicare	N/A		\$ -	#DIV/0!	\$ 341,711	79.2%	\$ 348,545	79.0%	\$ 355,516	79.2%
Medicaid	N/A		\$ -	#DIV/0!	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
Commercial	N/A		\$ -	#DIV/0!	\$ 83,331	19.3%	\$ 84,997	19.3%	\$ 86,697	19.3%
Self Pay	N/A		\$ -	#DIV/0!	\$ 6,143	1.4%	\$ 6,265	1.4%	\$ 6,391	1.4%
Free Care / Bad Debt	N/A		\$ -	#DIV/0!	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
Other	N/A		\$ -	#DIV/0!	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
	N/A		\$ -	#DIV/0!	\$ 431,184	100.0%	\$ 439,808	100.0%	\$ 448,604	100.0%
Gross Patient Revenue										
Medicare	N/A		\$ -	#DIV/0!	\$ 2,898,535	15.8%	\$ 2,939,629	15.9%	\$ 2,980,860	15.8%
Medicaid	N/A		\$ -	#DIV/0!	\$ 13,344,963	72.6%	\$ 13,523,778	72.6%	\$ 13,702,593	72.6%
Commercial	N/A		\$ -	#DIV/0!	\$ 1,267,489	7.0%	\$ 1,305,288	7.0%	\$ 1,323,122	7.0%
Self Pay	N/A		\$ -	#DIV/0!	\$ 999,841	5.4%	\$ 1,013,279	5.4%	\$ 1,026,719	5.4%
Free Care / Bad Debt	N/A		\$ -	#DIV/0!	\$ (140,774)	-0.8%	\$ (143,524)	-0.8%	\$ (146,326)	-0.8%
Other	N/A		\$ -	#DIV/0!	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
	N/A		\$ -	#DIV/0!	\$ 18,390,051	100.0%	\$ 18,638,450	100.0%	\$ 18,886,969	100.0%
Deductions from Revenue										
Medicare	N/A		\$ -	#DIV/0!	\$ (1,111,257)	-25.0%	\$ (1,150,359)	-26.0%	\$ (1,190,928)	-27.1%
Medicaid	N/A		\$ -	#DIV/0!	\$ 5,307,858	119.2%	\$ 5,325,931	120.2%	\$ 5,340,789	121.4%
Commercial	N/A		\$ -	#DIV/0!	\$ 256,830	5.9%	\$ 254,018	5.7%	\$ 250,828	5.7%
Self Pay	N/A		\$ -	#DIV/0!	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
Free Care / Bad Debt	N/A		\$ -	#DIV/0!	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
Other	N/A		\$ -	#DIV/0!	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
	N/A		\$ -	#DIV/0!	\$ 4,453,431	100.0%	\$ 4,429,590	100.0%	\$ 4,400,689	100.0%
Net Patient Revenue										
Medicare	N/A		\$ -	#DIV/0!	\$ 4,009,792	28.8%	\$ 4,089,988	28.8%	\$ 4,171,788	28.8%
Medicaid	N/A		\$ -	#DIV/0!	\$ 8,037,105	57.7%	\$ 8,197,847	57.7%	\$ 8,361,804	57.7%
Commercial	N/A		\$ -	#DIV/0!	\$ 1,030,656	7.4%	\$ 1,051,269	7.4%	\$ 1,072,294	7.4%
Self Pay	N/A		\$ -	#DIV/0!	\$ 999,841	7.2%	\$ 1,013,279	7.1%	\$ 1,026,719	7.1%
Free Care / Bad Debt	N/A		\$ -	#DIV/0!	\$ (140,774)	-1.0%	\$ (143,524)	-1.0%	\$ (146,326)	-1.0%
Other	N/A		\$ -	#DIV/0!	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
DSP*	N/A		N/A		N/A		N/A		N/A	
	N/A		\$ -	#DIV/0!	\$ 13,936,620	100.0%	\$ 14,208,860	100.0%	\$ 14,406,280	100.0%

Latest actual numbers should tie to the hospital budget process

* Disproportionate share payments

1/17/2018

Health Care Administration

(8C3F1A3F-DD4B-4625-B8A5-74F8AC587555).xls, Table 6B

NOTE: This table requires no 'fill-in' as it will automatically populate from Tables 6A & 6B.

**Birchwood Operations, LLC and
Birchwood Prop, LLC
TABLE 6C
REVENUE SOURCE PROJECTIONS
WITH PROJECT**

	Latest Actual 2016	% of Total	Budget 2017	% of Total	Proposed Year 1 2018	% of Total	Proposed Year 2 2019	% of Total	Proposed Year 3 2020	% of Total
Gross Inpatient Revenue										
Medicare	\$ 3,222,856	18.7%	\$ 3,287,313	16.7%	\$ 2,556,824	14.2%	\$ 2,591,084	14.2%	\$ 2,625,344	14.2%
Medicaid	13,662,464	70.9%	13,935,713	70.9%	13,344,963	74.3%	13,523,778	74.3%	13,702,593	74.3%
Commercial	1,316,857	6.8%	1,342,990	6.8%	1,204,155	6.7%	1,220,290	6.7%	1,238,425	6.7%
Self Pay	1,141,650	5.9%	1,164,483	5.9%	993,698	5.5%	1,007,013	5.5%	1,020,328	5.5%
Free Care / Bad Debt	(64,825)	-0.3%	(66,122)	-0.3%	(140,774)	-0.8%	(143,524)	-0.8%	(146,326)	-0.8%
Other	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
	\$ 19,278,802	100.0%	\$ 19,664,378	100.0%	\$ 17,958,867	100.0%	\$ 18,198,642	100.0%	\$ 18,438,365	100.0%
Gross Outpatient Revenue										
Medicare	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Medicaid	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!
Commercial	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!
Self Pay	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!
Free Care / Bad Debt	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!
Other	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!
	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!	\$ -	#DIV/0!
Gross Other Revenue										
Medicare	\$ 328,442	79.2%	\$ 335,011	79.2%	\$ 341,711	79.2%	\$ 348,545	79.2%	\$ 355,516	79.2%
Medicaid	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
Commercial	80,095	19.3%	81,697	19.3%	83,331	19.3%	84,997	19.3%	86,697	19.3%
Self Pay	5,904	1.4%	6,022	1.4%	6,143	1.4%	6,265	1.4%	6,391	1.4%
Free Care / Bad Debt	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
Other	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
	\$ 414,441	100.0%	\$ 422,730	100.0%	\$ 431,184	100.0%	\$ 439,808	100.0%	\$ 448,604	100.0%
Gross Patient Revenue										
Medicare	\$ 3,551,298	18.0%	\$ 3,622,324	18.0%	\$ 2,898,535	15.8%	\$ 2,939,629	15.8%	\$ 2,980,860	15.8%
Medicaid	13,662,464	69.4%	13,935,713	69.4%	13,344,963	72.6%	13,523,778	72.6%	13,702,593	72.6%
Commercial	1,398,752	7.1%	1,424,687	7.1%	1,287,486	7.0%	1,305,288	7.0%	1,323,122	7.0%
Self Pay	1,147,554	5.8%	1,170,505	5.8%	999,841	5.4%	1,013,279	5.4%	1,026,719	5.4%
Free Care / Bad Debt	(64,825)	-0.3%	(66,122)	-0.3%	(140,774)	-0.8%	(143,524)	-0.8%	(146,326)	-0.8%
Other	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
	\$ 19,693,243	100.0%	\$ 20,087,108	100.0%	\$ 18,380,051	100.0%	\$ 18,638,450	100.0%	\$ 18,886,969	100.0%
Deductions from Revenue										
Medicare	\$ (540,395)	-7.9%	\$ (551,203)	-7.9%	\$ (1,111,257)	-25.0%	\$ (1,150,359)	-26.0%	\$ (1,190,928)	-27.1%
Medicaid	6,858,088	100.3%	6,995,250	100.3%	5,307,858	119.2%	5,325,931	120.2%	5,340,789	121.4%
Commercial	487,951	7.1%	497,710	7.1%	256,830	5.8%	254,018	5.7%	250,828	5.7%
Self Pay	30,662	0.4%	31,275	0.4%	-	0.0%	-	0.0%	-	0.0%
Free Care / Bad Debt	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
Other	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
	\$ 6,836,306	100.0%	\$ 6,973,032	100.0%	\$ 4,453,431	100.0%	\$ 4,429,590	100.0%	\$ 4,400,689	100.0%
Net Patient Revenue										
Medicare	\$ 4,091,693	31.8%	\$ 4,173,527	31.8%	\$ 4,009,792	28.8%	\$ 4,089,988	28.8%	\$ 4,171,788	28.8%
Medicaid	6,804,376	52.9%	6,940,464	52.9%	8,037,105	57.7%	8,197,847	57.7%	8,361,804	57.7%
Commercial	908,801	7.1%	926,977	7.1%	1,030,656	7.4%	1,051,269	7.4%	1,072,294	7.4%
Self Pay	1,116,892	8.7%	1,139,230	8.7%	999,841	7.2%	1,013,279	7.1%	1,026,719	7.1%
Free Care / Bad Debt	(64,825)	-0.5%	(66,122)	-0.5%	(140,774)	-1.0%	(143,524)	-1.0%	(146,326)	-1.0%
Other	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
DSP*	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
	\$ 12,858,937	100.0%	\$ 13,114,076	100.0%	\$ 13,936,620	100.0%	\$ 14,208,860	100.0%	\$ 14,488,280	100.0%

Latest actual numbers should tie to the hospital budget process.

* Disproportionate share payments

NOTE: When completing this table make entries in the shaded fields only.

Birchwood Operations, LLC and
Birchwood Prop, LLC

TABLE 7
UTILIZATION PROJECTIONS
TOTALS

A: WITHOUT PROJECT		Latest Actual	Budget	Proposed	Proposed	Proposed
		2016	2017	Year 1	Year 2	Year 3
		2018	2019	2020		
Inpatient Utilization						
Staffed Beds		144	144			
Admissions		407	407			
Patient Days		48,452	48,452			
Average Length of Stay		117.18	117.18			
Outpatient Utilization						
All Outpatient Visits						
OR Procedures						
Observation Units						
Physician Office Visits						
Ancillary						
All OR Procedures						
Emergency Room Visits						
Adjusted Statistics						
Adjusted Admissions						
Adjusted Patient Days						

B: PROJECT ONLY		Latest Actual	Budget	Proposed	Proposed	Proposed
		2016	2017	Year 1	Year 2	Year 3
		2018	2019	2020		
Inpatient Utilization						
Staffed Beds		N/A		144	144	144
Admissions		N/A		407	407	407
Patient Days		N/A	-	48,505	48,505	48,505
Average Length of Stay		N/A	-	117.18	117.18	117.18
Outpatient Utilization						
All Outpatient Visits		N/A	-	-	-	-
OR Procedures		N/A	-	-	-	-
Observation Units		N/A	-	-	-	-
Physician Office Visits		N/A	-	-	-	-
Ancillary						
All OR Procedures		N/A	-	-	-	-
Emergency Room Visits		N/A	-	-	-	-
Adjusted Statistics						
Adjusted Admissions		N/A	-	-	-	-
Adjusted Patient Days		N/A	-	-	-	-

C: WITH PROJECT		Latest Actual	Budget	Proposed	Proposed	Proposed
		2016	2017	Year 1	Year 2	Year 3
		2018	2019	2020		
Inpatient Utilization						
Staffed Beds		144	144	144	144	144
Admissions		407	407	407	407	407
Patient Days		48,452	48,452	48,505	48,505	48,505
Average Length of Stay		117.18	117.18	117.18	117.18	117.18
Outpatient Utilization						
All Outpatient Visits		-	-	-	-	-
OR Procedures		-	-	-	-	-
Observation Units		-	-	-	-	-
Physician Office Visits		-	-	-	-	-
Ancillary						
All OR Procedures		-	-	-	-	-
Emergency Room Visits		-	-	-	-	-
Adjusted Statistics						
Adjusted Admissions		-	-	-	-	-
Adjusted Patient Days		-	-	-	-	-

1/17/2018

NOTE: When completing this table make entries in the shaded fields only.

**Birchwood Operations, LLC and
Birchwood Prop, LLC**
TABLE 9
STAFFING PROJECTIONS
TOTALS

A: WITHOUT PROJECT		Latest Actual	Budget	Proposed	Proposed	Proposed
	2016	2017	Year 1	Year 2	Year 3	
	2016	2017	2018	2019	2020	
Non-MD FTEs						
Total General Services	14.9	14.9				
Total Inpatient Routine Services	85.1	85.1				
Total Outpatient Routine Services	0.0	0.0				
Total Ancillary Services	10.4	10.4				
Total Other Services	34.8	34.8				
Total Non-MD FTEs	145.2	145.2	0.0	0.0	0.0	
Physician FTEs	0.3	0.3				
Direct Service Nurse FTEs	37.1	37.1				

B: PROJECT ONLY		Latest Actual	Budget	Proposed	Proposed	Proposed
	2016	2017	Year 1	Year 2	Year 3	
	2016	2017	2018	2019	2020	
Non-MD FTEs						
Total General Services	N/A	0.0	14.9	14.9	14.9	
Total Inpatient Routine Services	N/A	0.0	85.1	85.1	85.1	
Total Outpatient Routine Services	N/A	0.0	0.0	0.0	0.0	
Total Ancillary Services	N/A	0.0	10.4	10.4	10.4	
Total Other Services	N/A	0.0	34.8	34.8	34.8	
Total Non-MD FTEs	N/A	0.0	145.2	145.2	145.2	
Physician Services	N/A	0.0	0.3	0.3	0.3	
Direct Service Nurse FTEs	N/A	0.0	37.1	37.1	37.1	

C: WITH PROJECT		Latest Actual	Budget	Proposed	Proposed	Proposed
	2016	2017	Year 1	Year 2	Year 3	
	2016	2017	2018	2019	2020	
Non-MD FTEs						
Total General Services	#VALUE!	14.9	14.9	14.9	14.9	
Total Inpatient Routine Services	#VALUE!	85.1	85.1	85.1	85.1	
Total Outpatient Routine Services	#VALUE!	0.0	0.0	0.0	0.0	
Total Ancillary Services	#VALUE!	10.4	10.4	10.4	10.4	
Total Other Services	#VALUE!	34.8	34.8	34.8	34.8	
Total Non-MD FTEs	#VALUE!	145.2	145.2	145.2	145.2	
Physician Services	#VALUE!	0.3	0.3	0.3	0.3	
Direct Service Nurse FTEs	#VALUE!	37.1	37.1	37.1	37.1	

ATTACHMENT 12

Division of Licensing and Protection

HC 2 South, 280 State Drive

Waterbury VT 05671-2060

<http://www.dail.vermont.gov>

Survey and Certification Voice/TTY (802) 241-0480

Survey and Certification Fax (802) 241-0343

Survey and Certification Reporting Line (888) 700-5330

To Report Adult Abuse: (800) 564-1612

April 27, 2017

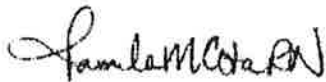
Ms. Alecia Dimario, Administrator
Kindred Transitional Care & Rehab Birchwood Terrace
43 Starr Farm Rd
Burlington, VT 05408-1321

Provider ID #: 475003

Dear Ms. Dimario:

The Division of Licensing and Protection completed a survey at your facility on **April 19, 2017**. The purpose of the survey was to determine if your facility was in compliance with Federal participation requirements for nursing homes participating in the Medicare/Medicaid programs. This survey found that your facility was in substantial compliance with the participation requirements. Congratulations to you and your staff.

Sincerely,



Pamela M. Cota, RN
Licensing Chief

Enclosure



DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 04/27/2017
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 475003	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED 04/19/2017
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NAME OF PROVIDER OR SUPPLIER KINDRED TRANSITIONAL CARE & REHAB BIRCHWOOD TER	STREET ADDRESS, CITY, STATE, ZIP CODE 43 STARR FARM RD BURLINGTON, VT 05408
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
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F 000	INITIAL COMMENTS	F 000		
	<p>The Division of Licensing and Protection conducted an annual recertification survey 4/17/17 - 4/19/17. There were no regulatory violations as a result.</p>			

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
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Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

Division of Licensing and Protection

HC 2 South, 280 State Drive

Waterbury, VT 05671-2060

<http://www.dail.vermont.gov>

Survey and Certification Voice/TTY (802) 241-0480

Survey and Certification Fax (802) 241-0343

Survey and Certification Reporting Line: (888) 700-5330

To Report Adult Abuse: (800) 564-1612

May 11, 2017

Alecia Dimario, Administrator
Kindred Transitional Care & Rehab Birchwood Ter
43 Starr Farm Rd
Burlington, VT 05408-1321

Provider #: 475003

Dear Ms. Dimario:

The Division of Licensing and Protection conducted an onsite complaint investigation on **May 10, 2017**. The purpose of the investigation was to determine if your facility was in compliance with Federal participation requirements of the Medicare/Medicaid Program. The investigation was completed on **May 10, 2017** and there were no regulatory violations related to the complaint allegations.

Sincerely,



Pamela M. Cota, RN
Licensing Chief

Enclosure



DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 05/11/2017
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 475003	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 05/10/2017
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NAME OF PROVIDER OR SUPPLIER KINDRED TRANSITIONAL CARE & REHAB BIRCHWOOD TER	STREET ADDRESS, CITY, STATE, ZIP CODE 43 STARR FARM RD BURLINGTON, VT 05408
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
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F 000	<p>INITIAL COMMENTS</p> <p>An unannounced onsite investigation of one entity self-report and one complaint was completed by the Division of Licensing and Protection on 5/10/17. No regulatory violations were identified related to the allegations in either the self report or the complaint.</p>	F 000		
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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

Division of Licensing and Protection

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Survey and Certification Fax (802) 241-0343

Survey and Certification Reporting Line: (888) 700-5330

To Report Adult Abuse: (800) 564-1612

May 30, 2017

Alecia Dimario, Administrator
Kindred Transitional Care & Rehab Birchwood Terrace
43 Starr Farm Rd
Burlington, VT 05408-1321

Provider #: 475003

Dear Ms. Dimario:

The Division of Licensing and Protection conducted an onsite complaint investigation on **May 23, 2017**. The purpose of the investigation was to determine if your facility was in compliance with Federal participation requirements of the Medicare/Medicaid Program. The investigation was completed on **May 23, 2017** and there were no regulatory violations related to the complaint allegations.

Sincerely,



Pamela M. Cota, RN
Licensing Chief

Enclosure



DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 05/30/2017
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 475003	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 05/23/2017
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NAME OF PROVIDER OR SUPPLIER KINDRED TRANSITIONAL CARE & REHAB BIRCHWOOD TER	STREET ADDRESS, CITY, STATE, ZIP CODE 43 STARR FARM RD BURLINGTON, VT 05408
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
F 000	INITIAL COMMENTS An unannounced, on-site complaint investigation was conducted by the Division of Licensing and Protection on 5/23/2017. There were no regulatory violations identified at this time.	F 000		

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

Division of Licensing and Protection

HC 2 South, 280 State Drive

Waterbury VT 05671-2060

<http://www.dail.vermont.gov>

Survey and Certification Voice/TTY (802) 241-0480

Survey and Certification Fax (802) 241-0343

Survey and Certification Reporting Line (888) 700-5330

To Report Adult Abuse: (800) 564-1612

June 7, 2017

Ms. Alecia Dimario, Administrator
Kindred Transitional Care & Rehab Birchwood Ter
43 Starr Farm Rd
Burlington, VT 05408-1321

Provider ID #: 475003

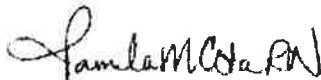
Dear Ms. Dimario:

The Department of Public Safety completed a Life Safety Code Survey at your facility on **June 2, 2017**. This survey found your facility to be in Substantial Compliance with all Fire Safety and ANSI standards.

Enclosed is the Deficiency Summary Sheet, Form CMS-2567, which requires your signature in accordance with instructions noted on the form. Please return the form to this office no later than **June 17, 2017**.

If you have any questions regarding this report, please do not hesitate to contact me.

Sincerely,



Pamela M. Cota, RN
Licensing Chief

Enclosure



DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 06/07/2017
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 475003	(X2) MULTIPLE CONSTRUCTION A. BUILDING 01 - MAIN BUILDING 01 B. WING _____		(X3) DATE SURVEY COMPLETED 06/02/2017
NAME OF PROVIDER OR SUPPLIER KINDRED TRANSITIONAL CARE & REHAB BIRCHWOOD TER			STREET ADDRESS, CITY, STATE, ZIP CODE 43 STARR FARM RD BURLINGTON, VT 05408		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE	
K 000	INITIAL COMMENTS			K 000	
	An unannounced onsite Life Safety Code inspection was completed by the Division of Fire Safety on 6/2/17. The facility was found to be in substantial compliance with applicable Life Safety Code requirements.				
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE			TITLE		(X6) DATE

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

Division of Licensing and Protection

HC 2 South, 280 State Drive

Waterbury, VT 05671-2060

<http://www.dail.vermont.gov>

Survey and Certification Voice/TTY (802) 241-0480

Survey and Certification Fax (802) 241-0343

Survey and Certification Reporting Line: (888) 700-5330

To Report Adult Abuse: (800) 564-1612

September 13, 2017

Alecia Dimario, Administrator
Kindred Transitional Care & Rehab Birchwood Terrace
43 Starr Farm Rd
Burlington, VT 05408-1321

Provider #: 475003

Dear Ms. Dimario:

The Division of Licensing and Protection conducted an onsite complaint investigation on **September 11, 2017**. The purpose of the investigation was to determine if your facility was in compliance with Federal participation requirements of the Medicare/Medicaid Program. The investigation was completed on **September 11, 2017** and there were no regulatory violations related to the complaint allegations.

Sincerely,



Pamela M. Cota, RN
Licensing Chief

Enclosure



DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 09/13/2017
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 475003	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 09/11/2017
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NAME OF PROVIDER OR SUPPLIER KINDRED TRANSITIONAL CARE & REHAB BIRCHWOOD TER	STREET ADDRESS, CITY, STATE, ZIP CODE 43 STARR FARM RD BURLINGTON, VT 05408
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
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F 000	INITIAL COMMENTS	F 000		
	<p>An unannounced on-site complaint investigation was conducted by the Division of Licensing and Protection on 9/11/17. There were no regulatory findings as a result of the review.</p>			

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

DEPARTMENT OF DISABILITIES, AGING AND INDEPENDENT LIVING

Division of Licensing and Protection

HC 2 South, 280 State Drive

Waterbury, VT 05671-2060

<http://www.dail.vermont.gov>

Survey and Certification Voice/TTY (802) 241-0480

Survey and Certification Fax (802) 241-0343

Survey and Certification Reporting Line: (888) 700-5330

To Report Adult Abuse: (800) 564-1612

November 13, 2017

Alecia Dimario, Administrator
Kindred Transitional Care & Rehab Birchwood Terrace
43 Starr Farm Rd
Burlington, VT 05408-1321

Provider #: 475003

Dear Ms. Dimario:

The Division of Licensing and Protection conducted an onsite complaint investigation on **October 31, 2017**. The purpose of the investigation was to determine if your facility was in compliance with Federal participation requirements of the Medicare/Medicaid Program. The investigation was completed on **November 1, 2017** and there were no regulatory violations related to the complaint allegations.

Sincerely,



Pamela M. Cota, RN
Licensing Chief

Enclosure



DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 11/13/2017
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 475003	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 11/01/2017
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NAME OF PROVIDER OR SUPPLIER KINDRED TRANSITIONAL CARE & REHAB BIRCHWOOD TE	STREET ADDRESS, CITY, STATE, ZIP CODE 43 STARR FARM RD BURLINGTON, VT 05408
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
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F 000 INITIAL COMMENTS

An unannounced on-site investigation of 3 complaints was conducted by the Division of Licensing and Protection from 10/31 - 11/1/17. There were no regulatory findings as a result of this investigation.

F 000

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____

Any deficiency statement ending with an asterisk (*) denotes a deficiency for which the institution has provided other safeguards that provide sufficient protection to the patients. (See instructions for instructions on how to complete this section.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility program participation.

If the institution may be excused from correcting providing it is determined that the institution has provided other safeguards that provide sufficient protection to the patients. (See instructions for instructions on how to complete this section.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility program participation.

ATTACHMENT 13

**Kindred Nursing Centers East, LLC
d/b/a Birchwood Terrace Healthcare**

**Report on Audit of Financial Statements
for the year ended December 31, 2014**

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
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Financial Statements:	
Statement of Operations and Accumulated Deficit	2
Balance Sheet	3
Statement of Cash Flows	4
Notes to Financial Statements.....	5



Independent Auditor's Report

To the Governing Board of
Kindred Nursing Centers East, LLC
d/b/a Birchwood Terrace Healthcare:

We have audited the accompanying financial statements of Kindred Nursing Centers East LLC d/b/a Birchwood Terrace Healthcare, a wholly-owned operating component of Kindred Healthcare Inc., which comprise the balance sheet as of December 31, 2014, and the related statement of operations and accumulated deficit and cash flows for the years then ended.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Company's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Kindred Nursing Centers East LLC d/b/a Birchwood Terrace Healthcare, at December 31, 2014 and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

A handwritten signature in cursive script that reads "PricewaterhouseCoopers LLP".

May 28, 2015

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
STATEMENT OF OPERATIONS AND ACCUMULATED DEFICIT
For the year ended December 31, 2014

Revenues	\$13,039,135
Salaries, wages and benefits.....	6,845,607
Supplies	673,634
Rent	1,484,093
Other operating expenses	4,724,387
Depreciation	253,132
Investment income	(1,727)
	<u>13,979,126</u>
Loss before income taxes	(939,991)
Income tax benefit.....	<u>176,378</u>
Net loss	(763,613)
Accumulated deficit at beginning of year	<u>(2,133,323)</u>
Accumulated deficit at end of year	<u>\$ (2,896,936)</u>

See accompanying notes.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
BALANCE SHEET
As of December 31, 2014

ASSETS

Current assets:	
Cash and cash equivalents	\$ 19,800
Accounts receivable less allowance of \$35,283	1,862,772
Inventories	30,726
Insurance recoverables	332,700
Other current assets	<u>62,634</u>
	2,308,632
Property and equipment:	
Land	12,260
Leasehold improvements	2,004,158
Equipment.....	1,151,446
Construction in progress	<u>7,526</u>
	3,175,390
Accumulated depreciation	<u>(2,592,478)</u>
	582,912
Insurance recoverables	621,244
Patient fund accounts	<u>38,653</u>
	<u>\$ 3,551,441</u>

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:	
Accounts payable.....	\$ 241,194
Salaries, wages and other compensation	185,633
Patient credit balances	117,402
Professional liability and workers compensation	332,700
Other accrued liabilities.....	<u>1,559</u>
	878,488
Patient fund accounts	38,653
Deferred credits	401,863
Professional liability and workers compensation.....	621,244
Commitments and contingencies (Note 4)	
Stockholders' equity:	
Accumulated deficit.....	(2,896,936)
Net contributions from Kindred Healthcare, Inc.	<u>4,508,129</u>
	<u>1,611,193</u>
	<u>\$ 3,551,441</u>

See accompanying notes.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
STATEMENT OF CASH FLOWS
For the year ended December 31, 2014

Cash flows from operating activities:	
Net loss.....	\$ (763,613)
Adjustments to reconcile net income to net cash provided by operating activities:	
Depreciation	253,132
Provision for doubtful accounts.....	205,060
Other	1,306
Change in operating assets and liabilities:	
Accounts receivable	(350,738)
Inventories and other assets	(59,923)
Accounts payable.....	(62,522)
Salaries, wages and other compensation	(57,621)
Patient credit balances and other accrued liabilities	217,895
Net cash used in operating activities	<u>(617,024)</u>
Cash flows from investing activities:	
Purchase of property and equipment.....	(127,680)
Cash flows from financing activities:	
Net increase of contributions due from Kindred Healthcare, Inc	<u>721,849</u>
Change in cash and cash equivalents	(22,855)
Cash and cash equivalents at beginning of year.....	<u>42,655</u>
Cash and cash equivalents at end of year.....	<u>\$ 19,800</u>
Supplemental information:	
Transfers of property and equipment to Kindred.....	\$ (4,333)
Property and equipment purchases payable.....	9,254

See accompanying notes.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS

NOTE 1 – ACCOUNTING POLICIES

Reporting Entity

Kindred Nursing Centers East, LLC d/b/a Birchwood Terrace Healthcare (the “Facility”) is a wholly-owned operating component of Kindred Healthcare, Inc. (“Kindred” or the “Company”) and has no separate legal status or existence. The Facility owns and operates a 144-bed skilled nursing facility located in Burlington, Vermont.

Basis of Presentation

As a wholly-owned operating component of Kindred with no separate legal status or existence, the Facility is subject to the accounting policies of Kindred. The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America and include amounts based upon the estimates and judgments of management. Actual amounts may differ from these estimates.

Recently Issued Accounting Requirements

In January 2015, the Financial Accounting Standards Board (the “FASB”) issued authoritative guidance to eliminate from GAAP the concept of extraordinary items. The FASB issued this update as part of its initiative to reduce complexity in accounting standards, also referred to as the Simplification Initiative. The guidance is effective for all interim and annual reporting periods beginning after December 15, 2015. Early adoption is permitted for all entities. The amendments will not have an impact on our business, financial position, results of operations or liquidity.

In August 2014, the FASB issued authoritative guidance requiring management to evaluate whether there are conditions and events that raise substantial doubt about the entity’s ability to continue as a going concern and to provide disclosures in certain circumstances. The guidance is effective for annual and interim periods beginning after December 15, 2016. The Company does not expect this guidance to have a material impact on its financial statements.

In May 2014, the FASB issued authoritative guidance which changes the requirements for recognizing revenue when entities enter into contracts with customers. Under the new provisions, an entity will recognize revenue when it transfers promised goods or services to customers in an amount that reflects what it expects in exchange for the goods or services. It also requires more detailed disclosures to enable users of financial statements to understand the nature, amount, timing and uncertainty of revenue and cash flows arising from contracts with the customers. This guidance is effective for annual periods beginning after December 15, 2018 and interim periods within annual periods beginning after December 15, 2019, and early adoption is not permitted. The Company is still assessing this guidance.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 1 – ACCOUNTING POLICIES (continued)

Net Patient Service Revenue

Net patient service revenues are recorded based upon estimated amounts due from patients and third-party payors for healthcare services provided, including anticipated settlements under reimbursement agreements with Medicare, Medicaid, Medicare Advantage and other third-party payors.

A summary of revenues by payor type for the year ended December 31, 2014 follows:

Medicare	\$ 3,875,489
Medicaid	7,297,743
Medicare Advantage	255,046
Private and other	<u>1,610,857</u>
	<u>\$ 13,039,135</u>

Revenues under third-party agreements are subject to examination and retroactive adjustment. Provisions for estimated third-party adjustments are provided in the period the related services are rendered. Differences between the amounts accrued and subsequent settlements are recorded in the periods the interim or final settlements are determined.

Cash and Cash Equivalents

Cash and cash equivalents include unrestricted highly-liquid investments with an original maturity of three months or less when purchased. Cash restricted relates to patient trust accounts. The carrying value of cash and cash equivalents approximates fair market value.

Accounts Receivable

Accounts receivable consist primarily of amounts due from the Medicare and Medicaid programs, other government programs, managed care health plans, commercial insurance companies and individual patients. Estimated provisions for doubtful accounts are recorded to the extent it is probable that a portion or all of a particular account will not be collected.

In evaluating the collectibility of accounts receivable, the Facility considers a number of factors, including the age of the accounts, changes in collection patterns, the composition of patient accounts by payor type, the status of ongoing disputes with third-party payors and general industry conditions.

Due to third-party payors

The Facility is required to submit cost reports at least annually to various state and federal agencies administering the respective reimbursement programs. In many instances, interim cash payments to the Facility are only an estimate of the amount due for services provided. Any overpayment to the Facility arising from the completion of a cost report is recorded as a liability.

Inventories

Inventories consist primarily of medical supplies and have been reflected in the accompanying balance sheet at the lower of cost (first-in, first-out) or market. Inventory carrying value was \$30,726 at December 31, 2014.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 1 – ACCOUNTING POLICIES (continued)

Property and Equipment

Property and equipment is carried at cost less accumulated depreciation. Depreciation expense for the Facility, computed by the straight-line method, was \$253,132 for the year ended December 31, 2014. Leasehold improvements are depreciated over their estimated useful lives or the remaining lease term, whichever is shorter. Estimated useful lives of equipment vary from 5 to 10 years. Repairs and maintenance are expensed as incurred.

Net Contributions from Kindred

Net contributions from Kindred Healthcare, Inc. are classified as an increase to equity on the accompanying balance sheet. For the year ended December 31, 2014, various interdivisional transactions increased amounts due from Kindred by \$717,516.

Comprehensive Income

The Facility has no components of other comprehensive income or loss and as a result, comprehensive income or loss is equal to net income or loss as presented in the accompanying statement of operations and accumulated deficit.

Other Information

The company has performed an evaluation of subsequent events through May 28, 2015, the date on which the financial statements were issued.

NOTE 2 – INCOME TAXES

The Facility is included in the consolidated federal and state income tax returns filed by the Company. The Company allocates the consolidated federal and state income tax liabilities among the members of the consolidated return group (including the Facility) using a separate return method. Amounts determined to be a payable or receivable under the separate return method are classified as an element of net contributions to or from Kindred on the accompanying balance sheet at December 31, 2014.

The provision or benefit for income taxes is based upon the Facility's annual reported income or loss for each respective accounting period. The Facility recognizes an asset or liability for the deferred tax consequences of temporary differences between the tax bases of assets and liabilities and their reported amounts in the financial statements. These temporary differences will result in taxable or deductible amounts in future years when the reported amounts of the assets are recovered or liabilities are settled and represent amounts due to or due from the Company in lieu of taxes. A valuation allowance is provided for these deferred tax assets if it is more likely than not that some portion or all of the net deferred tax assets will not be realized.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 2 – INCOME TAXES (continued)

The Facility's income tax benefit for the year ended December 31, 2014 consists of the following:

Current:

Federal.....	\$ (176,378)
State.....	<u> -</u>
	<u>\$ (176,378)</u>

Reconciliation of federal statutory tax benefit to the benefit for income taxes for the year ended December 31, 2014 follows:

Income tax benefit at federal rate.....	\$ (328,997)
State income tax benefit, net of federal income tax effect.....	(19,771)
Valuation allowance.....	137,529
Other items, net.....	<u>34,861</u>
	<u>\$ (176,378)</u>

A summary of deferred income taxes by source included in the balance sheet at December 31, 2014 follows:

	<u>Assets</u>
Property and equipment.....	\$ 160,517
Accounts receivable allowances.....	5,505
Compensation.....	22,325
Professional liability and workers compensation risks.....	21,648
Other.....	<u>140,653</u>
	350,648
Valuation allowance.....	<u>(350,648)</u>
Net deferred tax assets.....	<u>\$ -</u>

NOTE 3 – LEASES

The Facility leases real estate and equipment under non-cancelable arrangements. The real estate under a non-cancelable operating lease is part of a master lease agreement along with other Kindred facilities. The real estate lease agreement to which the Facility is a party expires on April 30, 2025. Rent expense related to non-cancelable operating leases amounted to \$1,484,093 for the year ended December 31, 2014. Future minimum payments under the real estate non-cancelable operating lease are as follows:

2015.....	\$ 1,454,186
2016.....	1,454,186
2017.....	1,454,186
2018.....	1,454,186
2019.....	1,454,186
Thereafter.....	7,755,660

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 4 – CONTINGENCIES

Laws and regulations governing the Medicare and Medicaid programs are complex and subject to interpretation. The Facility believes it is in compliance with all applicable laws and regulations and is not aware of any pending or threatened investigations involving allegations or potential wrongdoing. While no such regulatory inquiries have been made, compliance with such laws and regulations can be subject to future government review and interpretation as well as significant regulatory action including fines, penalties, and exclusion from the Medicare and Medicaid programs. Management is unaware of any commitments or contingencies that would result in losses to the Facility.

The Facility insures its professional liability and workers compensation risks through Kindred’s Insurance Subsidiary. The following is a summary of the insurance recoverables and reserves under the policies as of December 31, 2014:

	Professional liability	Workers compensation	Total
Assets:			
Current	\$11,728	\$ 320,972	\$332,700
Non-current	29,223	592,021	621,244
	<u>\$40,951</u>	<u>\$912,993</u>	<u>\$953,944</u>
Liabilities:			
Current	\$11,728	\$ 320,972	\$332,700
Non-current	29,223	592,021	621,244
	<u>\$40,951</u>	<u>\$912,993</u>	<u>\$953,944</u>

NOTE 5 – CONCENTRATION OF CREDIT RISK

The Facility derives a majority of its revenue through provider agreements with the Centers for Medicare and Medicaid Services and the Vermont Department of Health and Human Services. Accordingly, receivables from these third parties constitute the majority of the Center’s patient accounts receivable which consisted of the following at December 31, 2014:

Medicaid	48%
Medicare	27
Private and other	24
Medicare Advantage	<u>1</u>
	<u>100%</u>

Management monitors and evaluates the allowance for doubtful accounts to ensure that receivables are stated at their net realizable value.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED-PARTY TRANSACTIONS

As a wholly-owned operating component of the Company, the Facility is subject to the accounting policies of the Company and is a party to numerous transactions with the Company. Additionally, the Company is jointly liable for the obligations of the Facility and has pledged substantially all of the assets of the Facility to collateralize the Company's ABL facility and the Term Loan Facility, (collectively, "the Credit Facilities"). On April 9, 2014, the Company entered into a second amendment and restatement agreement (the "ABL Amendment Agreement") among the Company, the other credit parties party thereto, JPMorgan bank, N.A. as administrative agent and collateral agent, and the lenders party thereto. The ABL Amendment Agreement, among other items, (1) extends the maturity date of the prior ABL Facility from June 1, 2018 to April 9, 2019, (2) provides for the replacement of all revolving commitments outstanding under the prior ABL Facility with new revolving commitments in the same principal amount, (3) increases the amounts available for incremental commitments and (4) amends certain provisions related to the incurrence of debt and liens and the making of acquisitions, investments and restricted payments. Also on April 9, 2014, the Company also entered into a third amendment and restatement agreement (the "Term Loan Amendment Agreement") among us, the other credit parties party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and the lenders party thereto. The Term Loan Amendment Agreement, among other items, (1) extends the maturity date of the prior Term Loan Facility from June 1, 2018 to April 9, 2021, (2) provides for the replacement of all term loans outstanding under the prior Term Loan Facility with new term loans in a principal amount of \$1 billion, (3) reduces the interest rate margins applicable to the term loans, (4) increases the available capacity for incremental term loans and (5) amends certain provisions related to the incurrence of debt and liens and the making of acquisitions, investments and restricted payments.

On November 25, 2014, the Company entered into a fourth amendment and restatement agreement (the "Term Loan Amendment Agreement") among the Company, the consenting lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent. The Term Loan Amendment Agreement amended and restated the Term Loan Credit Agreement dated as of June 1, 2011, as amended by that certain Incremental Amendment No. 1 to the Term Loan Credit Agreement dated as of October 4, 2012 and as further amended and restated by that certain Amendment and Restatement Agreement dated as of May 30, 2013, that certain Second Amendment and Restatement Agreement dated as of August 21, 2013 and that certain Third Amendment and Restatement Agreement dated as of April 9, 2014, among the Company, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent (the "Term Loan Facility").

The Term Loan Amendment Agreement amended and restated the Term Loan Facility to, among other items, (i) modify certain provisions related to the issuance of Notes into the Escrow Accounts, (ii) increase the applicable interest rate margins for LIBOR borrowings from 3.00% to 3.25% and for base rate borrowings from 2.00% to 2.25%, (iii) temporarily increase the maximum total leverage ratio permitted under the financial maintenance covenants, (iv) include soft-call protection at a prepayment premium of 1.00% for twelve months starting from November 25, 2014 and (v) modify certain provisions related to the incurrence of debt and the making of acquisitions, investments and restricted payments. The Term Loan Amendment Agreement did not modify the maturity date of the loans made thereunder.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED-PARTY TRANSACTIONS (continued)

On October 31, 2014, the Company entered into a third amendment and restatement agreement (the “ABL Amendment Agreement”) among the Company, the consenting lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent. The ABL Amendment Agreement amended and restated the ABL Credit Agreement dated as of June 1, 2011, as amended by that certain Amendment No. 1 to the ABL Credit Agreement dated as of October 4, 2012 and as further amended and restated by that certain Amendment and Restatement Agreement dated as of August 21, 2013 and that certain Second Amendment and Restatement Agreement dated as of April 9, 2014 (the “ABL Facility”), among the Company, the lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent.

The ABL Amendment Agreement, among other items, modified certain provisions related to the issuance of Notes into the Escrow Accounts. Upon the consummation of the Gentiva Merger and the satisfaction of certain other conditions, the ABL Amendment Agreement further amended and restated the ABL Facility to, among other items, modify certain provisions related to the incurrence of debt and the making of acquisitions, investments and restricted payments. The ABL Amendment Agreement did not modify the maturity date of the revolving commitments thereunder or the applicable interest rate margins applicable to any borrowings thereunder.

In addition, on December 12, 2014, the Company entered into an incremental joinder agreement (the “Incremental ABL Joinder”) among the Company, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, the incremental lenders party thereto and the other credit parties party thereto. Upon the consummation of the Gentiva Merger and the satisfaction of certain other conditions, the Incremental ABL Joinder provided for additional revolving commitments in an aggregate principal amount of \$150 million under the ABL Facility.

All obligations under the ABL Facility and the Term Loan Facility are fully and unconditionally guaranteed, subject to certain customary release provisions, by substantially all of the Company’s existing and future direct and indirect domestic 100% owned subsidiaries, as well as certain non-100% owned domestic subsidiaries as the Company may determine from time to time in its sole discretion. The Notes due 2022 (as defined below), the Notes due 2020 and the Notes due 2023 are fully and unconditionally guaranteed, subject to certain customary release provisions, by substantially all of the Company’s domestic 100% owned subsidiaries.

A significant portion of transactions are processed by the Company on the Facility’s behalf including cash management, accounts receivable processing, property and equipment record keeping, accounts payable processing, payroll and general bookkeeping. Additionally, the Company manages general business functions on behalf of the Facility including cost reimbursement reporting, human resources, financial reporting, income taxes and legal services. Expenses incurred by the Company related to the operations of the Facility are allocated to the Facility based on a percentage of net revenues. The Company has allocated expenses of \$734,861 for the year ended December 31, 2014 to the Facility which are included in other operating expenses on the accompanying statement of operations and accumulated deficit.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED-PARTY TRANSACTIONS (continued)

The Company provides certain rehabilitation services to the Facility. The amount for rehabilitation services included in other operating expenses on the accompanying statement of operations and accumulated deficit for the year ended December 31, 2014 was \$1,040,586. This amount was based upon contracted rates for rehabilitation services.

The Facility insures the primary layer of its professional and general liability risks and its workers compensation risks through a wholly-owned, limited purpose insurance subsidiary of the Company (the “Insurance Subsidiary”). Risks in excess of those retained by the Insurance Subsidiary are reinsured with unaffiliated commercial insurance carriers. Liability premiums paid to the Insurance Subsidiary totaled \$43,452 in 2014 and are included in other operating expenses on the accompanying statement of operations and accumulated deficit. Workers compensation premiums paid to the Insurance Subsidiary totaled \$165,341 in 2014 and are included in salaries, wages and benefits on the accompanying statement of operations and accumulated deficit.

The Facility participates in an employee medical benefits plan sponsored by the Company. The plan provides medical benefits to participating employees and their qualifying dependents who meet certain eligibility requirements. Medical plan expense totaled \$210,644 in 2014 and is included in salaries, wages and benefits on the accompanying statement of operations and accumulated deficit.

ATTACHMENT 14

**Kindred Nursing Centers East, LLC
d/b/a Birchwood Terrace Healthcare**

**Report on Audit of Financial Statements
for the year ended December 31, 2015**

**KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
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Independent Auditor's Report

To the Management of
Kindred Nursing Centers East, LLC
d/b/a Birchwood Terrace Healthcare:

We have audited the accompanying financial statements of Kindred Nursing Centers East LLC d/b/a Birchwood Terrace Healthcare, a wholly-owned operating component of Kindred Healthcare Inc., which comprise the balance sheet as of December 31, 2015, and the related statement of operations and accumulated deficit and cash flow for the year then ended.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Company's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Kindred Nursing Centers East LLC d/b/a Birchwood Terrace Healthcare, at December 31, 2015 and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

As discussed in Note 1 to the financial statements, the Nursing Centers changed the manner in which they classify deferred tax assets and liabilities in 2015.

PricewaterhouseCoopers LLP

May 24, 2016

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
STATEMENT OF OPERATIONS AND ACCUMULATED DEFICIT
For the year ended December 31, 2015

Revenues	\$12,710,419
Salaries, wages and benefits.....	6,925,252
Supplies	680,345
Rent	1,476,904
Other operating expenses	4,888,173
Depreciation	155,784
Investment income	(329)
	<u>14,126,129</u>
Loss before income taxes.....	(1,415,710)
Income tax benefit.....	<u>525,509</u>
Net loss	(890,201)
Accumulated deficit at beginning of year	<u>(2,896,936)</u>
Accumulated deficit at end of year	<u>\$ (3,787,137)</u>

See accompanying notes.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
BALANCE SHEET
As of December 31, 2015

ASSETS

Current assets:	
Cash and cash equivalents	\$ 5,973
Accounts receivable less allowance of \$29,784	1,415,546
Inventories	30,886
Insurance recoverables	336,254
Other current assets	<u>3,600</u>
	1,792,259
Property and equipment:	
Land	12,260
Leasehold improvements	2,219,001
Equipment	<u>1,230,518</u>
	3,461,779
Accumulated depreciation	<u>(2,748,262)</u>
	713,517
Insurance recoverables	694,025
Patient fund accounts	<u>41,505</u>
	<u>\$ 3,241,306</u>

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:	
Accounts payable	\$ 189,791
Salaries, wages and other compensation	219,676
Patient credit balances	41,716
Professional liability and workers compensation	336,254
Other accrued liabilities	<u>3,009</u>
	790,446
Patient fund accounts	41,505
Deferred rent	362,973
Professional liability and workers compensation	694,025
Commitments and contingencies (Note 4)	
Stockholders' equity:	
Accumulated deficit	(3,787,137)
Net contributions from Kindred Healthcare, Inc.	<u>5,139,494</u>
	<u>1,352,357</u>
	<u>\$ 3,241,306</u>

See accompanying notes.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
STATEMENT OF CASH FLOWS
For the year ended December 31, 2015

Cash flows from operating activities:	
Net loss.....	\$ (890,201)
Adjustments to reconcile net loss to net cash used in operating activities:	
Depreciation	155,784
Provision for doubtful accounts.....	256,544
Change in operating assets and liabilities:	
Accounts receivable	190,682
Inventories and other assets.....	(17,461)
Accounts payable.....	(32,357)
Salaries, wages and other compensation	34,043
Patient credit balances and other accrued liabilities.....	<u>(36,791)</u>
Net cash used in operating activities	(339,757)
Cash flows from investing activities:	
Purchase of property and equipment.....	(298,576)
Cash flows from financing activities:	
Net increase of contributions due from Kindred Healthcare, Inc	<u>624,506</u>
Change in cash and cash equivalents	(13,827)
Cash and cash equivalents at beginning of year.....	<u>19,800</u>
Cash and cash equivalents at end of year.....	<u>\$ 5,973</u>
Supplemental information:	
Transfers of property and equipment from Kindred.....	\$ 6,859
Property and equipment purchases payable.....	(19,046)

See accompanying notes.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS

NOTE 1 – ACCOUNTING POLICIES

Reporting Entity

Kindred Nursing Centers East, LLC d/b/a Birchwood Terrace Healthcare (the “Facility”) is a wholly-owned operating component of Kindred Healthcare, Inc. (“Kindred” or the “Company”) and has no separate legal status or existence. The Facility owns and operates a 144-bed skilled nursing facility located in Burlington, Vermont.

Basis of Presentation

As a wholly-owned operating component of Kindred with no separate legal status or existence, the Facility is subject to the accounting policies of Kindred. The accompanying financial statements have been prepared in accordance with generally accepted accounting principles (“GAAP”) and include amounts based upon the estimates and judgments of management. Actual amounts may differ from those estimates.

Recently Issued Accounting Requirements

In February 2016, the Financial Accounting Standards Board (the “FASB”) issued amended authoritative guidance on accounting for leases. The new provisions require that a lessee of operating leases recognize in the statement of financial position a liability to make lease payments (the lease liability) and a right-of-use asset representing its right to use the underlying asset for the lease term. The lease liability will be equal to the present value of lease payments, with the right-of-use asset based upon the lease liability. The classification criteria for distinguishing between finance (or capital) leases and operating leases are substantially similar to the previous lease guidance, but with no explicit bright lines. As such, operating leases will result in straight-line rent expense similar to current practice. For short term leases (term of 12 months or less), a lessee is permitted to make an accounting election not to recognize lease assets and lease liabilities, which would generally result in lease expense being recognized on a straight-line basis over the lease term. The guidance is effective for annual periods beginning after December 15, 2019, and interim periods beginning after December 15, 2020, and will require application of the new guidance at the beginning of the earliest comparable period presented. Early adoption is permitted. The new standard must be adopted using a modified retrospective transition. The adoption of this standard is expected to have a material impact on the Company’s financial position. The Company is still evaluating the impact on its results of operations and there is no impact on liquidity.

In November 2015, the FASB issued authoritative guidance which changes the balance sheet presentation for deferred income taxes. To simplify the presentation of deferred income taxes, the guidance requires that deferred tax liabilities and assets be classified only as noncurrent on the balance sheet. The guidance is effective for annual periods beginning after December 15, 2017, and interim periods beginning after December 15, 2018. The guidance may be applied prospectively to all deferred tax liabilities and assets or retrospectively to all periods presented, and early adoption is permitted. The Company has elected early adoption, as permitted, and has classified deferred tax assets and liabilities retrospectively in accordance with the guidance as of December 31, 2015. See Note 2.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 1 – ACCOUNTING POLICIES (continued)

Recently Issued Accounting Requirements (continued)

In April 2015, the FASB issued authoritative guidance on accounting for fees paid in a cloud computing arrangement. The new provisions will help entities determine whether a cloud computing arrangement contains a software license that should be accounted for as internal-use software and capitalized or as a service contract. The new standard is effective for annual periods beginning after December 15, 2015, and interim periods beginning after December 15, 2016. Early adoption is permitted and transition may be elected retrospectively or prospectively. The adoption of this standard is not expected to have a material impact on the Company's business, financial position, results of operations or liquidity.

In January 2015, the FASB issued authoritative guidance to eliminate from GAAP the concept of extraordinary items. The FASB issued this update as part of its initiative to reduce complexity in accounting standards, also referred to as the Simplification Initiative. The guidance is effective for all interim and annual reporting periods beginning after December 15, 2015. Early adoption is permitted for all entities. The amendments will not have an impact on the Company's business, financial position, results of operations or liquidity.

In August 2014, the FASB issued authoritative guidance requiring management to evaluate whether there are conditions and events that raise substantial doubt about the entity's ability to continue as a going concern and to provide disclosures in certain circumstances. The guidance is effective for annual and interim periods ending after December 15, 2016. The Company does not expect this guidance to have a material impact on its consolidated financial statements.

In May 2014, the FASB issued authoritative guidance which changes the requirements for recognizing revenue when entities enter into contracts with customers. Under the new provisions, an entity will recognize revenue when it transfers promised goods or services to customers in an amount that reflects what it expects in exchange for the goods or services. It also requires more detailed disclosures to enable users of financial statements to understand the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers. In July 2015, the FASB finalized a one year deferral of the new revenue standard with an updated effective date for interim and annual periods beginning on or after December 15, 2018. Entities are not permitted to adopt the standard earlier than the original effective date, which was on or after December 15, 2016. The Company is still assessing this guidance.

Net Patient Service Revenue

Net patient service revenues are recorded based upon estimated amounts due from patients and third-party payors for healthcare services provided, including anticipated settlements under reimbursement agreements with Medicare, Medicaid, Medicare Advantage and other third-party payors.

A summary of revenues by payor type for the year ended December 31, 2015 follows:

Medicare	\$ 3,517,069
Medicaid	7,245,427
Medicare Advantage	200,821
Private and other	<u>1,747,102</u>
	<u>\$12,710,419</u>

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 1 – ACCOUNTING POLICIES (continued)

Net Patient Service Revenue (continued)

Revenues under third-party agreements are subject to examination and retroactive adjustment. Provisions for estimated third-party adjustments are provided in the period the related services are rendered. Differences between the amounts accrued and subsequent settlements are recorded in the periods the interim or final settlements are determined.

Cash and Cash Equivalents

Cash and cash equivalents include unrestricted highly-liquid investments with an original maturity of three months or less when purchased. Cash restricted relates to patient trust accounts. The carrying value of cash and cash equivalents approximates fair market value.

Accounts Receivable

Accounts receivable consist primarily of amounts due from the Medicare and Medicaid programs, other government programs, managed care health plans, commercial insurance companies and individual patients. Estimated provisions for doubtful accounts are recorded to the extent it is probable that a portion or all of a particular account will not be collected.

In evaluating the collectibility of accounts receivable, the Facility considers a number of factors, including the age of the accounts, changes in collection patterns, the composition of patient accounts by payor type, the status of ongoing disputes with third-party payors and general industry conditions.

Due to third-party payors

The Facility is required to submit cost reports at least annually to various state and federal agencies administering the respective reimbursement programs. In many instances, interim cash payments to the Facility are only an estimate of the amount due for services provided. Any overpayment to the Facility arising from the completion of a cost report is recorded as a liability.

Inventories

Inventories consist primarily of medical supplies and have been reflected in the accompanying balance sheet at the lower of cost (first-in, first-out) or market. Inventory carrying value was \$30,886 at December 31, 2015.

Property and Equipment

Beginning January 1, 2015, the Facility changed the estimated useful life of certain technology and medical equipment based upon a detailed review of actual utilization. The change in estimate extended the expected useful life by two to three years depending on the equipment category and has been accounted for prospectively.

Property and equipment is carried at cost less accumulated depreciation. Depreciation expense for the Facility, computed by the straight-line method, was \$155,784 for the year ended December 31, 2015. Leasehold improvements are depreciated over their estimated useful lives or the remaining lease term, whichever is shorter. Estimated useful lives of equipment vary from 5 to 10 years. Repairs and maintenance are expensed as incurred.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 1 – ACCOUNTING POLICIES (continued)

Net Contributions from Kindred

Net contributions from Kindred Healthcare, Inc. are classified as an increase to equity on the accompanying balance sheet. For the year ended December 31, 2015, transfers of property and equipment from Kindred to the Facility increased amounts due from Kindred by \$6,859, in addition to other various interdivisional transactions, which increased amounts due from Kindred by \$624,506.

Comprehensive Income

The Facility has no components of other comprehensive income or loss and as a result, comprehensive income or loss is equal to net income or loss as presented in the accompanying statement of operations and accumulated deficit.

Other Information

The company has performed an evaluation of subsequent events through May 24, 2016, the date on which the financial statements were issued.

NOTE 2 – INCOME TAXES

The Facility is included in the consolidated federal and state income tax returns filed by the Company. The Company allocates the consolidated federal and state income tax liabilities among the members of the consolidated return group (including the Facility) using a separate return method. Amounts determined to be a payable or receivable under the separate return method are classified as an element of net contributions to or from Kindred on the accompanying balance sheet at December 31, 2015.

The provision or benefit for income taxes is based upon the Facility’s annual reported income or loss for each respective accounting period. The Facility recognizes an asset or liability for the deferred tax consequences of temporary differences between the tax bases of assets and liabilities and their reported amounts in the financial statements. These temporary differences will result in taxable or deductible amounts in future years when the reported amounts of the assets are recovered or liabilities are settled and represent amounts due to or due from the Company in lieu of taxes. A valuation allowance is provided for these deferred tax assets if it is more likely than not that some portion or all of the net deferred tax assets will not be realized. Net operating losses are recognized on a benefits-for-loss basis which modifies the separate return method so that net operating losses that would not be realized (or realizable) by the Facility are recognized as a benefit for the Facility, given that they are realized (or realizable) by the Company.

The Facility’s income tax benefit for the year ended December 31, 2015 consists of the following:

Current:

Federal.....	\$ (525,509)
State.....	-
	<u>\$ (525,509)</u>

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 2 – INCOME TAXES (continued)

Reconciliation of federal statutory tax benefit to the benefit for income taxes for the year ended December 31, 2015 follows:

Income tax benefit at federal rate.....	\$ (495,499)
Valuation allowance.....	(31,771)
Other items, net.....	<u>1,761</u>
	<u>\$ (525,509)</u>

A summary of deferred income taxes by source included in the balance sheet at December 31, 2015 follows:

	<u>Assets</u>	<u>Liabilities</u>
Property and equipment.....	\$ 151,009	\$ -
Accounts receivable allowances.....	-	24,477
Compensation.....	36,653	-
Professional liability and worker’s compensation risks ..	28,651	-
Other.....	<u>127,041</u>	<u>-</u>
	343,354	<u>\$ 24,477</u>
Reclassification of deferred tax liabilities.....	<u>(24,477)</u>	
	318,877	
Valuation allowance.....	<u>(318,877)</u>	
Net deferred tax assets.....	<u>\$ -</u>	

NOTE 3 – LEASES

The Facility leases real estate and equipment under non-cancelable arrangements. The real estate under a non-cancelable operating lease is part of a master lease agreement along with other Kindred facilities. The real estate lease agreement to which the Facility is a party expires on April 30, 2025. Additionally, the master lease agreement provides for rent escalation annually on May 1. All annual rent escalators are payable in cash. The contingent annual rent escalator for the master lease agreement is based upon annual increases in the Consumer Price Index, subject to a ceiling of 4%. In 2015, there was no contingent annual rent escalator for the master lease agreement; therefore, the Facility did not record any contingent rent for the year ended December 31, 2015.

Rent expense related to non-cancelable operating leases amounted to \$1,476,904 for the year ended December 31, 2015. Future minimum payments under the real estate non-cancelable operating lease are as follows:

2016.....	\$ 1,454,186
2017.....	1,454,186
2018.....	1,454,186
2019.....	1,454,186
2020.....	1,454,186
Thereafter.....	6,301,474

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 4 – CONTINGENCIES

Laws and regulations governing the Medicare and Medicaid programs are complex and subject to interpretation. The Facility believes it is in compliance with all applicable laws and regulations and is not aware of any pending or threatened investigations involving allegations or potential wrongdoing. While no such regulatory inquiries have been made, compliance with such laws and regulations can be subject to future government review and interpretation as well as significant regulatory action including fines, penalties, and exclusion from the Medicare and Medicaid programs. Management is unaware of any commitments or contingencies that would result in losses to the Facility.

The Facility insures its professional liability and workers compensation risks through a wholly-owned, limited purpose insurance subsidiary of the Company (the “Insurance Subsidiary”). The following is a summary of the insurance recoverables and reserves under the policies as of December 31, 2015:

	Professional liability	Workers compensation	Total
Assets:			
Current	\$ 26,946	\$ 309,308	\$ 336,254
Non-current	59,303	634,722	694,025
	<u>\$ 86,249</u>	<u>\$ 944,030</u>	<u>\$ 1,030,279</u>
Liabilities:			
Current	\$ 26,946	\$ 309,308	\$ 336,254
Non-current	59,303	634,722	694,025
	<u>\$ 86,249</u>	<u>\$ 944,030</u>	<u>\$ 1,030,279</u>

NOTE 5 – CONCENTRATION OF CREDIT RISK

The Facility derives a majority of its revenue through provider agreements with the Centers for Medicare and Medicaid Services and the Vermont Department of Health and Human Services. Accordingly, receivables from these third parties constitute the majority of the Center’s patient accounts receivable which consisted of the following at December 31, 2015:

Medicaid	43%
Private and other	34
Medicare	22
Medicare Advantage	<u>1</u>
	<u>100%</u>

Management monitors and evaluates the allowance for doubtful accounts to ensure that receivables are stated at their net realizable value.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED-PARTY TRANSACTIONS

As a wholly-owned operating component of the Company, the Facility is subject to the accounting policies of the Company and is a party to numerous transactions with the Company. The Company is jointly liable for the obligations of the Facility and has pledged substantially all of the assets of the Facility to collateralize the Company's ABL Facility, Term Loan Facility and Notes (all as defined below).

All obligations under the ABL Facility and Term Loan Facility are fully and unconditionally guaranteed, subject to certain customary release provisions, by substantially all of the Company's existing and future direct and indirect domestic 100% owned subsidiaries, as well as certain non-100% owned domestic subsidiaries as the Company may determine from time to time in its sole discretion.

The Notes are fully and unconditionally guaranteed, subject to certain customary release provisions, by substantially all of the Company's domestic 100% owned subsidiaries.

ABL Facility and Incremental ABL Joinder

On April 9, 2014, the Company entered into a second amendment and restatement agreement (the "Second ABL Amendment Agreement") among the Company, the other credit parties thereto, JPMorgan Chase Bank, N.A. as administrative agent and collateral agent, and the lenders party thereto. The Second ABL Amendment Agreement, among other items, (1) extends the maturity date of the prior ABL Facility from June 1, 2018 to April 9, 2019, (2) provides for the replacement of all revolving commitments outstanding under the prior ABL Facility with new revolving commitments in the same principal amount, (3) increases the amounts available for incremental commitments and (4) amends certain provisions related to the incurrence of debt and liens and the making of acquisitions, investments and restricted payments.

On October 31, 2014, the Company entered into a third amendment and restatement agreement (the "Third ABL Amendment Agreement") among the Company, the consenting lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent. The Third ABL Amendment Agreement amended and restated the ABL Credit Agreement dated as of June 1, 2011, as amended by that certain Amendment No. 1 to the ABL Credit Agreement dated as of October 4, 2012 and as further amended and restated by that certain Amendment and Restatement Agreement dated as of August 21, 2013 and that certain Second Amendment and Restatement Agreement dated as of April 9, 2014 (the "ABL Facility"), among the Company, the lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent.

Upon the consummation of Kindred's acquisition of Gentiva Health Services, Inc. on February 2, 2015 (the "Gentiva Merger"), and the satisfaction of certain other conditions, the Third ABL Amendment Agreement further amended and restated the ABL Facility to, among other items, modify certain provisions related to the incurrence of debt and the making of acquisitions, investments and restricted payments. The Third ABL Amendment Agreement did not modify the maturity date of the revolving commitments thereunder or the applicable interest rate margins applicable to any borrowings thereunder.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED PARTY TRANSACTIONS (Continued)

In addition, on December 12, 2014, the Company entered into an incremental joinder agreement (the “Incremental ABL Joinder”) among the Company, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, the incremental lenders party thereto and the other credit parties party thereto. Upon the consummation of the Gentiva Merger and the satisfaction of certain other conditions, the Incremental ABL Joinder provided for additional revolving commitments in an aggregate principal amount of \$150 million under the ABL Facility.

ABL Amendment No. 2 to the ABL Facility

On June 3, 2015, the Company entered into an amendment agreement to the Third ABL Amendment Agreement (the “ABL Amendment No. 2”), which modified the restrictions on the amount of cash and temporary cash investments that may be held outside of certain deposit accounts subject to control agreements. As used herein, the “ABL Facility” refers to the Third ABL Amendment Agreement, as amended by the Incremental ABL Joinder and the ABL Amendment No. 2.

Aside from the foregoing changes, the terms and conditions of the Third ABL Amendment Agreement were substantially similar to the terms and conditions before the effectiveness of the ABL Amendment No. 2.

Term Loan Facility

On April 9, 2014, the Company entered into a third amendment and restatement agreement (the “Third Amended and Restated Term Loan Facility”) among the Company, the other credit parties party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and the lenders party thereto. The Third Amended and Restated Term Loan Facility, among other items, (1) extends the maturity date of the prior Term Loan Facility from June 1, 2018 to April 9, 2021, (2) provides for the replacement of all term loans outstanding under the prior Term Loan Facility with new term loans in a principal amount of \$1 billion, (3) reduces the interest rate margins applicable to the term loans, (4) increases the available capacity for incremental term loans and (5) amends certain provisions related to the incurrence of debt and liens and the making of acquisitions, investments and restricted payments.

On November 25, 2014, the Company entered into a fourth amendment and restatement agreement (the “Fourth Amended and Restated Term Loan Facility”) among the Company, the consenting lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent. The Fourth Amended and Restated Term Loan Facility amended and restated the Term Loan Credit Agreement dated as of June 1, 2011, as amended by that certain Incremental Amendment No. 1 to the Term Loan Credit Agreement dated as of October 4, 2012 and as further amended and restated by that certain Amendment and Restatement Agreement dated as of May 30, 2013, that certain Second Amendment and Restatement Agreement dated as of August 21, 2013 and that certain Third Amendment and Restatement Agreement dated as of April 9, 2014, among the Company, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent (the “Term Loan Facility”).

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED PARTY TRANSACTIONS (Continued)

The Fourth Amended and Restated Term Loan Facility amended and restated the Term Loan Facility to, among other items, (i) increase the applicable interest rate margins for London Interbank Offered Rate borrowings from 3.00% to 3.25% and for base rate borrowings from 2.00% to 2.25%, (ii) temporarily increase the maximum total leverage ratio permitted under the financial maintenance covenants, (iii) include soft-call protection at a prepayment premium of 1.00% for twelve months starting from November 25, 2014 and (iv) modify certain provisions related to the incurrence of debt and the making of acquisitions, investments and restricted payments. The Fourth Amended and Restated Term Loan Facility did not modify the maturity date of the loans made thereunder.

Incremental Term Loan Amendment to Term Loan Facility

On March 10, 2015, the Company entered into an incremental amendment agreement to the Fourth Amended and Restated Term Loan Facility (the “Incremental Term Loan Agreement”), which provided for an incremental term loan in an aggregate principal amount of \$200 million under its Fourth Amended and Restated Term Loan Facility. The Company used the net proceeds of the incremental term loan to repay outstanding borrowings under the Third Amended and Restated ABL Facility. The incremental term loan was issued with 50 basis points of original issue discount and has the same terms as, and is fungible with, all other term loans outstanding under the Fourth Amended and Restated Term Loan Facility. As used herein, the “Term Loan Facility” refers to the Fourth Amended and Restated Term Loan Facility, as amended by the Incremental Term Loan Agreement.

Aside from the foregoing changes, the terms and conditions of the Fourth Amended and Restated Term Loan Facility were substantially similar to the terms and conditions before the effectiveness of the Incremental Term Loan Agreement.

Notes

On April 9, 2014, the Company completed a private placement of \$500 million aggregate principal amount of 6.375% senior notes due 2022. On December 18, 2014, Kindred Escrow Corp. II, one of the Company’s subsidiaries, completed a private placement of \$750 million aggregate principal amount of 8.00% senior notes due 2020 and \$600 million aggregate principal amount of 8.75% senior notes due 2023. The senior notes due 2022, 2020 and 2023 are collectively referred to as the “Notes.”

Other Related Party Transactions

A significant portion of transactions are processed by the Company on the Facility’s behalf including cash management, accounts receivable processing, property and equipment record keeping, accounts payable processing, payroll and general bookkeeping. Additionally, the Company manages general business functions on behalf of the Facility including cost reimbursement reporting, human resources, financial reporting, income taxes and legal services. Expenses incurred by the Company related to the operations of the Facility are allocated to the Facility based on a percentage of net revenues. The Company has allocated expenses of \$898,497 for the year ended December 31, 2015 to the Facility which are included in other operating expenses on the accompanying statement of operations and accumulated deficit.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED PARTY TRANSACTIONS (Continued)

The Company provides certain rehabilitation services to the Facility. The amount for rehabilitation services included in other operating expenses on the accompanying statement of operations and accumulated deficit for the year ended December 31, 2015 was \$964,646. This amount was based upon contracted rates for rehabilitation services.

The Facility insures the primary layer of its professional and general liability risks and its workers compensation risks through the Insurance Subsidiary. Risks in excess of those retained by the Insurance Subsidiary are reinsured with unaffiliated commercial insurance carriers. Liability premiums paid to the Insurance Subsidiary totaled \$35,825 in 2015 and are included in other operating expenses on the accompanying statement of operations and accumulated deficit. Workers compensation premiums paid to the Insurance Subsidiary totaled \$138,907 in 2015 and are included in salaries, wages and benefits on the accompanying statement of operations and accumulated deficit. See Note 4 for insurance recoverables and liabilities.

The Facility participates in an employee medical benefits plan sponsored by the Company. The plan provides medical benefits to participating employees and their qualifying dependents who meet certain eligibility requirements. Medical plan expense totaled \$268,782 in 2015 and is included in salaries, wages and benefits on the accompanying statement of operations and accumulated deficit.

ATTACHMENT 15

**Kindred Nursing Centers East, LLC
d/b/a Birchwood Terrace Healthcare**

**Report on Audit of Financial Statements
for the year ended December 31, 2016**

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
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Report of Independent Auditors

To the Management of
Kindred Nursing Centers East, LLC
d/b/a Birchwood Terrace Healthcare:

We have audited the accompanying financial statements of Kindred Nursing Centers East LLC d/b/a Birchwood Terrace Healthcare, a wholly-owned operating component of Kindred Healthcare Inc., which comprise the balance sheet as of December 31, 2016, and the related statement of operations and accumulated deficit and cash flows for the year then ended.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on the financial statements based on our audits. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Company's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Kindred Nursing Centers East LLC d/b/a Birchwood Terrace Healthcare as of December 31, 2016, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

PricewaterhouseCoopers LLP

May 31, 2017

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
STATEMENT OF OPERATIONS AND ACCUMULATED DEFICIT
For the year ended December 31, 2016

Revenues	\$ 12,922,343
Salaries, wages and benefits	7,136,562
Supplies	662,822
Rent	1,485,544
Other operating expenses	4,887,769
Depreciation	152,558
Investment income	<u>(368)</u>
Total operating expenses	<u>14,324,887</u>
Net loss	(1,402,544)
Accumulated deficit at beginning of year	<u>(3,787,137)</u>
Accumulated deficit at end of year	<u><u>\$ (5,189,681)</u></u>

See accompanying notes.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
BALANCE SHEET
As of December 31, 2016

ASSETS

Current assets:	
Cash and cash equivalents	\$ 57,833
Accounts receivable less allowance of \$39,595	1,646,392
Inventories	30,765
Insurance recoverables	481,596
Other current assets	4,228
	2,220,814
Property and equipment:	
Land and land improvements	12,260
Leasehold improvements	2,716,674
Equipment	1,340,381
	4,069,315
Accumulated depreciation	(2,900,820)
	1,168,495
Insurance recoverables	939,646
Patient fund accounts	37,193
	\$ 4,366,148

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:	
Accounts payable	\$ 241,376
Salaries, wages and other compensation	222,496
Patient credit balances	76,970
Professional liability and workers compensation	481,596
Other accrued liabilities	3,187
	1,025,625
Patient fund accounts	37,193
Deferred rent	324,083
Professional liability and workers compensation	939,646
Commitments and contingencies (Note 4)	
Stockholders' equity:	
Accumulated deficit	(5,189,681)
Net contributions from Kindred Healthcare, Inc.	7,229,282
	2,039,601
	\$ 4,366,148

See accompanying notes.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
STATEMENT OF CASH FLOWS
For the year ended December 31, 2016

Cash flows from operating activities:	
Net loss	\$ (1,402,544)
Adjustments to reconcile net loss to net cash used in operating activities:	
Depreciation	152,558
Provision for doubtful accounts	64,825
Change in operating assets and liabilities:	
Accounts receivable	(295,671)
Inventories and other assets	(391,470)
Accounts payable	41,592
Salaries, wages and other compensation	2,820
Patient credit balances and other accrued liabilities	387,505
Net cash used in operating activities	<u>(1,440,385)</u>
Cash flows from investing activities:	
Purchase of property and equipment	(592,163)
Cash flows from financing activities:	
Net increase of contributions due from Kindred Healthcare, Inc.	<u>2,084,408</u>
Change in cash and cash equivalents	51,860
Cash and cash equivalents at beginning of year	<u>5,973</u>
Cash and cash equivalents at end of year	<u><u>\$ 57,833</u></u>
Supplemental information:	
Transfers of property and equipment from Kindred	\$ 5,380
Property and equipment purchases payable	10,801

See accompanying notes.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS

NOTE 1 – ACCOUNTING POLICIES

Reporting Entity

Kindred Nursing Centers East, LLC d/b/a Birchwood Terrace Healthcare (the “Facility”) is a wholly-owned operating component of Kindred Healthcare, Inc. (“Kindred” or the “Company”) and has no separate legal status or existence. The Facility owns and operates a 144-bed skilled nursing facility located in Burlington, Vermont.

Basis of Presentation

As a wholly-owned operating component of Kindred with no separate legal status or existence, the Facility is subject to the accounting policies of Kindred. The accompanying financial statements have been prepared in accordance with generally accepted accounting principles (“GAAP”) and include amounts based upon the estimates and judgments of management. Actual amounts may differ from those estimates.

Recently Issued Accounting Requirements

In January 2017, the Financial Accounting Standards Board (the “FASB”) issued authoritative guidance that revises the definition of a business, which affects accounting for acquisitions, disposals, goodwill impairment, and consolidation. The guidance is intended to help entities evaluate whether transactions should be accounted for as acquisitions (or disposals) of assets or businesses. The revision provides a more robust framework to use in determining when a set of assets and activities is a business. The new guidance is effective for annual and interim periods beginning after December 15, 2017 and early adoption is permitted. The adoption of this standard is not expected to have a material impact on the Facility’s business, financial position, results of operations or liquidity.

In November 2016, the FASB issued authoritative guidance that simplifies the disclosure of restricted cash within the statement of cash flows. The guidance is intended to reduce diversity when reporting restricted cash and requires entities to explain changes in the combined total of restricted and unrestricted balances in the statement of cash flows. The new guidance is effective for annual and interim periods beginning after December 15, 2017 and early adoption is permitted. The adoption of this standard is not expected to have a material impact on the Facility’s statement of cash flows.

In August 2016, the FASB issued authoritative guidance to eliminate diversity in practice related to the cash flow statement classification of eight specific cash flow issues, which include debt prepayment or extinguishment costs, maturity of a zero coupon bond, settlement of contingent consideration liabilities after a business combination, proceeds from insurance settlements and distribution from certain equity method investees. The new guidance is effective for annual and interim periods beginning after December 15, 2017 and early adoption is permitted. The adoption of this standard is not expected to have a material impact on the Facility’s statement of cash flows.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 1 – ACCOUNTING POLICIES (continued)

Recently Issued Accounting Requirements (continued)

In February 2016, the FASB issued amended authoritative guidance on accounting for leases. The new provisions require that a lessee of operating leases recognize in the statement of financial position a liability to make lease payments (the lease liability) and a right-of-use asset representing its right to use the underlying asset for the lease term. The lease liability will be equal to the present value of lease payments, with the right-of-use asset based upon the lease liability. The classification criteria for distinguishing between finance (or capital) leases and operating leases are substantially similar to the previous lease guidance, but with no explicit bright lines. As such, operating leases will result in straight-line rent expense similar to current practice. For short term leases (term of 12 months or less), a lessee is permitted to make an accounting election not to recognize lease assets and lease liabilities, which would generally result in lease expense being recognized on a straight-line basis over the lease term. The guidance is effective for annual and interim periods beginning after December 15, 2018, and will require application of the new guidance at the beginning of the earliest comparable period presented. We will not elect early adoption and will apply the modified retrospective approach as required. The adoption of this standard is expected to have a material impact on the Facility's financial position. The Facility is still evaluating the impact on its results of operations and there is no impact on liquidity.

In August 2014, the FASB issued authoritative guidance requiring management to evaluate whether there are conditions and events that raise substantial doubt about the entity's ability to continue as a going concern and to provide disclosures in certain circumstances. The guidance is effective for annual and interim periods ending after December 15, 2016. This guidance did not have a material impact on the Facility's financial statements.

In May 2014, the FASB issued authoritative guidance which changes the requirements for recognizing revenue when entities enter into contracts with customers. Under the new provisions, an entity will recognize revenue when it transfers promised goods or services to customers in an amount that reflects what it expects in exchange for the goods or services. It also requires more detailed disclosures to enable users of financial statements to understand the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers.

- In July 2015, the FASB finalized a one year deferral of the new revenue standard with an updated effective date for interim and annual periods beginning on or after December 15, 2017. Entities are not permitted to adopt the standard earlier than the original effective date, which was on or after December 15, 2016.
- In March 2016, the FASB finalized its amendments to the guidance in the new revenue standard on assessing whether an entity is a principal or an agent in a revenue transaction. Under the new amendments, the FASB confirmed that a principal in an arrangement controls a good or service before it is transferred to a customer but revised the structure of indicators when an entity is the principal. The amendments have the same effective date and transition requirements as the new revenue standard.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 1 – ACCOUNTING POLICIES (continued)

Recently Issued Accounting Requirements (continued)

- In May 2016, the FASB finalized its amendments to the guidance in the new revenue standard on contracts with customers and specifically, collectability, non-cash consideration, presentation of sales taxes, and completed contracts. The amendments are intended to reduce the risk of diversity in practice and the cost and complexity of applying certain aspects of the revenue standard. The amendments have the same effective date and transition requirements as the new revenue standard, which is effective for interim and annual periods beginning on or after December 15, 2017, with early adoption permitted on or after December 15, 2016.

The Facility will not elect early adoption but will apply the modified retrospective approach upon the required effective date. The Facility is still evaluating the impact of the adoption of the new revenue standard on its business, financial position, results of operations, and liquidity.

Net Patient Service Revenue

Net patient service revenues are recorded based upon estimated amounts due from patients and third-party payors for healthcare services provided, including anticipated settlements under reimbursement agreements with Medicare, Medicaid, Medicare Advantage and other third-party payors.

A summary of revenues by payor type for the year ended December 31, 2016 follows:

Medicare	\$ 3,849,656
Medicaid	6,804,376
Medicare Advantage	229,141
Private and other	2,039,170
	<u>\$ 12,922,343</u>

Revenues under third-party agreements are subject to examination and retroactive adjustment. Provisions for estimated third-party adjustments are provided in the period the related services are rendered. Differences between the amounts accrued and subsequent settlements are recorded in the periods the interim or final settlements are determined.

Cash and Cash Equivalents

Cash and cash equivalents include unrestricted highly-liquid investments with an original maturity of three months or less when purchased. Cash restricted relates to patient trust accounts. The carrying value of cash and cash equivalents approximates fair market value.

Accounts Receivable

Accounts receivable consist primarily of amounts due from the Medicare and Medicaid programs, other government programs, managed care health plans, commercial insurance companies and individual patients. Estimated provisions for doubtful accounts are recorded to the extent it is probable that a portion or all of a particular account will not be collected.

In evaluating the collectibility of accounts receivable, the Facility considers a number of factors, including the age of the accounts, changes in collection patterns, the composition of patient accounts by payor type, the status of ongoing disputes with third-party payors and general industry conditions.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 1 – ACCOUNTING POLICIES (continued)

Due to third-party payors

The Facility is required to submit cost reports at least annually to various state and federal agencies administering the respective reimbursement programs. In many instances, interim cash payments to the Facility are only an estimate of the amount due for services provided. Any overpayment to the Facility arising from the completion of a cost report is recorded as a liability.

Inventories

Inventories consist primarily of medical supplies and have been reflected in the accompanying balance sheet at the lower of cost (first-in, first-out) or market. Inventory carrying value was \$30,765 at December 31, 2016.

Property and Equipment

Property and equipment is carried at cost less accumulated depreciation. Depreciation expense for the Facility, computed by the straight-line method, was \$152,558 for the year ended December 31, 2016. Leasehold improvements are depreciated over their estimated useful lives or the remaining lease term, whichever is shorter. Estimated useful lives of equipment vary from 5 to 10 years. Repairs and maintenance are expensed as incurred.

Net Contributions from Kindred

Net contributions from Kindred Healthcare, Inc. are classified as an increase to equity on the accompanying balance sheet. For the year ended December 31, 2016, transfers of property and equipment from Kindred to the Facility increased amounts due from Kindred by \$5,380, in addition to other various interdivisional transactions such as cash management, accounts receivable processing, property and equipment record keeping, accounts payable processing, payroll and general bookkeeping, as further discussed in note 6, which increased amounts due from Kindred by \$2,084,408.

Comprehensive Income

The Facility has no components of other comprehensive income or loss and as a result, comprehensive income or loss is equal to net income or loss as presented in the accompanying statement of operations and accumulated deficit.

Other Information

On November 7, 2016, Kindred Healthcare Operating, Inc., the owner of the Facility, announced plans to exit its skilled nursing facility business as an owner and operator. Accordingly, while Kindred is unable at this time to determine an expected completion date, Kindred is targeting to complete the exit from the skilled nursing facility business by the end of 2017. At this time, there has been no determination of the implications to the ownership of the Facility.

The company has performed an evaluation of subsequent events through May 31, 2017, the date on which the financial statements were issued.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 2 – INCOME TAXES

The Facility is included in the consolidated federal and state income tax returns filed by the Company. The Company allocates the consolidated federal and state income tax liabilities among the members of the consolidated return group (including the Facility) using a separate return method. Amounts determined to be a payable or receivable under the separate return method are classified as an element of net contributions to or from Kindred on the accompanying balance sheet at December 31, 2016.

The provision or benefit for income taxes is based upon the Facility’s annual reported income or loss for each respective accounting period. The Facility recognizes an asset or liability for the deferred tax consequences of temporary differences between the tax bases of assets and liabilities and their reported amounts in the financial statements. These temporary differences will result in taxable or deductible amounts in future years when the reported amounts of the assets are recovered or liabilities are settled and represent amounts due to or due from the Company in lieu of taxes. A valuation allowance is provided for these deferred tax assets if it is more likely than not that some portion or all of the net deferred tax assets will not be realized. Net operating losses are recognized on a benefits-for-loss basis which modifies the separate return method so that net operating losses that would not be realized (or realizable) by the Facility are recognized as a benefit for the Facility, given that they are realized (or realizable) by the Company.

The Facility had no income tax benefit or expense for the year ended December 31, 2016.

Reconciliation of federal statutory tax benefit to the benefit for income taxes for the year ended December 31, 2016 follows:

Income tax benefit at federal rate	\$(490,890)
Valuation allowance	488,468
Other items, net	2,422
	<u>\$ -</u>

A summary of deferred income taxes by source included in the balance sheet at December 31, 2016 follows:

	<u>Assets</u>	<u>Liabilities</u>
Property and Equipment	\$ 124,286	\$ -
Accounts receivable allowances	-	53,839
Compensation	17,085	-
Professional liability and worker’s compensation risks	39,923	-
Other	113,429	-
Net operating losses	566,461	-
	<u>861,184</u>	<u>\$ 53,839</u>
Reclassification of deferred tax liabilities	(53,839)	
	<u>807,345</u>	
Valuation allowance	(807,345)	
Net deferred tax assets	<u>\$ -</u>	

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 3 – LEASES

The Facility leases real estate and equipment under non-cancelable arrangements. The real estate under a non-cancelable operating lease is part of a master lease agreement along with other Kindred facilities. The real estate lease agreement to which the Facility is a party expires on April 30, 2025. Additionally, the master lease agreement provides for rent escalation annually on May 1. All annual rent escalators are payable in cash. The contingent annual rent escalator for the master lease agreement is based upon annual increases in the Consumer Price Index, subject to a ceiling of 4%. In 2016, the Facility recorded \$9,867 of contingent rent for the year ended December 31, 2016. Contingent rent is included in rent expense in the year incurred.

Rent expense related to non-cancelable operating leases amounted to \$1,485,544 for the year ended December 31, 2016. Future minimum payments under the real estate non-cancelable operating lease are as follows:

2017	\$ 1,468,987
2018	1,468,987
2019	1,468,987
2020	1,468,987
2021	1,468,987
Thereafter	4,896,623

On November 11, 2016, as part of the Company's strategic decision to exit the skilled nursing facility business, the Company entered into an agreement with Ventas which provides it with the option to acquire the real estate for all 36 skilled nursing facilities (the "Ventas SNFs") currently leased under the Master Lease Agreements for an aggregate consideration of \$700 million. The agreement also provides that, through October 31, 2018, the Company has the right to find one or more purchasers of the Ventas SNFs. As the Company locates new owners/operators for the Ventas SNFs, in exchange for the Company's payment to Ventas of the allocable portion of the \$700 million purchase price, Ventas has agreed to convey the real estate for the applicable Ventas SNF to the new owner/operator. The Company, at its option, may also elect to renew the leases for any of the Ventas SNFs through April 30, 2025, and transfer them into Master Lease Agreement No. 5. The Ventas SNFs will remain leased under their current Master Lease Agreements until the Company exercises its purchase option or April 30, 2018, whichever comes first. If the Company does not complete the acquisition of the Ventas SNFs by April 30, 2018, the lease for any remaining Ventas SNFs will be automatically renewed through April 30, 2025, and transferred into Master Lease Agreement No. 5. Since all of the Ventas SNFs will either be sold or transferred into Master Lease Agreement No. 5, Kindred's other Master Lease Agreements with Ventas will be effectively terminated and only Master Lease Agreement No. 5 will remain.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 4 – CONTINGENCIES

Laws and regulations governing the Medicare and Medicaid programs are complex and subject to interpretation. The Facility believes it is in compliance with all applicable laws and regulations and is not aware of any pending or threatened investigations involving allegations or potential wrongdoing. While no such regulatory inquiries have been made, compliance with such laws and regulations can be subject to future government review and interpretation as well as significant regulatory action including fines, penalties, and exclusion from the Medicare and Medicaid programs. Management is unaware of any commitments or contingencies that would result in losses to the Facility.

The Facility insures its professional liability and workers compensation risks through a wholly-owned, limited purpose insurance subsidiary of the Company (the “Insurance Subsidiary”). The following is a summary of the insurance recoverables and reserves under the policies as of December 31, 2016:

	Professional liability	Workers compensation	Total
Assets:			
Current	\$ 94,682	\$ 386,914	\$ 481,596
Long term	145,140	794,506	939,646
	<u>\$ 239,822</u>	<u>\$ 1,181,420</u>	<u>\$ 1,421,242</u>
Liabilities:			
Current	\$ 94,682	\$ 386,914	\$ 481,596
Long term	145,140	794,506	939,646
	<u>\$ 239,822</u>	<u>\$ 1,181,420</u>	<u>\$ 1,421,242</u>

NOTE 5 – CONCENTRATION OF CREDIT RISK

The Facility derives a majority of its revenue through provider agreements with the Centers for Medicare and Medicaid Services and the Vermont Department of Health and Human Services. Accordingly, receivables from these third parties constitute the majority of the Center’s patient accounts receivable which consisted of the following at December 31, 2016:

Private and other	41 %
Medicaid	33
Medicare	26
	<u>100 %</u>

Management monitors and evaluates the allowance for doubtful accounts to ensure that receivables are stated at their net realizable value.

NOTE 6 – RELATED-PARTY TRANSACTIONS

As a wholly-owned operating component of the Company, the Facility is subject to the accounting policies of the Company and is a party to numerous transactions with the Company. The Company is jointly liable for the obligations of the Facility and has pledged substantially all of the assets of the Facility to collateralize the Company’s ABL Facility, Term Loan Facility and Notes (all as defined below).

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED PARTY TRANSACTIONS (Continued)

All obligations under the ABL Facility and Term Loan Facility are fully and unconditionally guaranteed, subject to certain customary release provisions, by substantially all of the Company's existing and future direct and indirect domestic 100% owned subsidiaries, as well as certain non-100% owned domestic subsidiaries as the Company may determine from time to time in its sole discretion.

The Notes are fully and unconditionally guaranteed, subject to certain customary release provisions, by substantially all of the Company's domestic 100% owned subsidiaries.

ABL Facility and Incremental ABL Joinder

On April 9, 2014, the Company entered into a second amendment and restatement agreement (the "Second ABL Amendment Agreement") among the Company, the other credit parties party thereto, JPMorgan Chase Bank, N.A. as administrative agent and collateral agent, and the lenders party thereto. The Second ABL Amendment Agreement, among other items, (1) extends the maturity date of the prior ABL Facility from June 1, 2018 to April 9, 2019, (2) provides for the replacement of all revolving commitments outstanding under the prior ABL Facility with new revolving commitments in the same principal amount, (3) increases the amounts available for incremental commitments and (4) amends certain provisions related to the incurrence of debt and liens and the making of acquisitions, investments and restricted payments.

On October 31, 2014, the Company entered into a third amendment and restatement agreement (the "ABL Amendment Agreement") among the Company, the consenting lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent. The ABL Amendment Agreement amended and restated the ABL Credit Agreement dated as of June 1, 2011, as amended by that certain Amendment No. 1 to the ABL Credit Agreement dated as of October 4, 2012 and as further amended and restated by that certain Amendment and Restatement Agreement dated as of August 21, 2013 and that certain Second Amendment and Restatement Agreement dated as of April 9, 2014 (the "ABL Facility"), among the Company, the lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent.

The ABL Amendment Agreement, among other items, modified certain provisions related to the issuance of Notes into the Escrow Accounts. Upon the consummation of Kindred's acquisition of Gentiva Health Services, Inc. on February 2, 2015, and the satisfaction of certain other conditions, the ABL Amendment Agreement further amended and restated the ABL Facility to, among other items, modify certain provisions related to the incurrence of debt and the making of acquisitions, investments and restricted payments.

The ABL Amendment Agreement did not modify the maturity date of the revolving commitments thereunder or the applicable interest rate margins applicable to any borrowings thereunder.

In addition, on December 12, 2014, the Company entered into an incremental joinder agreement (the "Incremental ABL Joinder") among the Company, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, the incremental lenders party thereto and the other credit parties party thereto. Upon the consummation of the Gentiva Merger and the satisfaction of certain other conditions, the Incremental ABL Joinder provided for additional revolving commitments in an aggregate principal amount of \$150 million under the ABL Facility.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED PARTY TRANSACTIONS (Continued)

ABL Amendment No. 2 to the ABL Facility

On June 3, 2015, the Company entered into an amendment agreement to the ABL Amendment Agreement (the “ABL Amendment No. 2”), which modified the restrictions on the amount of cash and temporary cash investments that may be held outside of certain deposit accounts subject to control agreements. As used herein, the “ABL Facility” refers to the ABL Amendment Agreement, as amended by the Incremental ABL Joinder and the ABL Amendment No. 2.

Aside from the foregoing changes, the terms and conditions of the ABL Amendment Agreement were substantially similar to the terms and conditions before the effectiveness of the ABL Amendment No. 2.

Term Loan Facility

On April 9, 2014, the Company entered into a third amendment and restatement agreement (the “Third Amended and Restated Term Loan Facility”) among the Company, the other credit parties party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and the lenders party thereto. The Third Amended and Restated Term Loan Facility, among other items, (1) extends the maturity date of the prior Term Loan Facility from June 1, 2018 to April 9, 2021, (2) provides for the replacement of all term loans outstanding under the prior Term Loan Facility with new term loans in a principal amount of \$1 billion, (3) reduces the interest rate margins applicable to the term loans, (4) increases the available capacity for incremental term loans and (5) amends certain provisions related to the incurrence of debt and liens and the making of acquisitions, investments and restricted payments.

On November 25, 2014, the Company entered into a fourth amendment and restatement agreement (the “Fourth Amended and Restated Term Loan Facility”) among the Company, the consenting lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent. The Fourth Amended and Restated Term Loan Facility amended and restated the Term Loan Credit Agreement dated as of June 1, 2011, as amended by that certain Incremental Amendment No. 1 to the Term Loan Credit Agreement dated as of October 4, 2012 and as further amended and restated by that certain Amendment and Restatement Agreement dated as of May 30, 2013, that certain Second Amendment and Restatement Agreement dated as of August 21, 2013 and that certain Third Amendment and Restatement Agreement dated as of April 9, 2014, among the Company, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent (the “Term Loan Facility”).

The Fourth Amended and Restated Term Loan Facility amended and restated the Term Loan Facility to, among other items, (i) increase the applicable interest rate margins for London Interbank Offered Rate borrowings from 3.00% to 3.25% and for base rate borrowings from 2.00% to 2.25%, (ii) temporarily increase the maximum total leverage ratio permitted under the financial maintenance covenants, (iii) include soft-call protection at a prepayment premium of 1.00% for twelve months starting from November 25, 2014 and (iv) modify certain provisions related to the incurrence of debt and the making of acquisitions, investments and restricted payments. The Fourth Amended and Restated Term Loan Facility did not modify the maturity date of the loans made thereunder.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED PARTY TRANSACTIONS (Continued)

Incremental Term Loan Amendment to Term Loan Facility

On March 10, 2015, the Company entered into an incremental amendment agreement to the Fourth Amended and Restated Term Loan Facility (the “Incremental Term Loan Agreement”), which provided for an incremental term loan in an aggregate principal amount of \$200 million under its Fourth Amended and Restated Term Loan Facility. The Company used the net proceeds of the incremental term loan to repay outstanding borrowings under the Third Amended and Restated ABL Facility. The incremental term loan was issued with 50 basis points of original issue discount and has the same terms as, and is fungible with, all other term loans outstanding under the Fourth Amended and Restated Term Loan Facility. As used herein, the “Term Loan Facility” refers to the Fourth Amended and Restated Term Loan Facility, as amended by the Incremental Term Loan Agreement.

On June 14, 2016, the Company entered into the Term Loan Credit Agreement that amended and restated the Term Loan Facility to provide for, among other things, (1) additional joint venture flexibility, including an increased ability to enter into and make investments in joint ventures that are non-guarantor restricted subsidiaries and to incur debt and liens of such joint ventures and other non-guarantor restricted subsidiaries, (2) an increase in the size of a basket for asset sales from 15% to 25% of consolidated total assets, (3) maintaining a maximum total leverage ratio of 6.00:1.00 for each quarterly measurement date after the date of such amendment, and (4) an incremental term loan in an aggregate principal amount of \$200 million. The incremental term loan was issued with 95 basis points of original issue discount (“OID”) and has the same terms as, and is fungible with, the \$1.18 billion in aggregate principal amount of term loans that were outstanding under the Term Loan Facility immediately prior to the effectiveness of the Term Loan Credit Agreement. The net proceeds from the incremental term loan were used to repay a portion of the outstanding borrowings under the Company’s ABL Facility.

On March 14, 2017, the Company entered into the Term Loan Amendment Agreement that amended and restated the Term Loan Facility to, among other things, (1) make adjustments to certain covenants and definitions to better accommodate the Company’s previously announced plan to sell its skilled nursing division, (2) provide the Company with increased leverage covenant flexibility for an interim period, (3) increase the applicable margin on the outstanding borrowings from 3.25% to 3.50% for LIBOR borrowings and from 2.25% to 2.50% for base rate borrowings, (4) require a maximum leverage ratio of no more than 5.00 to 1.00 for use of the \$50 million annual dividend basket, and (5) provide for a prepayment premium of 1.00% in connection with any repricing transaction within six months of the closing date. In accordance with the authoritative guidance on debt, the Company accounted for the amendment as a debt modification.

Aside from the foregoing changes, the terms and conditions of the Fourth Amended and Restated Term Loan Facility were substantially similar to the terms and conditions before the effectiveness of the Incremental Term Loan Agreement.

KINDRED NURSING CENTERS EAST, LLC
d/b/a BIRCHWOOD TERRACE HEALTHCARE
NOTES TO FINANCIAL STATEMENTS (Continued)

NOTE 6 – RELATED PARTY TRANSACTIONS (Continued)

Notes

On April 9, 2014, the Company completed a private placement of \$500 million aggregate principal amount of 6.375% senior notes due 2022. On December 18, 2014, Kindred Escrow Corp. II, one of the Company's subsidiaries, completed a private placement of \$750 million aggregate principal amount of 8.00% senior notes due 2020 and \$600 million aggregate principal amount of 8.75% senior notes due 2023. The senior notes due 2022, 2020 and 2023 are collectively referred to as the "Notes."

Other Related Party Transactions

A significant portion of transactions are processed by the Company on the Facility's behalf including cash management, accounts receivable processing, property and equipment record keeping, accounts payable processing, payroll and general bookkeeping. Additionally, the Company manages general business functions on behalf of the Facility including cost reimbursement reporting, human resources, financial reporting, income taxes and legal services. Expenses incurred by the Company related to the operations of the Facility are allocated to the Facility based on a percentage of net revenues. The Company has allocated expenses of \$752,517 for the year ended December 31, 2016 to the Facility which are included in other operating expenses on the accompanying statement of operations and accumulated deficit.

The Company provides certain rehabilitation services to the Facility. The amount for rehabilitation services included in other operating expenses on the accompanying statement of operations and accumulated deficit for the year ended December 31, 2016 was \$1,042,058. This amount was based upon contracted rates for rehabilitation services.

The Facility insures the primary layer of its professional and general liability risks and its workers compensation risks through the Insurance Subsidiary. Risks in excess of those retained by the Insurance Subsidiary are reinsured with unaffiliated commercial insurance carriers. Liability premiums paid to the Insurance Subsidiary totaled \$35,042 in 2016 and are included in other operating expenses on the accompanying statement of operations and accumulated deficit. Workers compensation premiums paid to the Insurance Subsidiary totaled \$176,345 in 2016 and are included in salaries, wages and benefits on the accompanying statement of operations and accumulated deficit. See Note 4 for insurance recoverables and liabilities.

The Facility participates in an employee medical benefits plan sponsored by the Company. The plan provides medical benefits to participating employees and their qualifying dependents who meet certain eligibility requirements. Medical plan expense totaled \$321,013 in 2016 and is included in salaries, wages and benefits on the accompanying statement of operations and accumulated deficit.

ATTACHMENT 16

STATE OF VERMONT
OFFICE OF SECRETARY OF STATE

The Office of Secretary of State hereby grants a

Articles of Organization

to

BIRCHWOOD OPERATIONS LLC

A Vermont Domestic Limited Liability Company, effective June 22, 2017

June 23, 2017



Given under my hand and the seal
of the State of Vermont, at
Montpelier, the State Capital

James C. Condos

James C. Condos
Secretary of State



**VERMONT SECRETARY OF STATE
Corporations Division**

MAILING ADDRESS: Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1104
DELIVERY ADDRESS: Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1104
PHONE 802-828-2386 WEBSITE: www.sec.state.vt.us

ARTICLES OF ORGANIZATION

****ELECTRONICALLY FILED****

FILING NUMBER: 0002282749

FILING DATE: 6/22/2017

EFFECTIVE DATE: 6/22/2017

BUSINESS INFORMATION	
BUSINESS ID	0332127
BUSINESS NAME	BIRCHWOOD OPERATIONS LLC
BUSINESS TYPE	Domestic Limited Liability Company
BUSINESS DESCRIPTION	Any Legal Purpose
BUSINESS EMAIL	arierlichman@gmail.com

DESIGNATED OFFICE PHYSICAL ADDRESS			
STREET ADDRESS	101 lawrence avenue ,	CITY	lawrence
STATE	Vermont	ZIP CODE	11559
COUNTRY	United States		

DESIGNATED OFFICE MAILING ADDRESS			
ADDRESS	101 lawrence avenue ,	CITY	lawrence
STATE	Vermont	ZIP CODE	11559
COUNTRY	United States		

FISCAL YEAR END MONTH	
FISCAL YEAR END MONTH	December

AGENT INFORMATION		
NAME	PHYSICAL ADDRESS	MAILING ADDRESS
NORTHWEST REGISTERED AGENT LLC	145 PINE HAVEN SHORES RD #1000A, SHELBURNE, VT, 05482, USA	145 PINE HAVEN SHORES RD #1000A, SHELBURNE, VT, 05482, USA

MANAGEMENT STYLE
Not Indicated

MEMBERS INFORMATION	
Does the LLC have members at the time of filing?	No

AUTHORIZER INFORMATION	
AUTHORIZER SIGNATURE	Ari Erlichman
AUTHORIZER TITLE	Member

ATTACHMENT 17

STATE OF VERMONT
OFFICE OF SECRETARY OF STATE

The Office of Secretary of State hereby grants a

Articles of Organization

to

BIRCHWOOD PROP, LLC

A Vermont Domestic Limited Liability Company, effective June 22, 2017

June 23, 2017

Given under my hand and the seal
of the State of Vermont, at
Montpelier, the State Capital



James C. Condos

James C. Condos
Secretary of State



VERMONT SECRETARY OF STATE
Corporations Division
 MAILING ADDRESS: Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1104
 DELIVERY ADDRESS: Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1104
 PHONE: 802-828-2386 WEBSITE: www.sec.state.vt.us

ARTICLES OF ORGANIZATION

****ELECTRONICALLY FILED****
 FILING NUMBER: 0002282750
 FILING DATE: 6/22/2017
 EFFECTIVE DATE: 6/22/2017

BUSINESS INFORMATION	
BUSINESS ID	0332128
BUSINESS NAME	BIRCHWOOD PROP, LLC
BUSINESS TYPE	Domestic Limited Liability Company
BUSINESS DESCRIPTION	Any Legal Purpose
BUSINESS EMAIL	arierlichman@gmail.com

DESIGNATED OFFICE PHYSICAL ADDRESS			
STREET ADDRESS	101 Lawrence Avenue ,	CITY	Lawrence
STATE	New York	ZIP CODE	11559
COUNTRY	United States		

DESIGNATED OFFICE MAILING ADDRESS			
ADDRESS	101 Lawrence Avenue ,	CITY	Lawrence
STATE	New York	ZIP CODE	11559
COUNTRY	United States		

FISCAL YEAR END MONTH	
FISCAL YEAR END MONTH	December

AGENT INFORMATION		
NAME	PHYSICAL ADDRESS	MAILING ADDRESS
NORTHWEST REGISTERED AGENT LLC	145 PINE HAVEN SHORES RD #1000A, SHELBURNE, VT, 05482, USA	145 PINE HAVEN SHORES RD #1000A, SHELBURNE, VT, 05482, USA

MANAGEMENT STYLE
Not Indicated

MEMBERS INFORMATION	
Does the LLC have members at the time of filing?	No

AUTHORIZER INFORMATION	
AUTHORIZER SIGNATURE	Ari Erlichman
AUTHORIZER TITLE	Member

ATTACHMENT 18

Ari Erlichman

101 Lawrence Avenue.
Lawrence, NY 11559
(410) 499-3811
aerlichman@erlichmanlawpc.com

Background

Ari Erlichman, a Georgetown Law graduate, maintains a successful health care law practice with clients that include skilled nursing and assisted living facilities, four home health care companies, New York state's largest ambulance provider, urgent care centers, pharmacies and a managed long term care (MLTC) insurance company. Erlichman works both as a consultant and general counsel to his clients assisting them and their employees, with compliance (creation and implementation of corporate compliance programs, federal and state government audits and investigations, HIPAA policies and training), risk management (oversee and track claims as well as implementation of programs to reduce claims), transactional (purchase and sales of SNFs and other health care facilities as well as obtaining regulatory approval from state to operate), and representation in litigation.

Erlichman, his wife Jaclyn and their four children are residents of Lawrence, New York.

Experience

2015 - Present

Centers Health Care - *General Counsel & Chief Compliance Officer*

Centers Health Care is a privately held Post-Acute Provider in NY/NJ/RI with annual revenues exceeding \$2.5B.

- Advise executive staff on complicated legal and compliance matters.
- Direct entire legal department with full responsibility for internal lawyers and external attorneys that represent the company.
- Oversee legal aspects of real estate procurement, health care business transactions and contracts.
- Manage litigation for any suits brought onto the company.
- Oversee efforts to proactively identify and mitigate legal exposure and litigation costs.
- Manage company's risk management and implement programs to reduce liability across all lines of business
- Direct the development, operations and management of corporate compliance programs and projects.
- Identify and contain compliance risk with oversight for monitoring, reporting and certification process.

- Develop compliance culture and foster good working relationships with regulatory offices.

2015- Present

Erlichman Law P.C. - Owner

A health care law practice with clients that include skilled nursing and assisted living facilities, four home health care companies, New York state's largest ambulance provider, urgent care centers, pharmacies and a long term care insurance company.

2012 - 2015

Rosenbaum & Associates P.C. - Senior Associate

Counsel to investment group with a portfolio of over \$1 Billion in assets that include commercial real estate, hotels, hospitals and the operations of over one hundred and eighty Skilled Nursing Facilities, and ancillary companies of the same, including pharmacy, laundry, rehab, therapy, X-ray and ambulette services. Drafted memoranda of law, pleadings, motions and settlement agreements; handled oral arguments; managed complex discovery proceedings, including e-discovery, document reviews, expert reports, and deposition preparation; conducted legal research in both Federal and State matters as well as arbitrations and mediations. Transactional experience includes representation and negotiation on behalf of clients in multiple commercial, real-estate and healthcare transactions; drafting sales agreements, letters of intent, responsive bids to RFPs, as well as various loan related documents.

2011 - 2012

Bower Law P.C. - Associate

A boutique law firm specializing in the defense of medical malpractice and liability claims against health care providers including hospitals, skilled nursing facilities and physicians.

Education

2008-2011

Georgetown University Law Center, Washington, D.C.- *Juris Doctor*

2003-2008

Ner Israel Rabbinical College- *Bachelors Degree*

ATTACHMENT 19

Milton Ostreicher

91-31 175th St,
Jamaica, NY 11432
(718) 883-7800

Background

Milton Ostreicher graduated from Queens College with a B.A. in Economics in 1971. Ostreicher has 27 years of nursing home experience with turn-arounds to his credit. Ostreicher has purchased underperforming and mismanaged facilities, recruited highly experienced and reputable nursing home administrators and managers and provided them with incentive programs for both financial and regulatory compliance and driven revenue by maximizing quality case mix.

Ostreicher has and continues to invest millions of dollars towards renovations and remodeling of his facilities and has plans to spend additional amounts in the next few years in additional capital improvements. His constant communication with his Administrators, managers and staff and his "on the ground" approach to operations allow him to immediately provide his facilities with the tools they need to give the utmost care to its residents.

He has been at Highland Care Center since January 1, 1990. In addition to Highland, Mr. and Mrs. Ostreicher are principals of two other skilled nursing facilities. Mr. Ostreicher and his wife are residents of Woodmere, NY for the last 37 years. They have six married children and numerous grandchildren.

Experience

1990- Present

Highland Care Center - *Principal/Director of Operations*

Highland Care Center is a skilled nursing facility, located in Queens, NY, with annual revenues exceeding \$45,000,000.

- Principal of the operating entity.
- Oversees day-to-day operations and management of the facility.
- Handles purchasing for the facility and oversees ancillary providers

Education

1971

Queens College, Queens, N.Y.- *Bachelors in Economics*

ATTACHMENT 20

Isaac Rubin

5 Whispering Pines Ln.
Lakewood, NJ 08701
(732)245-0483
rubingroup@gmail.com

Background

Isaac Rubin is the Vice President of Business Development and Managed Care Initiatives as well as Corporate Director of DSRIP for a leading post-acute care provider in the Northeast. In this capacity, Isaac is at the forefront of the rapidly evolving healthcare landscape and the national trends towards quality and value. Isaac is driven by the belief that high quality care is not only a provider's duty, but also an opportunity. Accordingly, Isaac appreciates the challenges of preparing a skilled nursing facility for the post-fee-for-service environment. While quality is by definition 'qualitative,' he understands that outcomes must be benchmarked against his peers, and he will accept nothing short of excellence in this regard.

Isaac has leveraged high quality care to secure innovative partnerships across the care continuum with hospitals, physicians and managed care plans. He sits at the forefront of healthcare reform initiatives involving Accountable Care Organizations and Bundled payment programs, always leading the discussion with documented outcomes and resident satisfaction surveys. These initiatives have driven referrals and validated his approach, while other operators engage in a 'race to the bottom' by reducing staffing and services.

Isaac excels at leading 'troubled' facilities to excellence, and has directed historically 'one star' providers to market leading status. He is a fixture 'on the floors' of the facilities in his charge, and epitomizes the qualities required to succeed in the new world order of healthcare reform. Isaac can best be described as a stellar manager, that cares . Isaac is a leader who knows how to motivate others.

Isaac is also on the board of numerous charities; he believes in community and therefore gives back by donating from his time and money to help others. He serves on the Project Advisory Committee of the Mount Sinai Hospital PPS and serves on the Executive Committee of the Maimonides Medical Center Hospital PPS. In addition, he volunteers for the US Coast Guard as an Auxiliarist and holds a NJ EMT-B certification.

Isaac and his wife Rochel reside in New Jersey. They have seven children, three girls and four boys.

Experience

2013 - PRESENT

Centers Health Care, Bronx, New York - *VP Business Development & Managed Care*

Centers Health Care is a privately held Post-Acute Provider in NY/NJ/RI with annual revenues exceeding \$2.5B.

- Involved in company growth from \$950MM annual revenue in 2013 to \$2.5B in 2017
- Successfully rolled out VBP and BPCI programs
- Identified and led programs to improve quality of care, patient outcomes and customer satisfaction
- Formed partnerships and alliances with Hospitals, ACOs and Payors
- Identified efficiencies

2009 - 2013

3R Equities - *Chief Investment Officer (CIO)*

3R Equities is a focused private equity firm founded in 2009 that seeks to discover and invest in the newest and most innovative entrepreneurial ventures. To date, 3R Equities investments have encompassed numerous markets, including technology, insurance, real estate, and most importantly healthcare.

2004 - 2009

Atlas Brokers - *Founder and CEO*

Atlas Brokers was a boutique insurance brokerage house located in New Jersey focused on life and health insurance for individuals, small groups as well as large employer groups.

Education

1999-2004

Beth Medrash Govoha, Lakewood - *Bachelors Degree*

ATTACHMENT 21

FILED UNDER SEAL

**Ari Erlichman
Personal Financial Statement**

ATTACHMENT 22

FILED UNDER SEAL

Milton Ostreicher
Personal Financial Statement

ATTACHMENT 23

FILED UNDER SEAL

Issac Rubin

Personal Financial Statement

ATTACHMENT 24

THOMAS DEPOY

139 Pinnacle Ridge Road, Rutland , Vermont 05701 | H: 802 775-7289 | C: 802 683-7256 |

Thomas.depoy1@gmail.com

PROFESSIONAL SUMMARY

My name is Thomas DePoy.

For over 25 years I have worked as a Regional Vice President and a Senior Executive Director of Skilled Nursing centers in New England and the states of New Jersey and Washington.

I have a keen ability to drive Operational Improvements and Key Initiatives with a proven record of success.

That record of success includes improved Quality Patient care , higher Customer and Patient satisfaction , and high Employee satisfaction.

I have exceptional people skills , and am well versed in Case Mix reimbursement as well as The 5 Star Federal and state Quality care rating system.

My centers have always Achieved more than they thought possible!

CORE QUALIFICATIONS

- Results-oriented : Have a plan, Set goals, Manage the plan, Achieve the plan
 - Proficiency in Census/ Quality Development Community relations is essential.
 - Client-Focused Care. My centers Utilize QIS survey interviews with patients and families . These surveys are conducted on a regular basis.
- I excel in the area of Employee relations.
Regularly scheduled team meetings with all staff on all shifts.
Excellent Operations/Management Experience.
Clinical and Operational Systems are a must have.
Seek input but be sure all employees know the systems and use them.

EXPERIENCE

05/1998 to 06/2005

Regional Director of Operations

Genesis Healthcare — Andover , Massachusetts

Increased sales by 10% over a two-year period. We increased Medicare and Insurance covered Census in all the centers I managed.

Successfully led key projects which resulted in the first in the area Rehabilitation center on a 5 center campus.

Successfully led key projects which resulted in an Alzheimer's unit opening in one of our 5 centers campus.

Successfully led key projects which resulted in an Alzheimer's 40 bed unit in Morrisville , Vermont..

EDUCATION

1973

Bachelor of Arts: Sociology

Castleton University – Castleton , Vermont, United States of America

PROFESSIONAL AFFILIATIONS

Member, Alumni Association: Mount Saint Joseph Academy

Past President of the Vermont Healthcare Association

Past President of the Vermont Epilepsy Association of Vermont

Member of the Vermont Healthcare Association

Currently a Board Member of the Vermont Healthcare Association and have been for 15 years.

ACCOMPLISHMENTS

Developed and assisted in opening 5 Alzheimer's units that were placed in Skilled Nursing centers .

Assisted in the development of 4 Rehabilitation centers for the Elderly in Skilled Nursing centers.

Worked on the construction ,development and opening of Starr Farm Nursing and Rehabilitation center in Burlington. This 150 bed center was a joint venture between the University of Vermont Medical center and Kindred Healthcare. I was a voting member of the Starr Farm Rehabilitation center Board of Directors

I assisted with the development and operation of Revera owned Burlington Health and Rehabilitation centers 40 bed conversion to a Sub Acute Rehabilitation center.

This center is one of the premier rehabilitation for seniors in the state of Vermont.

AWARDS

Excellence in Leadership Award 2011 Vermont Healthcare Association

EXECUTIVE EXPERIENCE

Revera Health Systems – Meriden, CT

Skilled Nursing centers Owners /Operators

03/2005 to 12/2016

Regional Vice president Of Operations

Revera was a Canadian based healthcare company . Revera owned 30 Skilled Nursing centers in 9 states in the United States.

I was hired to help Rebrand the centers, improve Census/Quality Mix, streamline

the operations and grow the company .

These goals were all met by the Revera centers and the work of the professionals I worked with.

Capital improvements , upgrades of all 30 physical plants took place.

Revera decided to sell the centers to Genesis Healthcare.

I stayed on to assist my centers with the transition to Genesis.

Sharon Martin

Waltham, MA 1-774-644-9150

Develop, implement regulatory and strategic leadership role that enhances clinical operations. Over several years I have been partnering with post acute teams to improve their knowledge and compliance with; CMS regulatory requirements, understanding each individual ACO's unique functions, developing and implementing new strategies to maintain current marketplace needs.

Kindred Healthcare: August, 2010- 2017

District Director of Clinical Operations MA, CT, VT, FL, NJ, NO

- Clinical operations for SAU, Skilled Nursing and Assisted Living facilities in multiple states
- CMS regulatory quality oversight
- Development and implementation of clinical strategic programs with managed facilities with joint partnerships.
- Executed the opening of Hollywood FL SAU in 2016
- ACO's collaboration role in post acute market

Eli Lilly and Company: June 2001- May 2010

Account Executive

- Portfolio management of disease state with key decision makers in senior care marketplace.
- Multiple states, MA, NY, CT, MD, PA FL Pharmaceutical Regulatory requirements
- Expertise with diverse healthcare segments and working with B2B partners

ADS Management & Genesis Healthcare:

Sarah S Brayton Nursing and Rehabilitation, Massachusetts March 1993-2001

Director of Nursing Services

- Nursing leadership
- Budgetary management
- CMS regulatory requirements
- Executed the opening of this joint venture facility with Charlton Memorial Hospital and ADS Management.

Hillhaven Healthcare Corporation: Crawford House and Crestwood skilled nursing facilities 1989-1993

Director of Nursing Services

- Nursing leadership
- Budgetary management
- CMS regulatory requirements

St Annes Hospital, Fall River MA 1984-1989

- Staff RN Oncology unit

Education:

Bachelor's Degree (BSN University of Massachusetts, Dartmouth MA),

QAPI, 5 Star, symposium

New Interpretive guidelines (final rule)

Professional memberships:

Toastmaster International

Boston Healthcare professionals

ACO Development & Operations Forum

Professionals in the Pharmaceutical and Biotech Industry

ATTACHMENT 25

Attachment 25 - Overall Star Rating

	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-17	
Birchwood Terrace	4	4	3	3	3	3	Avg = 3.33
Achieve Rehabilitation and Nursing Center	3	3	3	3	3	3	Avg = 3
Beacon Nursing and Rehabilitation	5	5	5	5	5	5	Avg = 5
Highland Care Center	3	3	3	3	3	4	Avg = 3.16
Kindred Transitional Care And Rehab- Smith Ranch	3	3	3	3	3	3	Avg = 3

ATTACHMENT 26

Attachment 26 - Health and Fire

	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-17	
Birchwood Terrace	3	3	3	3	3	3	Avg = 3
Achieve Rehabilitation and Nursing Center	4	4	4	3	4	4	Avg = 3.83
Beacon Nursing and Rehabilitation	5	5	5	5	5	5	Avg = 5
Highland Care Center	4	4	4	4	4	4	Avg = 4
Kindred Transitional Care And Rehab- Smith Ranch	2	2	2	2	2	2	Avg = 2

ATTACHMENT 27

Attachment 27 - Staffing

	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-17	
Birchwood Terrace	4	4	3	3	3	3	Avg = 3.33
Achieve Rehabilitation and Nursing Center	1	1	1	1	1	1	Avg = 1
Beacon Nursing and Rehabilitation	1	1	1	1	1	3	Avg = 1.33
Highland Care Center	1	1	1	1	1	2	Avg = 1.16
Kindred Transitional Care And Rehab- Smith Ranch	4	4	4	4	4	4	Avg = 4

ATTACHMENT 28

Attachment 28 - RN Staffing

	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-17	
Birchwood Terrace	4	4	4	4	4	4	Avg = 4
Achieve Rehabilitation and Nursing Center	2	2	2	2	2	2	Avg = 2
Beacon Nursing and Rehabilitation	2	2	2	2	2	3	Avg = 2.16
Highland Care Center	1	1	1	1	1	2	Avg = 1.16
Kindred Transitional Care And Rehab- Smith Ranch	4	4	4	4	4	4	Avg = 4

ATTACHMENT 29

CMS Quality Measures where facility scores below state average where facility is located, indicating the percentage difference between facility and state average. As of November 17, 2017

Short Stay Residents	Birchwood	Achieve	Beacon	Highland
Improved ability to move around	6.2%	3.1%		
Re-hospitalized			0.5%	2.4%
Outpatient emergency department visit		7.2%		0.9%
Successfully discharged		6.6%	2.0%	11.5%
Moderate to severe pain	6.4%	11.4%		
Pressure ulcers worsened	0.4%	0.2%		
Seasonal flu vaccine				13.6%
Pneumococcal vaccine				7.4%
Received antipsychotic medication	2.1%	0.7%	0.5%	2.2%
Long Stay Residents	Birchwood	Achieve	Beacon	Highland
Falls with major injury		0.2%		
Urinary tract infection			2.5%	0.9%
Self-report moderate to severe pain	8.6%	4.1%		
Have pressure ulcers		1.0%	2.6%	1.7%
Lose control of bowels/bladder	5.3%	9.2%	9.3%	7.8%
Catheter inserted/left in bladder				0.9%
Physically restrained	0.4%			
Ability to move independently worsened	5.6%	1.5%		7.5%
Need for help with daily activities increased	6.6%			8.5%
Lost too much weight	1.3%	2.9%		
Depressive symptoms				
Antianxiety or hypnotic medication	8.4%	9.4%	6.4%	
Seasonal flu vaccine		1.0%		4.1%
Pneumococcal vaccine		1.8%		9.0%
Received antipsychotic medication	21.1%	1.1%		3.0%

ATTACHMENT 30

CMS data on federal fines and penalties in past 3 years

Facility	CMS data on federal fines and penalties in past 3 years, 11-17-17
Birchwood	0
Achieve Rehabilitation	0
Beacon Nursing	0
Highland Care Center	0

ATTACHMENT 31

Data re mental health services and psychiatry

Facility	Mental Health Services	Psychiatry
Birchwood	On site services by Lauren B. Axelrod, Deer Oak Mental Health Associates	Vanderbilt University, via telemedicine, one time per week, or more as needed.
Achieve Rehabilitation	Psychologist who comes on site 3 times per week, but is available 24/7 for phone consultations. Residents who need additional or more acute services are transferred to local hospital that provides acute mental health services. The facility utilizes telemedicine as needed.	Comes on site once per week, but is available 24/7 for phone consultations. Residents who need additional or more acute services are transferred to local hospital that provides acute mental health services. The facility utilizes telemedicine as needed.
Beacon Nursing	Psychologist who comes on site 3 times per week, but is available 24/7 for phone consultations. Residents who need additional or more acute services are transferred to local hospital that provides acute mental health services.	Comes on site once per week, but is available 24/7 for phone consultations. Residents who need additional or more acute services are transferred to local hospital that provides acute mental health services.
Highland Care Center	Psychologist who comes on site 3 times per week, but is available 24/7 for phone consultations. Residents who need additional or more acute services are transferred to local hospital that provides acute mental health services.	Comes on site once per week, but is available 24/7 for phone consultations. Residents who need additional or more acute services are transferred to local hospital that provides acute mental health services. The facility utilizes telemedicine as needed.

ATTACHMENT 32

OPERATIONS TRANSFER AND SURRENDER AGREEMENT

THIS OPERATIONS TRANSFER AND SURRENDER AGREEMENT, together with all exhibits and schedules (this “*OTA*”), dated as of June 30, 2017 (the “*Execution Date*”), is by and among Kindred Healthcare Operating, Inc., a Delaware corporation (“*Kindred*”); Kindred Nursing Centers East, L.L.C., a Delaware limited liability company, Kindred’s affiliated seller entity which operates the Facility (“*Transferor*”); Birchwood Operations LLC, a Vermont limited liability company (“*Transferee*”); and E&R Operations LLC, a Vermont limited liability company (“*Transferee Guarantor*”). Each of Kindred, Transferor, and Transferee may be referred to herein as a “*Party*” and collectively as the “*Parties*.” Capitalized terms used herein but not defined shall have the same meaning ascribed to such terms in the Purchase Agreement. A glossary of capitalized terms is set forth in Exhibit A attached hereto.

WHEREAS, Transferor is the operator or manager of the skilled nursing facility located at 43 Starr Farm Rd., Burlington, VT 05408-1321 (the “*Facility*”);

WHEREAS, Kindred has agreed to sell (or transfer the relevant leasehold interest in) the real property and assets comprising the Facility to BM Eagle Holdings, LLC (“*Purchaser*”) pursuant to that certain Asset Purchase Agreement dated as of June 30, 2017 (the “*Purchase Agreement*”), by and between Kindred and Purchaser;

WHEREAS, Transferor owns certain Assets used in connection with the operation of the Facility;

WHEREAS, Transferor desires to divest itself of the operations or management of the Facility that it currently operates and all of its interest in the tangible and intangible property and related other interests relating to the operation and/or management of the Facility, all upon the terms and conditions contained in this OTA;

WHEREAS, concurrent with the Closing under the Purchase Agreement, Transferee has agreed to lease the Facility from Purchaser;

WHEREAS, the Parties hereto desire for Transferor, subject to the satisfaction of the conditions contained herein, to cease operating the Facility and surrender all rights in and to the Facility, except as provided in this OTA, and for Transferee to commence operation of the Facility; and

WHEREAS, the Parties wish to provide for an orderly and lawful transition of the operations of the Facility from Transferor to Transferee.

NOW, THEREFORE, in consideration of the premises, the mutual obligations of the Parties contained in this OTA, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I **SURRENDER**

1.1 **Surrender**. Transferor agrees that Transferor’s rights and obligations in and to the Facility and all of its rights to occupy or otherwise operate the Facility shall terminate as of the Effective Time, except those rights or obligations which survive or are retained by such Transferor pursuant to this OTA. Transferor agrees to convey, assign and deliver to Transferee the Assets and all of Transferor’s right, title and interest in and to the business operations of the Facility, effective as of the Effective Time.

ARTICLE II
ASSETS, LIABILITIES AND OTHER MATTERS

2.1 Assets. Upon the terms and subject to the conditions set forth in this OTA, on the Closing Date, and except for the Excluded Assets, to the fullest extent of its interest, Transferor shall (i) transfer to Transferee physical custody (at the Facility) with regard to items in subparagraph “(c)” and (ii) sell, transfer, convey and/or assign to Transferee, free and clear of all Encumbrances of any nature whatsoever except for Permitted Encumbrances, all of Transferor’s right, title and interest in and to the items listed in subparagraphs “a” through “l” (the “*Assets*”).

(a) Reserved;

(b) all computers, computer equipment and hardware, office equipment, trucks, vehicles and other transportation equipment, parts, supplies and other tangible personal property owned by and in Transferor’s possession as of the date of this OTA or acquired by Transferor prior to the Closing Date which are used exclusively in connection with the operation of its Facility;

(c) software licenses related exclusively to the operation of the Facility, if applicable and to the extent assignable (and if licensor consent to such assignment is required, to the extent such consent is granted), subject to any license transfer fees which would be the responsibility of Transferee;

(d) all inventory and supplies (excluding those provided by a National Contract) but not less than a quantity of inventory and supplies that is required by Law including, but not limited to, office, foodstuffs, medical, disposables, prescription medications and pharmaceutical inventories and supplies and other inventories, supplies and articles of personal property of every kind and nature attached to or used in connection with the Facility, but only to the extent such inventory and supplies are owned by Transferor (collectively “*Inventory*”);

(e) all contracts, agreements, leases (excluding real estate leases), purchase orders relating exclusively to the Facility (collectively, the “*Contracts*”), whether oral or written, to the extent transferable and to the extent expressly assumed in writing by Transferee in its sole discretion; *excluding, however*, rights, claims or responsibilities thereunder existing and relating to the period of time prior to the Effective Time. Transferee will inform Transferor in writing of the Contracts which it intends to assume by delivering to Transferor a listing of such Contracts within the later of (i) three (3) Business Days after the Execution Date or (ii) ten (10) days of the date of receipt of copies of such contracts. A preliminary list of those Contracts which Transferee has identified as Assumed Contracts as of the Execution Date is attached hereto as Schedule 2.1(e), which Transferee may modify until fifteen (15) days prior to Closing, after which time such Schedule shall be deemed final. All Contracts as to which Transferor receives from Transferee timely notice of assumption are referred to as the “*Assumed Contracts*.” To the extent mutually agreed by Kindred and Transferee, Transferee will also assume therapy Contracts relating to the Facility between any Seller Party and RehabCare or any of its Affiliates, subject to any modifications or amendments Kindred, Transferee and RehabCare negotiate as part of such mutual agreement.

(f) all menus, operating manuals for equipment at the Facility (but specifically excluding operating policy and procedure manuals), marketing, sales and promotional materials; notwithstanding the foregoing, Transferor shall leave all operating policy and procedure manuals in electronic form (the “*Policy and Procedure Manuals*”) for Transferee to use for a period of one hundred fifty (150) days after the Closing. After one-hundred fifty (150) days (the “*Policy Return Date*”), Transferee shall return all Policy and Procedure Manuals to Transferor; *provided, however*, to the extent that Transferee uses the Policy and Procedure Manuals between the Closing Date and the Return Date, Transferee shall be required to place its name thereon and remove the name of Transferor and its

Affiliates; *provided, further* that the Parties acknowledge Transferor makes no representation or warranty as to the compliance of Policy and Procedure Manuals with applicable Law, and Transferor shall not be liable for any use thereof by Transferee;

(g) to the extent of its interest therein, all rights to telephone and facsimile numbers used by the Facility, any “yellow page” and other advertising rights of such Facility, and all of the rights of Transferor in the name used for the Facility (excluding the marks set forth in Exhibit 2.7), for example, “Rehabilitation and Skilled Nursing Center”;

(h) all files, charts, and other information located at the Facility in Transferor’s possession or control relating to all (i) current Residents of the Facility as of the Closing Date (including, but not limited to, all resident records, billing and collection records, medical records, therapy records, pharmacy records, clinical records, and Resident Trust Funds records), (ii) Residents who previously occupied the Facility or used the Facility prior to the Effective Time and are not Residents of the Facility as of the Effective Time (including, but not limited to, all patient records, medical records, therapy records, pharmacy records, clinical records, and Resident Trust Funds records) for the period between and including the Effective Time and the date that is three (3) years prior to the Effective Time, (iii) employment records for the Transferee Employees (including all medical and health records and all non-medical records including payroll and schedule records, evaluations, etc.), (iv) administrative compliance records including, but not limited to, all state surveys and plans of correction, and (v) correspondence and any other written data which was utilized in connection with the operation of the Facility or the Business (collectively, “**Current Records**”);

(i) licenses, certificates, permits, waivers, consents, authorizations, variances, approvals, accreditations, guaranties, certificates of occupancy, utility lease agreements, covenants, commitments, and warranties relating to the Facility and the Assets, if any, issued to or on behalf of Transferor relating to the Assets or the Facility, provided same are transferable and assumed by Transferee (“**Permits**”);

(j) goodwill;

(k) such Transferor’s right, title and interest as trustee or otherwise to residents/patient funds held in trust (collectively, “**Resident Trust Funds**”) to the extent permitted by Law shall be transferred to Transferee on the Closing Date. Transferee shall accept such assignment on behalf of such a resident/patient and shall indemnify and hold Transferor harmless in connection with any such resident/patient to the extent of the Resident Trust Property received by Transferee;

(l) to the extent permitted by applicable Law and in accordance with the terms and conditions set forth herein, Transferor’s rights and interests in and to its provider number and provider and reimbursement agreement under the Medicare program and Medicaid; and

(m) all other assets, properties, rights, business and tangible personal property of every kind and nature owned by Transferor on the Closing Date, known or unknown, fixed or unfixed, choate or inchoate, accrued, absolute, contingent or otherwise, whether or not specifically referred to in this OTA relating exclusively to the Facility and its operations to the extent transferable and not expressly excluded pursuant to Section 2.7.

2.2 Nursing Home License; Medicare and Medicaid Provider Agreements.

(a) Transferee will file, within seven (7) days of the Execution Date, an application for a license to operate the Facility (the “**New License**”) with the Vermont Division of Licensing and Protection (the “**Department**”), and Transferee shall file applications for the Ancillary Permits and

Approvals as and when permitted or required under the laws of the applicable issuing authority. Transferee will provide Transferor with a copy of its filed application for the New License within one (1) Business Day after its filing of the application. Transferee shall diligently proceed to secure the New License and the Ancillary Permits and Approvals and shall (i) from time to time, upon request of Transferor, advise Transferor of the status of Transferee's efforts to secure the New License and the Ancillary Permits and Approvals, (ii) promptly advise Transferor once Transferee has received confirmation of the date on which the New License will be issued, and (iii) promptly upon receipt of a request therefor from Transferor, shall provide Transferor with copies of the document(s) evidencing the New License. For purposes hereof, "**Ancillary Permits and Approvals**" shall mean all ancillary permits or licenses required for the operation of the Facility from and after the Closing Date including, but not limited to, the Medicare tie in notice and Medicaid provider agreement, business licenses, food service permits, elevator permits, vending machine permits, beauty shop licenses and CLIA waivers. Hereinafter, the New License and the Ancillary Permits and Approvals will be collectively referred to as the "**Regulatory Approvals**." The Parties will use reasonable efforts to cooperate by providing such information necessary for Transferee to file the application for the Regulatory Approvals contemplated under this Section 2.2.

(b) To the extent permitted by Law:

(i) Effective as of the Effective Time, Transferor's rights and interests in and to its Medicare provider number and provider and reimbursement agreement (the "**Medicare Agreement**") shall be assigned to Transferee.

(ii) Effective as of the Effective Time, Transferee shall have the right to bill Medicaid using Transferor's Medicaid provider number and Transferor's provider and reimbursement agreement (the "**Medicaid Agreement**").

(iii) Transferee shall provide all notices and make all necessary filings as required under applicable Law in order for Transferee to become the certified Medicare and Medicaid provider at the Facility. So long as Transferee is utilizing its best efforts to become the certified Medicare and Medicaid provider at the Facility, Transferee shall be permitted to bill under the Medicare Agreement and Medicaid Agreement, utilizing Transferor's Submitter ID and NPI numbers and/or Medicaid provider number, as applicable, during the period (the "**Transition Period**") that commences on the Effective Time and that ends on the earlier of (A) in the case of Medicare, the issuance of the Medicare tie-in notice or in the case of Medicaid, the issuance of the new Medicaid number and related provider agreement to Transferee, or (B) the date which is twelve (12) months following the Effective Time. If, notwithstanding Transferee's continuing best efforts, the Medicare tie-in notice shall not have been issued or a new Medicaid provider agreement shall not have been issued to Transferee within such 12-month period, as applicable, Transferor, upon Transferee's written request, shall agree to such reasonable extensions of the Transition Period as may be necessary for Transferee to complete the applicable certification process. In no event shall Transferee bill under the Medicare Agreement or Medicaid Agreement following expiration of the Transition Period. Transferee shall indemnify and hold Transferor harmless from and against any and all liabilities arising out of Transferee's use of the Medicare Agreement and/or Medicaid Agreement following the Effective Time.

(c) Following the Execution Date, Transferor shall use its commercially reasonable efforts to provide Transferee with all documents and information necessary for Transferee to seek a novation (the "**Novation**") of contract number M0003665 (the "**VA Contract**") between Transferor and the Department of Veterans Affairs (the "**VA**"). Transferor shall use its commercially reasonable efforts to cooperate with Transferee in seeking the Novation of the VA Contract including, but not limited to, signing any novation agreement and other forms reasonably requested by Transferee or the VA. Transferee shall be entitled to bill under the VA Contract pursuant to that certain Subcontract Pending

Novation substantially in the form attached hereto as Exhibit 2.2(c) (the “*VA Subcontract*”). For the avoidance of doubt, Transferee will continue to receive payment from the VA and any such payments will be considered Accounts Receivable hereunder, subject to the provisions of Section 6.10. Transferee acknowledges that (i) the Novation is not expected to occur until after the Closing Date and, therefore, the issuance of such Novation shall not be a condition to close, and (ii) Transferee shall reimburse Transferor for all reasonable out-of-pocket expenses (including, without limitation, any audit costs) incurred by Transferor in securing the necessary deliverables for the Novation.

2.3 Transfer of Resident Trust Funds. To the extent permitted by applicable Law at the Closing, Transferor shall deliver to Transferee (a) original copies of the trust fund records, (b) a written statement that sets forth the Resident Trust Funds, and (c) an assignment of the Resident Trust Funds to Transferee. Within ten (10) Business Days following the Closing Date, Transferor shall prepare and deliver to Transferee a true, correct and complete accounting, properly reconciled and balanced, of the Resident Trust Funds as of the Effective Time. Transferee hereby agrees that it will accept such Resident Trust Funds and hold the same in trust for the residents, in accordance with applicable statutory and regulatory requirements.

2.4 Assumption of Liabilities.

(a) Upon the terms and subject to the conditions set forth in this OTA, at the Effective Time, Transferee agrees to assume the following liabilities relating to the Assets, subject to the provisions of Section 2.4(b): (i) all obligations and liabilities under the Assumed Contracts, (ii) any Taxes with respect to the operation of the Business at the Facility, (iii) all liabilities under the terms of the Permits, and (iv) all obligations and liabilities (in each case, whether or not accrued, whether fixed, contingent or otherwise, and whether known or unknown) pertaining to the operation of the Facility, but in the case of each of clauses (i) through (iv), only to the extent such liabilities relate to the period after the Effective Time (collectively, “*Assumed Liabilities*”).

(b) Except for the Assumed Liabilities, Transferor shall retain all of its liabilities and obligations of any kind or nature, at any time existing or asserted, whether or not accrued, whether fixed, contingent or otherwise, whether known or unknown, arising out of and by reason of the ownership or operation of the Assets and the Facility prior to the Effective Time. Except to the extent expressly and unambiguously expressed herein to the contrary, Transferee is not the successor to liability of Transferor and is not herein assuming any liability or detriment from, arising from, out of, or relating to, Transferor’s ownership of the Assets, the Facility or any activity of Transferor prior to the Effective Time or conduct of Transferor after the Effective Time. Transferee does not and shall not assume (except to the extent included in Assumed Liabilities) any payable of Transferor, governmental claim or charge, liability of any governmental claim or charge, liability for any general liability, malpractice, professional liability, resident rights violations, or violation of employee rights or contracts, whether such claims arise in law, equity, tort, contract, statute, common law, or from any other source or precedent. Without limiting the generality of the foregoing, Transferor shall retain and Transferee shall not assume any (i) Medicaid and/or Medicare liabilities for the period prior to the Effective Time, all of which Transferor agrees to satisfy in full as and when due upon expiration of any applicable period for the contesting or appeal of such liabilities, (ii) accrued expenses which were incurred prior to the Effective Time, (iii) Encumbrances affecting the Assets other than Permitted Encumbrances, (iv) liability or obligation of Transferor arising out of or based upon Transferor’s ownership and operation of the Facility prior to the Effective Time, (v) liability or obligation relating to any RAC, ZPIC, or MAC audits as well as any and all investigations from a Governmental Entity or any entity acting with the authority of the foregoing or by a whistleblower or other private citizen claiming a violation of a healthcare related statute or a violation of the Medicare, Medicaid or other third party payor agreement, in each case for the period prior to the Effective Time, (vi) liability or obligation relating to or arising from any Pre-Closing Imposition, (vii) capital repairs or physical improvements required to remove or resolve a Pre-Closing Imposition, and/or (viii) liability or

obligation of Transferor arising out of or based upon Transferor's ownership and operation of the Excluded Assets. Transferor shall retain all of its applicable foregoing liabilities and obligations ("**Retained Liabilities**").

2.5 Employees and Employee Benefits. The Parties hereby agree that:

(a) Between forty-five (45) and fifty (50) days prior to the Closing, Transferor shall update the list of employees on Schedule 4.6(a) to reflect new hires and terminations of employment that occurred after the Execution Date regarding the applicable Transferred Facilities and Transferor shall also provide a list of employees on Schedule 2.5(a) of employees who are not subject to offers of employment from Transferee or its Affiliates in Section 2.5(b) below.

(b) Not less than thirty (30) days prior to the Closing, Transferee shall (or shall cause one of its Affiliates) to offer in writing employment to substantially all of those employees listed on such revised Schedule 4.6(a) who meet Transferee's employment eligibility requirements, effective as of the Effective Time (and subject to such employee's continued employment with Transferor as of immediately prior to the Effective Time), on the terms and conditions set forth in this Section 2.5. Employees who accept Transferee's (or its Affiliate's) offers of employment and commence employment with Transferee are referred to herein as "**Transferee Employees**." The employment of each Transferee Employee shall be effective as of the Effective Time. Nothing contained in this OTA shall constitute a guaranty of employment or continued employment of any kind for any current or former employee of Transferor, whether or not such employee is hired by Transferee.

(c) As of 11:59:59 p.m. on the applicable Closing Date, Transferor shall terminate the employment of all employees at the Facility including, without limitation, Persons temporarily absent from active employment by reason of disability, illness, injury, workers' compensation, approved leave of absence or layoff. Transferee's or its Affiliate's offer of employment to Transferor employees pursuant to Section 2.5(b) above shall commence at the Effective Time, such that those Transferor employees who accept employment with Transferee or its Affiliate shall not experience a period of unemployment in connection with the transactions contemplated herein. Notwithstanding the foregoing, Transferor shall be solely responsible for any liabilities related to or arising out of employment of any such employees of Transferor and the termination of employment of such employees by Transferor.

(d) Not less than thirty (30) days prior to the Closing, Transferee shall (i) identify to Transferor all Transferor employees identified on Schedule 4.6(a) to whom Transferee and its Affiliates will not offer employment, and (ii) identify to Transferor all employees of Affiliates of Transferor (such as, without limitation, dieticians, clinicians, division vice-presidents, sales people, and such other similar positions) providing services to such Transferred Facilities to whom Transferee or its Affiliates would propose to make offers (such individuals under subsection (ii) being "**Affiliated-Service Transferee Employees**"), subject to consent in the sole discretion of the applicable Transferor Affiliate. To the extent that Transferor's applicable Affiliate provides such consent, then the requirements regarding employment and hiring of Affiliated-Service Transferee Employees by Transferee and its Affiliates will be the same for Transferee and its Affiliates as those for Transferee Employees under this Section 2.5.

(e) The Parties shall work together in good faith to coordinate reasonably regarding employee changes that occur between the date of the scheduling updates in this Section and the Effective Time so that each Party can update its schedules and records accordingly.

(f) Except as otherwise required by Law, Transferor shall pay the employees at the Facility in accordance with its standard payroll practice, all earned wages due and payable as of the Closing Date including, but not limited to, paid time off, personal leave, and vacation benefits as of the Effective Time, and any severance, retention bonus or other change in control payment payable to any

Transferred Employee or Affiliated Service Transferee Employee, as applicable, that become due or owed as a result of the consummation of the transactions contemplated by this OTA.

(g) All Transferee Employees hired by Transferee who accept and commence employment with Transferee following the Effective Time shall be employed by Transferee on an “at will” basis. Transferee shall initially employ Transferee Employees on the following terms and conditions in such manner as not to trigger WARN Act liability: (i) comparable base salary or rates of pay as in effect immediately prior to the Closing Date for employees of similar tenure performing comparable services at Transferee’s other skilled nursing facilities, and (ii) employee benefits that are comparable in the aggregate to the benefits that are provided by Transferee to its employees under the Plans at its other skilled nursing facility operations. In furtherance and not in limitation of the foregoing, Transferee shall treat prior service with Transferor as service with Transferee for purposes of determining eligibility to receive and participate in all benefits programs maintained by Transferee. It is understood that Transferee shall not be responsible to pay any disability or workers’ compensation benefits to or for any Transferor’s employee who is receiving such benefits or who experienced a disability or injury covered under Transferor’s or Seller’s benefit plans or workers compensation insurance program on or before the Closing, and that Transferor or Seller, as applicable, shall continue to be responsible for payment of such benefits until such obligation terminates under the applicable benefit plans or Laws. Transferee, at reasonable times in advance of Closing upon prior written notice to and coordination with Transferor, shall be entitled to meet with the employees of the Facilities and distribute employment applications and benefit enrollment packages. This OTA shall not create and shall not be deemed to create or grant to any Transferred Employee any third party beneficiary rights or claims or any cause of action of any kind or nature.

(h) Pursuant to Treasury Regulations Section 1.409A-1(h)(4), Transferor and Transferee agree that on the Closing Date, each Transferee Employee shall be treated as having a “separation from service” for purposes of Section 409A of the Code and Treasury Regulations Section 1.409A-1(h).

(i) Subject to Section 2.5(m), Transferor or Seller shall retain the liability for the claims respecting all employees of Transferor (including the Transferee Employees) that are incurred under any Plan prior to the Effective Time.

(j) Transferor, Seller and, to the extent applicable, Seller Affiliates, expressly assume and retain any liability arising under COBRA with respect to any “M&A qualified beneficiaries” (as that term is defined in the COBRA regulations). To satisfy this liability, such party shall continue to maintain group health plan coverage for at least eighteen (18) months after the Closing and shall not terminate its COBRA obligations by terminating its group health plan prior to the expiration of such minimum eighteen (18) month period after Closing.

(k) Transferee shall be responsible for any and all liabilities arising out of or with respect to any Transferee Employee arising with respect to employment by Transferee after the Effective Time or attributable to events or circumstances occurring after the Effective Time.

(l) The Parties acknowledge and agree that all provisions contained in this Section 2.5 with respect to employees are included for the sole benefit of the respective Parties and shall not create any right (i) in any other Person, including any employees, former employees, any participant in any Plan or Transferee Plan or any beneficiary thereof, or (ii) to continued employment with any Transferor or Transferee, or particular benefits or coverage in any Plan or Transferee Plan. For the avoidance of doubt, (A) the provisions of this Section 2.5 shall not constitute an amendment to any Plan or Transferee Plan, and (B) in no event shall any employee, former employee, any participant in any Plan

or Transferee Plan or any beneficiary thereof or any other Person described herein be a third party beneficiary for purposes of this OTA.

(m) Immediately following the Closing, Transferee shall provide Transferee Employees who accept employment with Transferee, as well as eligible dependents of such employees (collectively, with the Transferee Employees, "*Affected Participants*") the opportunity to participate in the applicable employee benefit plans, programs or policies maintained or established by Transferee that are comparable to the plans and benefits Transferee provides at its other skilled nursing facility operations (each, a "*Transferee Plan*"), which may include medical, dental, vision, and/or any other applicable group medical plan, program, insurance coverage or arrangement (collectively "*Group Health Plan*"). If elected, the benefits offered to such employees must extinguish Transferor's COBRA insurance coverage obligations. With respect to each Transferee Plan in which Affected Participants become eligible to participate, subject to the consent of any applicable insurer, Transferee shall: (i) waive any eligibility waiting periods, any evidence of insurability requirements and the application of any pre-existing condition limitations under such Plan, except to the extent that such waiting period, evidence of insurability requirement, or pre-existing condition limitations would not have been satisfied or waived under the comparable Plan in which the Affected Participant participated immediately prior to the Effective Time; and (ii) provide each Affected Participant credit for copays and deductibles under any Transferee Group Health Plan to place each Affected Participant in the same place that such Affected Participant was in under the Transferor's Group Health Plans immediately prior to the Closing.

2.6 Consents to Assignment. Notwithstanding anything to the contrary contained herein, this OTA shall not constitute an agreement to assign or transfer any contract or lease, or any claim, right or benefit arising thereunder or resulting therefrom, if an attempted assignment or transfer thereof, without the consent of a third party thereto or of the issuing Governmental Entity, as the case may be, would constitute a breach thereof. The Parties shall cooperate to obtain any consents of any parties necessary to permit the assignment of the Assumed Contracts. Transferor and Transferee acknowledge that certain of the Assumed Contracts may not, by their terms, be assignable and, accordingly, none of such non-assignable Assumed Contracts shall be deemed assigned to or assumed by Transferee unless and until the same shall become so assignable. If and when any necessary consent shall be obtained or any such Assumed Contract shall otherwise become assignable, Transferor shall take all necessary action to assign all of its rights and obligations thereunder to Transferee and Transferee shall, without the payment of any pre-closing liabilities, assume such rights and obligations. Until such time as the Assumed Contracts are assigned to Transferee, Transferor shall not enter into any amendments of such non-assignable Assumed Contracts without the prior written consent of Transferee. Until such time as the non-assignable Assumed Contracts are assumed by Transferee, (a) Transferee shall perform and discharge fully all of the obligations of Transferor under any of such non-assignable Assumed Contracts to the extent the same would have constituted assumed liabilities if the Assumed Contracts had been assumed by Transferee as of the Closing Date and to the extent the same relate to the period of time after the Closing Date, and Transferee shall indemnify, hold harmless, protect and defend Transferor and its respective officers, employees, managers and members, from and against any and all damages, demands, costs, expenses and liabilities arising out of Transferee's failure to make payments or perform any other obligations which relate to the period of time after the Closing Date occurring under the Assumed Contracts or non-assignable Assumed Contracts after the Closing Date, and (b) Transferor shall, without further consideration therefore, pay, assign and remit to Transferee promptly all monies received or which may be received or obtained in respect of the non-assignable Assumed Contracts related to periods after the Closing Date and Transferor shall take such reasonable actions as shall be necessary to confer on Transferee any other benefits that may be available under such non-assignable Assumed Contracts.

2.7 Excluded Assets. Transferee shall not purchase, and Transferor shall retain, any right, title and interest in the assets listed on Exhibit 2.7 (collectively, "*Excluded Assets*").

ARTICLE III
THE CLOSING

3.1 **Time and Place of Closing.** Subject to the satisfaction or waiver of all of the conditions precedent set forth in this OTA, the consummation of the transactions contemplated under this OTA (the “***Closing***”) shall take place on the same date as the closing with respect to the Facility under the Purchase Agreement, or on such other date as shall be mutually agreed upon by the Parties hereto and Purchaser. The date on which the Closing occurs is referred to herein as the “***Closing Date.***” Notwithstanding the actual time at which the Closing occurs, the time (“***Effective Time***”) as of which the Closing shall be deemed to be effective and the risk of loss shall pass from Transferor to Transferee shall be 12:00:01 a.m. (local time where the Facility is located) on the day after the Closing Date.

3.2 **Closing Matters.** Upon the terms and subject to the conditions set forth in this OTA, at the Closing:

(a) Transferor shall deliver to Transferee a bill of sale in the form attached hereto as **Exhibit 3.2(a)** (the “***Bill of Sale***”) and such endorsements, assignment instruments, and other instruments of transfer and conveyance as shall be reasonable or necessary to convey, transfer, assign and deliver the Assets to Transferee pursuant to the terms of this OTA and to convey, transfer, assign and deliver any and all interest it has in the furniture, fixtures and equipment of the Facility to the fee purchaser under the Purchase Agreement (if applicable);

(b) Transferor shall deliver an assignment of its interests to the items listed in **Article II** including, without limitation, the Assumed Contracts, pursuant to an assignment and assumption agreement in the form attached hereto as **Exhibit 3.2(b)** (the “***Assignment and Assumption Agreement***”);

(c) Transferor and Transferee shall execute and deliver to the other a Certificate in the form attached hereto as **Exhibit 3.2(c)** (“***Bring Down Certificate***”);

(d) Transferor and Transferee shall execute a closing statement with respect to the prorations contemplated by **Section 3.3** hereof, and the Party owing pursuant to such statement shall pay the amount due in immediately available funds at Closing;

(e) Not later than ten (10) days after the Closing, Transferor shall execute and deliver to Transferee a detailed schedule and an assignment of all Resident Trust Funds;

(f) Transferor shall execute and deliver to Transferee an assignment of any and all security deposits or advance deposits from Residents, and Transferee shall deliver to Transferor a written receipt for such funds indicating that Transferee is accepting such funds in trust for the Residents;

(g) Transferor shall deliver to Transferee, to the extent that they are not posted at the Facility, certificates, licenses, permits, authorizations and/or approvals issued for or with respect to such Facility by any Governmental Entity;

(h) Transferor shall deliver to Transferee, or leave at the Facility, the originals (or copies) of all Assumed Contracts in effect on the Closing Date;

(i) Transferor shall deliver to Transferee a current and complete list of the names of each Resident in the Facility;

(j) Not later than ten (10) days after the Closing, Transferor shall deliver a detailed Accounts Receivable aging as of the Effective Time noting all balances owed to Transferor for dates of service prior to the Effective Time as described in Section 6.10 below;

(k) Transferor shall provide to Transferee an updated Schedule 4.6(a) that lists Transferor's employees as of the Closing Date;

(l) Transferor shall deliver an Assignment of Admission Agreements, a Termination of any existing real property lease where a Kindred affiliate is the Fee owner or Ground Lessee, the IMA, where applicable, and keys to the Facility; and

3.3 Closing and Post-Closing Adjustments: Costs and Prorations. In addition to any other items agreed upon by the Parties, the following items are to be apportioned between Transferor and Transferee on a *pro-rata* basis as to ownership as of the Closing Date, in accordance with the general principle that Transferor shall be entitled to the revenue attributable to, and responsible for such expenses and obligations attributable to, the Facility for the period up to and including the Closing Date, and Transferee shall be entitled to the revenue attributable to, and responsible for such expenses and obligations attributable to, the conduct of the Facility after the Closing Date:

(a) Water, gas, electric, telephone and other utility charges, and sewer and waste water charges, shall be prorated, to the extent possible prior to the Closing, as of the applicable Closing Date. For metered service, Transferor shall pay or cause to be paid the utility bills for services rendered prior to the readings, and Transferee shall pay the utility bills for the services rendered after the readings. If any metered utility is read on any day other than the applicable Closing Date, Transferor and Transferee shall prorate such utility charges consistent with the most recent bills, and then reconcile following the Closing as provided in Section 3.3(i). In furtherance of the foregoing, Transferee shall work to transition the utilities serving the Facility into the name of Transferee effective as of the Effective Time, and Transferor shall reasonably cooperate with Transferee.

(b) Subject to and consistent with Section 6.10, all revenue (including rent and Residents' occupancy fees) attributable to any period ending on or prior to the Closing Date shall belong to Transferor, and all revenue (including rent and Residents' occupancy fees) attributable to any period after the Closing Date shall belong to Transferee.

(c) For expenses of the Facility, Transferee shall remit to Transferor any invoices which reflect a service or delivery date on or before the applicable Closing Date, and Transferee shall assume responsibility for the payment of any invoices which reflect a service or delivery date after the Closing Date. Notwithstanding the foregoing, Transferee acknowledges and agrees that it shall have no right, title or interest in and to any retroactive workers compensation insurance program payments whether or not the same are paid prior to or after the Closing Date if and to the extent they relate to any period prior to the Closing Date.

(d) Any and all deposits of Transferor with respect to the Facility including, without limitation, any and all equipment leases, security and/or utility deposits paid to and/or cash or other collateral held by any equipment lessor or by any utility, insurance company or surety, shall remain the sole and exclusive property of Transferor, and Transferee shall have no right or interest therein or thereto, and to the extent that Transferor does not receive a return of any such deposit on the Closing Date and such security deposit has been assumed by Transferee, Transferee shall reimburse Transferor on the Closing Date the full amount of any such security deposit assumed by Transferee.

(e) Any bed Tax or similar provider Taxes or fees shall be *pro-rated* between Transferor and Transferee based on the period of its operation of the Facility occurring before and after

the Closing Date, as the case may be, including, but not limited to, any such assessments made by the State in which the Facility is located and/or paid by Transferor prior to or on the Closing Date that would apply to operation of the Facility after the Closing Date.

(f) In the event that there is a governmental assessment against the property upon which the Facility is situated, Transferor shall be responsible for that which relates to the period prior to the Effective Time and Transferee shall be responsible for that which relates to the period after the Closing Date.

(g) Transferor shall pay the reasonable cost of Transferee's compliance with those physical plant Life Safety Code ("*LSC*") Deficiencies and/or fire safety standards violations that were identified on a survey of the Facility as a deficiency and that was not cured by Transferor prior to the Closing ("*Deficiencies*").

(h) Transferor shall be responsible for any and all fines, and the reasonable cost to bring the Facility into substantial compliance to the extent the Facility is cited for compliance violations attributable to the operation of the Facility prior to Closing by any Governmental Authority or Government Reimbursement Program which relates to equipment, furniture, fixtures or the condition of the building or grounds, or operational issues (collectively, "*Compliance Violations*"). For the avoidance of doubt, Deficiencies and Compliance Violations will not include (i) any violations where a plan of correction has been accepted by a Governmental Authority, except for (1) liabilities or obligations relating to or arising from any Pre-Closing Imposition, or (2) capital repairs or physical improvements required to remove or resolve a Pre-Closing Imposition; or (ii) any citation for which Transferor currently holds a waiver issued by a Governmental Authority.

(i) All such prorations shall be made on the basis of actual days elapsed in the relevant accounting, billing or revenue period and shall be based on the most recent information available to Transferor and Transferee. Transferor and Transferee shall reasonably cooperate to produce prior to the Closing a schedule of prorations to be made under this Section 3.3 at the Closing that is as complete and accurate as reasonably possible. All prorations that can be accurately or reasonably estimated as of the Closing shall be made at the Closing. All other prorations, and adjustments to initial estimated prorations, shall be made by the Parties with due diligence and cooperation within one hundred twenty (120) days following the Closing, or such later time as may be required to obtain necessary information for proration, by payment in immediately available funds by wire transfer to one or more bank accounts designated in writing of the Party yielding a net credit from such prorations from the other Party.

ARTICLE IV **REPRESENTATIONS AND WARRANTIES OF TRANSFEROR**

In order to induce Transferee to enter into this OTA, Transferor hereby represents and warrants to Transferee as of the Execution Date and as of the Closing Date (or in the case of representations and warranties that by their terms speak as of a specified date, as of such specified date), as to itself and the Facility only, as follows:

4.1 Corporate.

(a) Organization. Transferor is an entity duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization.

(b) Power and Authority; Authorization; Enforceability. Transferor has all necessary corporate, partnership or similar power and authority to own, operate and lease the Assets, and to carry on its business as and where such is now being conducted, including the Business. Transferor has all

necessary corporate, partnership or similar power and authority to enter into the documents and instruments to be executed and delivered by Transferor pursuant hereto and to carry out the transactions contemplated hereby. The execution and delivery of this OTA and the performance of this OTA by Transferor has been duly and validly authorized. This OTA constitutes the legal, valid and binding obligation of Transferor, enforceable against Transferor in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar Laws and equitable principles relating to or limiting creditors' rights generally.

(c) Qualification. With respect to the Business, Transferor is duly qualified or licensed to do business, and is in good standing, in all jurisdictions (domestic and foreign) in which the character or the location of the assets owned or leased by it or the nature of the business conducted by it requires such licensing or qualification.

(d) No Conflicts or Violations. Subject to obtaining the consents, neither the execution and delivery of this OTA, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of the terms hereof by Transferor shall (i) violate or result in a breach of any of the material terms and provisions of, constitute a default under, conflict with, or result in any acceleration of rights, benefits or obligations of any party under any Assumed Contract to which Transferor is a party or by which it is bound, (ii) violate any Order of any Governmental Authority applicable to Transferor, (iii) result in the creation of any material Encumbrance upon any Asset pursuant to the terms of any such Assumed Contract, (iv) constitute a violation by Transferor of any applicable Law, (v) result in the breach of any of the material terms or conditions of, or constitute a default under, or otherwise cause any impairment of, any permit, license or other governmental authorization held by Transferor, or (vi) conflict with or violate any organizational document of Transferor, except in the case of sub-clauses (i), (ii), (iii), (iv) and (v), to the extent that any such violation, breach or Encumbrance would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Facility.

4.2 Notices. Except as listed in Schedule 4.2, neither the Facility nor Transferor has received, during the last two (2) years, written notice: (a) that the Facility will be subject to a rate reduction for Medicaid or Medicare services provided therein as a result of a Medicare or Medicaid audit; or (b) from any Governmental Entity that results in a Material Adverse Effect to the Facility or identifies that the Facility is in violation of Law which has not been cured, except where such violation would not reasonably be expected to result in a Material Adverse Effect. Transferor shall disclose any rate reduction or bed count reduction of which it becomes aware and any rate reduction proposal or bed count reduction proposal of which it becomes aware that will affect the Facility.

4.3 Litigation. Except as disclosed on Schedule 4.3, there is no Action pending or, to Transferor's Knowledge, threatened against Transferor with respect to the Assets or the Business. Transferor is not subject to any Order relating to the Assets or the Business.

4.4 Taxes.

(a) All Returns required to be filed by or on behalf of Transferor on or before the Closing Date with respect to the Business or the Assets have been duly and timely filed (or subject to proper extensions) with the appropriate taxing authority in all jurisdictions in which such Returns are required to be filed, and all such Returns are true, complete and correct in all material respects.

(b) All Taxes of Transferor shown on any such Return with respect to the Business and the Assets that are due and payable on the Execution Date have been fully and timely paid.

(c) There are no Encumbrances for Taxes upon the Assets other than statutory liens for Taxes not yet due or payable.

4.5 Employee Benefit Plans.

(a) Schedule 4.5(a) lists all Employee Benefit Plans including, without limitation, any welfare plan within the meaning of Section 3(1) of ERISA, or any pension plan within the meaning of Section 3(2) of ERISA, that Transferor or Affiliate sponsors, maintains, contributes or is obligated to sponsor, maintain, or contribute to the benefit of any current or former employees or other service provider of the Business (or any dependent or beneficiary thereof), or under which Seller, Kindred, or Transferor has any material liability with respect any current or former employee or other service provider of the Business (each, a “*Plan*”). Transferor has delivered or otherwise made available in the VDR to Transferee true, accurate and complete copies of each Plan (or, if the Plan has not been reduced to writing, a written summary of all material terms).

(b) Each Plan that is intended to be qualified under Section 401(a) of the Code (each a “*Qualified Plan*”) has received a favorable determination, opinion, or advisory letter from the IRS indicating that such Qualified Plan (or the master, prototype, or volume submitter form on which it is established) is so qualified under the Code in form, and no fact or event has occurred since the issuance of the most recent such letter that creates a material risk of revocation of any such letter. Transferor has made available to Transferee a copy of such determination, opinion, or advisory letter.

(c) Neither Transferor nor any ERISA Affiliate thereof currently sponsors, maintains, or contributes to (or has an obligation to sponsor, maintain or contribute to) or sponsored, maintained or contributed to (or had an obligation to sponsor, maintain or contribute to) any “employee pension benefit plan” (as defined in Section 3(2) of ERISA) for which Transferor or any ERISA Affiliate has any liability covering employees of the Business that is subject to Title IV of ERISA or Code Section 412, including any “multi-employer plan” as defined in Section 3(37) or 4001(a)(3) of ERISA, or any “multiple employer plan” subject to Section 4063 or 4064 of ERISA. “*ERISA Affiliate*” means any Person that is considered a single employer with such Person under Section 414(b), (c), (m) or (o) of the Code, any Transferor, Transferor Affiliate or Joint Venture Interest.

(d) With respect to each Plan, Transferor, or its Affiliates, as applicable, have funded, administered and maintain each Plan in material compliance with all applicable Laws, including ERISA and the Code, and there is no litigation or proceeding pending (other than routine claims for benefits) or, to the Knowledge of Transferor, threatened or anticipated with respect to any Plan in connection with the Business.

(e) Except as required under COBRA, no Plan provides or promises benefits, including death or medical or other health-related benefits, with respect to current or former Service Providers of the Business beyond retirement or other termination of service, and Transferor or its Affiliates have no obligation to provide or contribute toward the cost of any such benefits.

(f) Neither the execution and delivery of this OTA and any related documents nor the consummation of the transactions contemplated hereby will, either alone or in combination with any other event, (i) increase any benefits payable under any Plan, including acceleration of the payment or vesting of any benefit under any Plan, or (ii) entitle any employee to severance payable by Transferee or any Affiliate thereof; *provided, however*, that benefits due and payable from a Plan may be paid or made available due to a termination of employment from Transferor in the ordinary course of administration of any such Plan.

4.6 Employees.

(a) Schedule 4.6(a) contains a true and correct list of (i) all of the current employees of the Business as of June 12, 2017, including those employees on a leave of absence of any kind, (ii) each such employee's name, title, and location of employment, (iii) each such employee's employment status (i.e., whether employees is actively employed or not actively employed due to illness, short-term disability, sick leave, authorized leave of absence, layoff for lack of work or service in the Armed Forces of the United States or for any other reason), (iv) each such employee's hourly wage rate, salary level or annual rate of compensation, including bonuses and incentive pay, (v) the hours worked by each such employee during the preceding twelve months, the exempt or non-exempt status of each employee (whether or not paid at an hourly or salary rate), (vi) each employee's date of hire or commencement of most recent employment, (vii) a description of any fringe benefits (other than the standard fringe benefits offered by Transferor to all qualifying employees), and (viii) existing contractual arrangement with employees, if any (it being understood that all Parties do not consider any "at-will" arrangements with employees to be Contracts).

(b) Except as disclosed on Schedule 4.6(b), all salary, wages, commissions, bonuses and other cash compensation due and payable to employees of Transferor on or prior to the date hereof, as of the Closing Date, shall be paid in full on or promptly following the Closing Date in accordance with Transferor's standard payroll practices.

(c) All workers directly engaged by Transferor (excluding any engagement through a staffing agency) and classified by Transferor as independent contractors since January 1, 2014, have in good faith satisfied the requirements of applicable Law to be so classified, and Transferor has in good faith fully and accurately reported each such person's compensation on IRS Forms 1099 during such period when required to do so.

(d) Transferor has complied, in all material respects, with all applicable Laws pertaining to labor or employment practices or relations (including, but not limited to, the terms and conditions of employment, management-labor relations, employee classification, records retention, equal opportunity employment, non-discrimination, disability accommodation, human rights, statutory and regulatory employer notice requirements (including requirements pursuant to the Fair Credit Reporting Act, the United States Immigration and Nationality Act, as amended, federal, state, provincial and local minimum wage laws, regulations and ordinances, federal and state family, medical and military leave laws and regulations, occupational safety and health laws and regulations, and any other similar applicable Law mandating employer notice of employer and/or employee rights and responsibilities under such Law), statutory and contractual leaves of absence, wage and hour issues, immigration, occupational safety and health, workers' compensation, pay equity and human rights and the employment or termination of employment of their employees, including all such Laws relating to equal employment opportunities, payment of wages (including, but not limited to, payment of hourly wages, overtime, salaries, commissions, bonuses, profit sharing, unemployment compensation, benefits, and vacation, sick or other earned time off benefits due and payable to such employees under any policy, practice, Contract, program or applicable Law) or illegal discrimination).

(e) Except as set forth in Schedule 4.6(e), there are no outstanding, pending or, to Transferor's Knowledge, threatened, actions, causes of action, claims, complaints, grievances, demands, orders, prosecutions, or suits against Transferor (including its and their respective directors, officers, agents, or employees) claiming that Transferor has violated any applicable employment Laws before any Governmental Authority or labor relations board, including the National Labor Relations Board, the Department of Labor, and the Equal Employment Opportunity Commission regarding any employees of the Business. No written notice has been received by Transferor of the intent of any Governmental

Authority responsible for the enforcement of labor or employment Laws to conduct an investigation of Transferor regarding any employees of the Business and no such investigation is in progress.

(f) Except as set out on Schedule 4.6(f), Transferor is not a party to any collective bargaining agreement relating to the Business.

(g) Except as set forth in Schedule 4.6(g), since January 1, 2014, Transferor has not experienced any labor disputes, any union organization attempts or any work stoppages, walk outs, strikes, or lock outs due to labor disagreements. There are no unfair labor practice charges or complaints pending or threatened against Transferor. There is no labor strike, dispute, request, petition or pending election for representation, slowdown or stoppage pending, or to Transferor's Knowledge, threatened or anticipated against or affecting Transferor.

(h) Transferor maintains an Employment Eligibility Form on Form I-9 for each employee currently employed in the United States in accordance with applicable Law.

(i) Except as set forth in Schedule 4.6(i) or with respect to employees subject to a collective bargaining agreement, all employees of Transferor are employed at-will, may be terminated at any time with or without notice and for any reason or no reason at all, without material cost or penalty to Transferor.

(j) Except with respect to transactions contemplated by this OTA, Transferor has not implemented any employee layoffs that could implicate the WARN Act or any similar applicable foreign, state or local Law, and no such events are currently planned, anticipated or announced. To Transferor's Knowledge, no officer or executive of Transferor (i) has any present intention to terminate his or her employment within the first twelve (12) months following the Closing Date, or (ii) is a party to any confidentiality, non-competition, proprietary rights or other such agreement that would materially restrict the performance of such employee's employment duties, or the ability of Transferor to conduct the Business.

4.7 Encumbrances.

(a) Transferor has good and marketable title to, or in the case of personal property held under a lease or other Assumed Contract (subject to the terms of the lease or other Assumed Contract), an enforceable leasehold interest in, or right to use, the Assets, and none of the Assets are subject to any Encumbrance other than Permitted Encumbrances.

(b) With respect to any matter in excess of One Hundred Thousand Dollars (\$100,000.00), all contractors, subcontractors and other Persons furnishing work, labor, materials or supplies for the development and construction of the Facility and/or Assets have been paid, or prior to Closing shall be paid, whether the work is in progress or completed, for all work performed, material, supplies and the like up to and including the Closing Date, and there are no claims against any Transferor or Facility, or any of the Assets in connection therewith which may give rise to a mechanic's lien against any Facility, the Assets or any portion thereto, except as set forth on Schedule 4.7(b).

(c) Except as disclosed on Schedule 4.7(c), there are no Encumbrances against Transferor's A/R, provider agreements, bank accounts or licenses, and to the extent there are such liens extant, the obligations they secure will be paid in full at Closing and the liens on such assets will be released at Closing unless otherwise indicated as or such constitute an Assumed Liability.

4.8 Certain Healthcare Matters; Compliance Generally.

(a) Government Reimbursement Programs.

(i) Except as set forth on Schedule 4.8(a)(i), the Facility is (A) qualified for participation in, and has current and valid provider contracts with, the applicable Government Reimbursement Programs and/or their fiscal intermediaries or paying agents in which the Facility participates, all of which Government Reimbursement Programs are listed on Schedule 4.8(a)(i), and is in compliance with the conditions of participation or requirements applicable with respect to such participation, and (B) eligible for payment under the applicable Government Reimbursement Programs in which the Facility participates for services rendered to qualified beneficiaries.

(ii) All Cost Reports required to be filed for each of the Facility have been prepared and filed in good faith in accordance with applicable Laws when due, and are true, correct, and complete in all material respects (and true and complete copies of Cost Reports for the past three (3) fiscal years have been set out in the VDR).

(iii) All amounts shown as due from the Facility in the Cost Reports either were remitted with such Cost Reports or will be remitted when required by applicable Law and are appropriately reflected in the Financial Statements, and all amounts shown in the Notices of Program Reimbursement as due have been, or prior to the Closing will be, paid when required by applicable Law.

(iv) Except as set forth on Schedule 4.8(a)(iv), Transferor has not, during the last two (2) years, received written notice of any dispute or claim by any Governmental Authority, fiscal intermediary or other Person regarding the Facility and the Government Reimbursement Programs or the participation by the Facility in such Programs that have not been cured, and to Transferor's Knowledge, there are no (A) threatened recoupment claims for services provided by the Business, or (B) threatened suspensions, terminations, or restrictions to any contracts with Government Reimbursement Programs and/or their fiscal intermediaries or paying agents.

(v) Except as set forth in Schedule 4.8(a)(v), there are no (A) current, pending or outstanding Government Reimbursement Program audits or appeals, (B) Cost Reports that are subject to audits, (C) Cost Reports that remain "open" or unsettled, and (D) current or pending Government Reimbursement Program or Private Program recoupment efforts (other than those conducted in the ordinary course), in each case with respect to the Facility.

(b) Licenses. The Facility's skilled nursing facility license and CLIA waivers are set forth on Schedule 4.8(b)(i), and all other material Licenses applicable to the Business are located at the Facility. All such Licenses are all of the material Licenses necessary for the ownership and operation of the Facility as currently conducted. Such Licenses are in full force and effect, have not been pledged as collateral security, no proceeding is pending or, to Transferor's Knowledge, threatened, seeking the revocation or limitation of any such License. The Facility is duly licensed as a skilled nursing facility or assisted living facility, as applicable, as required under the Laws in the State where the Facility is located, for at least that number of beds as currently listed on the Licenses. Schedule 4.8(b)(ii) sets forth a true, correct, and complete list of the number and types of licensed beds at the Facility and whether such beds are Medicaid and/or Medicare certified. Except as set forth on Schedule 4.8(b)(iii), there are no proceedings or actions pending or, to Transferor's Knowledge, contemplated to reduce the number of licensed or certified beds of any Facility. Except as set forth on Schedule 4.8(b)(iv), Transferor has not received written notice of any violations of the LSC, fire, building and other applicable codes, ordinances, current zoning requirements, rules, and regulations that have not been cured or for which Transferor has received a waiver under applicable Law. Schedule 4.8(b)(v) sets forth a complete and accurate list of

LSC waivers, decertification proceedings, licensure revocations, and termination and suspension proceedings for the past two (2) years.

(c) Compliance Generally. The Facility has been operated in compliance in all material respects with all applicable Laws, including all Healthcare Requirements, governing the conduct or operation of the Business, and Licenses. Except as set forth on Schedule 4.8(c)(i), Transferor has not received any written notice of any violation of any such Law or License that has not been cured and, to Transferor's Knowledge, no notice of such violation has been threatened, except where any such violation would not have a Material Adverse Effect on the Facility. There are no outstanding or, to Transferor's Knowledge, threatened or potential Order, subpoena, or investigation from any Governmental Authority, whistleblower suits, or suits brought pursuant to federal or state False Claims Acts or Laws relating to any Governmental Reimbursement Program of or relating to any alleged or actual, violation of any Laws. Except as set forth on Schedule 4.8(c)(ii), there have been no written notices of violations of Referral Laws relating to the operation of the Facility, nor to Transferor's Knowledge are there any conditions at the Facility which would reasonably be expected to cause a violation of Referral Laws or analogous state statute. To Transferor's Knowledge, Transferor has not (i) made any contributions, payments or gifts to or for the private use of any governmental official, employee or agent where either the payment or the purpose of such contribution, payment or gift is illegal under the laws of the United States or the jurisdiction in which made, (ii) established or maintained any unrecorded fund or asset for any such purpose or made any false or artificial entries on its books, (iii) given or received any payments or other forms of remuneration in connection with the referral of patients that would violate the Referral Laws or any analogous state statute, or (iv) made any payments to any person with the intention or understanding that any part of such payment was to be used for inducing a referral or any purpose other than that described in the documents supporting the payment. Transferor has instituted, and the Facility is operated in compliance in all material respects with, a compliance plan which follows all applicable Healthcare Requirements.

(d) Convictions; Exclusions. Except as set forth on Schedule 4.8(d), neither Transferor nor any current director, officer, or managing employee, is or has been party to a corporate integrity agreement, corporate compliance agreement, or other settlement agreement with the Office of the Inspector General of the United States Department of Health and Human Services, the Centers for Medicare & Medicaid Services, the United States Department of Justice, any Medicaid Fraud Control Unit, or any state Attorney General, as a result of an alleged violation of any Healthcare Requirements (and the Business, Facility, and Assets are in no way subject to or liable with respect to any such corporate integrity agreement, corporate compliance agreement, or other settlement agreement). Neither Transferor nor any current director, officer, or employee has been excluded from participating in the Medicare program or any other Government Reimbursement Program. No current officer, director, or managing employee (as that term is defined in 42 U.S.C. § 1320a-5(b)) of Transferor has been (i) excluded from participating in the Medicare program or any other applicable Government Reimbursement Program; (ii) subject to sanction pursuant to 42 U.S.C. § 1320a-7a or 1320a-8; or (iii) to Transferor's Knowledge, convicted of, a criminal offense under or in connection with (A) the Referral Laws, (B) any Law relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care item or service or with respect to any act or omission in a program operated by or financed in whole or in part by Governmental Authority, (C) any Law relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance, (D) any Law relating to the interference with or obstruction of any investigation into the criminal offenses described herein, or (E) any offense which would permit the exclusion of any Facility from a Government Reimbursement Program.

(e) Audits; Settlements. Transferor has provided to Transferee true and complete copies of all survey reports, notices, and waivers of deficiencies, plans of correction, and any other investigation reports issued with respect to the Facility together with material correspondence with any

Governmental Authority issued within three (3) years of the Execution Date concerning the Facility by any Governmental Authority, ZPIC audit, RAC auditor or other contract auditor on behalf of a Governmental Authority, an identification of any material settlement agreements and, to Transferor's Knowledge, any material unresolved matters raised in writing by any such Governmental Authority, RAC auditor or other contract auditor on behalf of a Governmental Authority. Except as set forth on Schedule 4.8(e)-1, (i) Transferor has not had any cited deficiencies on its most recent survey (standard or complaint) that have resulted in a written notice of civil money penalties or a denial of payment for new admissions as of the Closing Date that have not been cured, and (ii) Transferor has not had any deficiencies at "level G" or above, or an IJ at Level I or above on its most recent survey (standard or complaint) that have not been cured. All deficiencies and violations cited in any survey or resurvey have been corrected or corrective action plans have been submitted and approved therefor and will be fully implemented/corrected prior to Closing. Except as set forth in Schedule 4.8(e)-2, the Facility is not currently designated as a Special Focus Facility (as such term is defined by the Centers for Medicare and Medicaid Services Special Focus Facility Program), and has not received any written notice of inclusion or intended inclusion as a Special Focus Facility.

4.9 Resident Agreements. A copy of the current standard form of Admission Agreement used by the Facility has been provided to Transferee or otherwise made available to Transferee in the VDR. To Transferor's Knowledge, there are no other agreements with residents of the Facility which materially deviate from the standard form.

4.10 Absence of Changes. Except as otherwise disclosed in Schedule 4.10 or the other Schedules, or as contemplated by this OTA, from January 1, 2017, to the Execution Date, (a) the Business has been conducted in all material respects in the ordinary course consistent with past practice, and (b) to Transferor's Knowledge, there has been no change, event, or loss affecting the Business that has had a Material Adverse Effect on the Facility.

4.11 Inventory. On the Closing Date, Transferor shall maintain its normal inventory of supplies, which will be in sufficient quantities of supplies required by Law in all material respects and consistent with past practices for operation of the Facility.

4.12 Contracts.

(a) As of the Execution Date, true, correct, and complete copies of all of the Assumed Contracts set forth on Schedule 2.1(e) have been made available to Transferee or otherwise made available in the VDR. As of Closing, true, correct, and complete copies of all of the Assumed Contracts set forth on Schedule 2.1(e) as revised and supplemented prior to Closing will have been made available to Transferee or otherwise made available in the VDR. A list of proposed Assumed Contracts is attached hereto as Schedule 4.12(a). Except as set forth in Schedule 4.12(a), (i) each of the Assumed Contracts is valid, binding and enforceable in accordance with its terms subject to bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the rights of creditors generally and by general principles of equity (regardless of whether such enforceability is considered in the proceeding in equity or at law), and (ii) there is not any existing material default or material event of default, or any event which, with or without notice or lapse of time or both, would constitute a material default under any Assumed Contract by Transferor. In addition, with respect to each Assumed Contract that is a lease of equipment or other personal property, except as set forth in Schedule 4.12(a), (i) such lease creates a valid leasehold interest in all property purported to be leased thereunder, (ii) all rent and other required payments have been timely paid by Transferor through the date hereof, and (iii) Transferor is in lawful possession of all of such property. Solely to the extent such changes are required in order to track the addition or deletion of Assumed Contracts from Schedule 2.1(e), this Schedule 4.12(a) may be updated by Transferor in consultation with Transferee until fifteen (15) days prior to Closing to reflect such required changes, after which time this Schedule 4.12(a) shall be deemed final.

(b) The execution and delivery of this OTA by Transferor and the consummation of the transactions contemplated hereby by Transferor do not require any consent under, constitute (with or without notice or lapse of time or both) a default under, result in any breach of, or give any Person any rights of termination, acceleration or cancellation of, any Assumed Contract; except for such consents, approvals, authorizations, defaults, breaches, terminations, accelerations, cancellations or Encumbrances, or failures to make any such filing, obtain any such consent, approval or authorization, or provide any such notice, which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.13 Resident Trust Funds. The Resident Trust Funds transferred hereunder are the only such funds required to be held by applicable Law.

4.14 Environmental Laws. Transferor has not received any written notice of alleged, actual or potential responsibility for, or any inquiry or investigation regarding the presence or release of any Hazardous Substance at the Facility in violation of any Environmental Law, which Hazardous Substances were allegedly manufactured, used, generated, processed, treated, stored, disposed or otherwise, handled at, or transported or released from such Facility or regarding compliance with Environmental Laws. Transferor has not received any written notice of any other claim, demand or action by an individual or entity alleging any actual or threatened injury or damage to any Person or entity, property, natural resource or the environment arising from or relating to the presence or release of any Hazardous Substances at, on, under, in, to or from its Facility in connection with any operations or activities of Transferor thereat.

4.15 Improvements. Except as disclosed on any Title Reports, as defined in the Purchase Agreement, Transferor has not received any written notice for any assessments for public improvements against the Facility which remain unpaid including, without limitation, those for construction of sewer, water, gas and electric lines and mains, streets, roads, sidewalks and curbs.

4.16 Insurance. Transferor has provided to Transferee or otherwise made available in the VDR, a true and correct list of all general liability, professional liability, fire, casualty, fidelity, workers' compensation and other insurance policies currently held by or on behalf of Transferor relating to the Facility, and a description of any self-insurance arrangements by or affecting the Facility, including any reserves established thereunder. Each of said policies is in full force and effect and shall be maintained by Transferor in full force and effect until the Closing, and all premiums due thereunder have been paid and shall be paid by Transferor until the Closing. Transferor has maintained or caused to be maintained insurance policies that have insured the Facility and the Assets continuously since the date Transferor first operated the Facility.

4.17 Financial Statements; Undisclosed Liabilities.

(a) Transferor has delivered to Transferee or otherwise made available in the VDR, prior to the Execution Date, the Financial Statements. Except as set forth on Schedule 4.17(a), the Financial Statements, in all material respects, are complete and accurate and present fairly the financial position of the Facility as of the dates and periods indicated, in accordance with GAAP subject to normal year-end adjustments and absence of notes and, to the extent consistent with GAAP, Transferor's past practices in preparing financial statements, subject, in the case of any quarterly Financial Statements included therein, to normal year-end audit adjustments.

(b) Except as reflected or reserved for or disclosed in the Financial Statements, Transferor has no material liabilities relating to the Business of a type or nature to be reflected, in accordance with GAAP and, to the extent consistent with GAAP, Transferor's past practices in preparing financial statements, on the face of a balance sheet except for (i) liabilities incurred in the ordinary course

of business since December 31, 2016, consistent with past practice, (ii) obligations arising or resulting from the terms of any Assumed Contract, and (iii) Excluded Liabilities.

4.18 **Broker.** Except as set forth on Schedule 4.18, Transferor has not engaged, nor is liable to pay any fees, costs or commissions to, any broker, finder, agent or financial advisor (each, a “**Broker**” and collectively, “**Brokers**”) in connection with the transactions contemplated hereby.

4.19 **Intellectual Property.** To Transferor’s Knowledge, except as would not reasonably be expected to have a Material Adverse Effect on the Facility, (a) Transferor owns or possesses all licenses or other rights to use all Intellectual Property necessary to conduct the Business as presently conducted, (b) Transferor has not received any written notice from any third party that the Business as currently conducted misappropriates or infringes upon any Intellectual Property rights of others, and (c) Transferor has not received any written notice that any third party is infringing any Intellectual Property owned by Transferor and used exclusively in connection with the Business.

4.20 **NO WARRANTY OF CONDITION.** THE ASSETS ARE BEING SOLD, TRANSFERRED, ASSIGNED AND DELIVERED BY TRANSFEROR AND RECEIVED BY TRANSFEREE AS IS WHERE IS, AND WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL, WHETHER STATUTORY, ARISING BY OPERATION OF LAW, ARISING BY CUSTOMS OR USAGES OF TRADE, OR OTHERWISE, EXCEPT SOLELY AS EXPRESSLY SET FORTH IN THIS ARTICLE IV TO THIS OTA, THE PURCHASE AGREEMENT, AND THE OTHER TRANSACTION DOCUMENTS, AND SUBJECT TO ANY AND ALL LIMITATIONS AND QUALIFICATIONS HEREIN; IT BEING THE INTENTION OF TRANSFEROR AND TRANSFEREE TO EXPRESSLY REVOKE, RELEASE, WAIVE, DISCLAIM, NEGATE AND EXCLUDE ALL EXPRESS AND IMPLIED REPRESENTATIONS AND WARRANTIES (EXCEPT SOLELY AS EXPRESSLY SET FORTH IN THIS ARTICLE IV TO THIS OTA AND SUBJECT TO ANY AND ALL LIMITATIONS AND QUALIFICATIONS HEREIN) INCLUDING, WITHOUT LIMITATION, AS TO (a) THE CONDITION OF THE ASSETS OR ANY ASPECT THEREOF INCLUDING, WITHOUT LIMITATION, ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES OF OR RELATED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE OR NON-INFRINGEMENT; (b) THE NATURE OR QUALITY OF CONSTRUCTION, STRUCTURAL DESIGN, OR ENGINEERING OF THE ASSETS OR ANY OTHER ASSET OR PROPERTY, IF ANY; (c) THE QUALITY OF THE LABOR OR MATERIALS INCLUDED IN THE ASSETS; (d) ANY FEATURES OR CONDITIONS AT OR WHICH AFFECT THE ASSETS WITH RESPECT TO ANY PARTICULAR PURPOSE, USE, POTENTIAL, OR OTHERWISE; (e) THE SIZE, SHAPE, CONFIGURATION, CAPACITY, QUANTITY, QUALITY, CASH FLOW, EXPENSES, VALUE, MAKE, MODEL OR CONDITION OF THE ASSETS; (f) ALL EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES CREATED BY ANY AFFIRMATION OF FACT OR PROMISE OR BY ANY DESCRIPTION OF THE ASSETS; (g) ANY STRUCTURAL OR CONDITION OR HAZARD OR THE ABSENCE THEREOF HERETOFORE, NOW OR HEREAFTER AFFECTING IN ANY MANNER ANY OF THE ASSETS; AND (h) ALL OTHER EXPRESS OR IMPLIED WARRANTIES AND REPRESENTATIONS BY TRANSFEROR WHATSOEVER, EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE IV AND SUBJECT TO ANY AND ALL LIMITATIONS AND QUALIFICATIONS HEREIN. FURTHERMORE, TRANSFEROR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE FUTURE PROFITABILITY, FUTURE CASH FLOW OR VIABILITY OF THE BUSINESS RELATED TO THE ASSETS, ALL OF WHICH TRANSFEREE MUST DETERMINE FROM ITS INVESTIGATION OF THE RECORDS OF TRANSFEROR AND THE FACILITY AND TRANSFEREE’S OWN BUSINESS ACUMEN.

4.21 Disclosure Updates. At any time, and from time to time on or prior to the applicable Closing Date, Transferor may supplement or amend the schedules (a “*Disclosure Update*”), provided such Disclosure Update (a) does not seek to cure a breach of this OTA existing as of the Execution Date and (b) does not have a Material Adverse Effect on the Facility; and provided further that no such Disclosure Update shall affect or limit the rights of any Purchaser Indemnified Party to seek indemnification under Article IX with respect to the facts and circumstances underlying such Disclosure Update.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF TRANSFEREE

In order to induce Transferor to enter into this OTA, Transferee hereby represents and warrants to Transferor and to the Seller of the Facility as of the Execution Date and as of the Closing Date (or in the case of representations and warranties that by their terms speak as of a specified date, as of such specified date), as follows:

5.1 Corporate.

(a) Organization. Transferee is an entity duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization.

(b) Power and Authority; Authorization; Enforceability. Transferee has all necessary corporate, partnership or similar power and authority to enter into the documents and instruments to be executed and delivered by Transferee pursuant hereto and to carry out the transactions contemplated hereby. The execution and delivery of this OTA and the performance of this OTA by Transferee has been duly and validly authorized. This OTA constitutes the legal, valid and binding obligation of Transferee, enforceable against Transferee in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar Laws and equitable principles relating to or limiting creditors’ rights generally.

(c) Qualification. Transferee is duly qualified or licensed to do business, and is in good standing, in all jurisdictions (domestic and foreign) in which the character or the location of the assets owned or leased by it or the nature of the business conducted by it requires such licensing or qualification.

(d) No Conflicts or Violations. Neither the execution and delivery of this OTA or the other Transaction Documents, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of the terms hereof by Transferee shall (i) violate or result in a breach of any of the material terms and provisions of, constitute a default under, conflict with, or result in any acceleration of rights, benefits or obligations of any party under any contracts to which Transferee is a party or by which it is bound, (ii) violate any Order of any Governmental Authority applicable to Transferee, or (iii) constitute a violation by Transferee of any applicable Law, or (iv) conflict with or violate any organizational document of Transferee.

5.2 Litigation. There are no proceedings, orders, or determinations by or with any arbitrator, court, or other governmental body, authority or agency, or to Transferee’s Knowledge, threatened against or by Transferee or any of its Affiliates that challenge (or could challenge) or seek (or could seek) to prevent, enjoin, or otherwise delay the consummation of the transactions contemplated under this OTA or the execution and delivery of any agreement in connection therewith.

5.3 Broker. Except as set forth in Schedule 5.3, Transferee has not engaged, nor is liable to pay any fees, costs or commissions to any Broker(s) in connection with the transactions contemplated hereby.

5.4 Transferee's Reliance.

(a) Transferee acknowledges that it has been assured by Transferor that Transferee will be permitted full and complete access to the Facility, the Records, equipment, Returns, Contracts, insurance policies (or summaries thereof), and other properties and assets of Transferor concerning the Facility, that it and its representatives have desired or requested to see or review, and that it has been assured by Transferor that Transferee and its representatives will be permitted a full opportunity to meet with the officers, management and employees of Transferor to discuss the Facility. Transferee acknowledges that prior to the Execution Date, it will have conducted such independent investigation of the Assets and the Facility and Transferor to its own full satisfaction. In connection with Transferee's investigation, Transferee may have received from Transferor certain projections, forward-looking statements and other forecasts and certain business plan information. Transferee acknowledges that there are uncertainties inherent in attempting to make such estimates, projections and other forecasts and plans, that Transferee is familiar with such uncertainties, that Transferee is taking full responsibility for making its own evaluation of the adequacy and accuracy of all estimates, projections and other forecasts and plans so furnished to it (including the reasonableness of the assumptions underlying such estimates, projections, forecasts or plans), and that (except in the case of fraud) Transferee shall not have or make any claim against any Person with respect thereto. Accordingly, Transferee acknowledges that Transferor or any other Person have not and do not make any direct or indirect representation or warranty with respect to such forward-looking estimates, projections, forecasts or plans (including the reasonableness of the assumptions underlying such estimates, projections, forecasts or plans).

(b) Transferee acknowledges that Transferor or any other Person have not made any representation or warranty, expressed or implied, as to the accuracy or completeness of any information regarding Transferor, the Assets and the Facility furnished or made available to Transferee and its representatives, except as expressly set forth in Article IV and Article IV of the Purchase Agreement, and Transferor or any other Person (including any officer, director, manager, member or partner of any of Transferor) shall not have or been subject to any liability to Transferee (except in the case of fraud), or any other Person, resulting from Transferee's use of any information, documents or material made available to Transferee in any confidential information memoranda, "data rooms," management presentations, due diligence or in any other form in expectation of the transactions contemplated hereby. Transferee acknowledges that except as expressly set forth in Article IV and Article IV of the Purchase Agreement, the Facility and the Assets have been acquired without any representation or warranty as to merchantability or fitness for any particular purpose of their respective assets, in an "as is" condition and on a "where is" basis. For the avoidance of doubt, nothing in this Section 5.4 is intended to limit or modify the representations and warranties contained in this Article V. Transferee acknowledges that, except for the representations and warranties contained in Article IV and Article IV of the Purchase Agreement, neither Transferor nor any other Person has made any other express or implied representation or warranty by or on behalf of Transferor.

ARTICLE VI
COVENANTS AND AGREEMENTS

6.1 Conduct of Business. From and after the date hereof and pending the Closing, unless Transferee shall otherwise consent in writing, from and after the date hereof until the earlier of the termination of this OTA or the Closing, Transferor shall (a) maintain and operate its applicable Assets and Facility only in the ordinary and usual course of business diligently and in good faith, consistent with past practice; (b) maintain, repair and replace where appropriate, consistent with past practice, with no

less than like kind, the real and personal property, equipment, furniture and fixtures, leasehold improvements in substantially the same condition that exists on the date hereof, reasonable wear and tear excepted and subject to the requirements to repair and replace as set forth in the Purchase Agreement; (c) refrain from delaying such repair and/or replacement as a result of the pending transfer, except where such delay is consistent with past practice; (d) replace inventory, supplies and equipment consistent with past practice; (e) otherwise operate the Facility so as not to cause a breach of any covenant or warranty contained in this OTA; (f) exercise its commercially reasonable efforts to preserve Transferor's existing relationships with suppliers, distributors, customers and others having business relations with Transferor such that the Facility will not be impaired; (g) maintain all existing policies of insurance (or comparable policies) of or relating to the Assets and the Facility in full force and effect; (h) use its commercially reasonable efforts to keep available the services of the present officers and employees of Transferor involved in the day to day operation of the Facility; (i) use its commercially reasonable efforts maintain the quality of care to the residents; (j) invoice and collect revenue consistent with past practice; (k) take reasonable steps to safeguard, maintain and preserve all Facility employee and medical records transferred under this OTA in accordance with the provisions of, and for the periods prescribed by all applicable Laws, which shall in no event be less than the steps taken by Transferor in the operation of the Facility prior to the transactions contemplated under this OTA; (l) avoid immediate jeopardy violations, maintain provider agreements without suspension, qualification or limitation or revocation, and avoid what is commonly known as a "*ban on admission*" or imposition of civil money penalties or the providing of substandard care; (m) undertake or implement all actions, payments, and plans of correction required in connection with a Pre-Closing Imposition; (n) complete any capital repairs or physical improvements required to remove or resolve a Pre-Closing Imposition; (o) notify Transferee if Transferor becomes aware of any violation or non-compliance with any Law, except where any such violation or non-compliance would not reasonably be expected to result in a Material Adverse Effect; and (p) actively market the Facility in a manner consistent with past practice.

6.2 **Forbearances.** Without limiting the effect of any other provision of this OTA, between the date hereof and the earlier of the termination of this OTA or the Closing Date, Transferor shall not do any of the following with respect to the Assets or Facility without the prior written consent of Transferee:

(a) sell, lease, transfer, convey or otherwise dispose of (other than in the ordinary course of business consistent with past practice), or cause or permit any Encumbrance (other than Permitted Encumbrances) to exist on, any of the Assets which will not be released at or prior to the Closing;

(b) cancel any Assumed Contract or materially default in the performance of any Assumed Contract, or obligation, or waive any material default or potential material default by any other Party, or waive, release, compromise, settle or assign any rights or claims under any Assumed Contract;

(c) notwithstanding anything else contained in this Article VI, enter into any contract or other transaction that would be material to the Facility, other than in the ordinary and usual course of business consistent with past practice and shall not, whether consistent with past practice or otherwise, enter into or amend any material Contract which is not at will on the part of Transferor or terminable by Transferor on thirty days or less written notice;

(d) violate in any material respect, terminate or permit the lapse of, or failure to preserve any material licenses, permits and other authorizations including, but not limited to, the certificate of need, if any, or any provider agreements including, without limitation, its provider agreements with Medicare and Medicaid which are necessary or desirable for the operation of the Facility as it exists on the date hereof;

(e) release, compromise or settle any material claim, action or legal proceeding that would result in a Material Adverse Effect or may be construed as an obligation of Transferee, other than in the ordinary and usual course of business consistent with past practice;

(f) enter into any transaction with any owner, officer, director, manager or Affiliate of Transferor or any of their Affiliates, or any relative or Affiliate of any such owner, officer, director, manager or Affiliate other than consistent with past practice or in contemplation of the transactions to be carried out pursuant to this OTA or the Purchase Agreement;

(g) materially change employment terms for any executive or group of employees or institute, amend or terminate any employee plan other than consistent with past practice or in contemplation of the transactions to be carried out pursuant to this OTA or the Purchase Agreement;

(h) enter into any agreement, or adopt any resolution, to do any of the things described in subsections (a) through (f) above or otherwise commit any act which would cause Transferor to breach any covenant, representation or warranty contained in this OTA;

(i) remove, discharge or transfer residents from the Facility to a nursing facility owned, operated or managed by Transferor or any of its Affiliates, nor shall there be any voluntary transfers by Transferor of residents from the Facility to any other nursing facility, where such transfer is not in the ordinary course of business and not (i) for reasons relating to the health and well-being of the resident transferred, (ii) for the election to transfer by the resident or his or her family or attorney-in-fact, or (iii) otherwise required by Law; or

(j) (i) remove or relocate to any Affiliate, any administrator, director of nursing or other key employee, or (ii) hire new employees except in the ordinary course of business consistent with past practice.

6.3 Non-Competition and Non-Solicitation. For a period commencing upon Closing and ending two (2) years after the Closing (the “**Restricted Period**”), neither Transferor nor its Affiliates (each a “**Restricted Party**”) shall (a) directly or indirectly, own, operate or manage any skilled nursing facility within a ten (10) mile radius of the Facility, except for those facilities listed on Schedule 6.3 (the “**Non-Competition Covenant**”); or (b) hire or knowingly and intentionally solicit the Director of Nursing or Facility Administrator of the Facility, or Purchaser (the “**Non-Solicitation Covenant**”); *provided, however,* Transferor or a Restricted Party may hire any Person after the earlier to occur of (x) twelve (12) months after such Person’s termination, or (y) the expiration of the Restricted Period. Further, notwithstanding the foregoing, general employment solicitations made pursuant to newspaper, television, radio or other general advertisement which are not specifically targeted at any particular person or group of persons shall not be deemed a violation of this Section. In connection with a violation of the Non-Competition Covenant, Transferee shall have all remedies at law and/or equity to enforce such Non-Competition Covenant. Transferor further acknowledges that the scope and duration of the provisions of this Section 6.3 are reasonable. The terms and provisions of this Section 6.3 shall survive the Closing.

6.4 Access.

(a) As of the date of execution of this OTA, Transferor shall provide Transferee and its employees, accountants, consultants, legal counsel, agents and other authorized representatives, during regular business hours and upon reasonable notice, reasonable access to the Facility, and all other properties, contracts, commitments, and Records of Transferor that relate to the Facility as Transferee may reasonably request for the purpose of transferring the Assets and Facility, and facilitating the smooth transition of operations, and Transferor shall promptly furnish Transferee such information as Transferee may from time to time reasonably require with respect to the Assets and/or the Facility. Transferor shall

cause the officers and employees of such Transferor to take commercially reasonable steps to assist Transferee (at Transferee's expense) in preparing to transfer the Assets and shall cause the counsel, accountants, consultants, and other non-employee representatives of Transferor to be reasonably available to Transferee for such purposes. Transferor shall, upon written request by Transferee and reasonable notice, (i) permit Transferee to conduct on-site visits of Transferor's properties and the Assets that comprise the Facility; and (ii) assist Transferee in contacting and arranging meetings with such suppliers of Transferor as consented to by Transferor (such consent not to be unreasonably withheld).

(b) To the extent permitted under Transferor's credit facility and any other similar financing document, Transferor will reasonably cooperate with Transferee and its financing sources in an effort to enter into subordination and intercreditor agreements, both of which shall be in a form mutually agreeable to all such parties.

6.5 Announcement and Disclosure.

(a) No Party shall issue an initial public announcement, report, statement or press release (collectively, a "**Public Announcement**") regarding this OTA or the transactions contemplated hereby without the prior written consent of the other Party, except as otherwise required by Law. Notwithstanding the foregoing, (i) an announcement by Transferor to its employees or any union representing same shall not be a breach of the foregoing covenant, and (ii) Transferor shall not be prohibited from issuing a Public Announcement, at any time, regarding the transaction contemplated by the Purchase Agreement, including any such announcement that references Transferee, the Facility and/or the purchase price associated with the same.

(b) Except as may be necessary to enforce this OTA, or to comply with applicable Laws including securities Laws, for three (3) years after the last Closing, Transferor shall (i) treat and hold as confidential any proprietary and confidential information of Transferor exclusively related to the Assets or the Assumed Liabilities related to the Facility (collectively, "**Confidential Information**"), and (ii) refrain from using any of the Confidential Information except in connection with this OTA. The term "Confidential Information" shall not include information that is or becomes generally available to the public by actions of Persons other than Transferor or that pertains to any of the Excluded Assets or the Excluded Liabilities. If Transferor is required to disclose any Confidential Information in order to comply with, or avoid violating, any applicable Law, Transferor will use commercially reasonable efforts to provide Transferee with prompt notice thereof to the extent legally permissible. With the exception of securities filings reasonably required of a public company like Transferor's indirect parent, to the extent legally permissible and at Transferee's sole expense, Transferor shall provide Transferee, in advance of any such disclosure, with copies of any Confidential Information that Transferor intends to disclose (and, if applicable, the text of the disclosure language itself) and shall reasonably cooperate with Transferee, at Transferee's sole expense, if permitted by applicable Law, to the extent Transferee may reasonably seek to limit such disclosure in a manner consistent with applicable Law.

(c) Except as may be necessary to enforce this OTA or any other Transaction Document, for three (3) years after the last Closing, Transferee shall (i) treat and hold as confidential any proprietary and confidential information of Transferor or any of its Affiliates that does not exclusively relate to the Assets or the Assumed Liabilities related to the Facility, including any proprietary and confidential information relating to any of the Excluded Assets or the Excluded Liabilities (collectively, "**Transferor Confidential Information**"), and (ii) refrain from using any of Transferor Confidential Information except in connection with this OTA. The term "Transferor Confidential Information" shall not include information that is or becomes generally available to the public by actions of Persons other than Transferee or any of its Affiliates. If Transferee is required to disclose any Transferor Confidential Information in order to avoid violating any applicable Law, Transferee will use commercially reasonable efforts to provide Transferor with prompt notice thereof to the extent legally permissible. To the extent

legally permissible and at Transferor's sole expense, Transferee shall provide Transferor, in advance of any such disclosure, with copies of any Transferor Confidential Information that Transferee intends to disclose (and, if applicable, the text of the disclosure language itself) and shall reasonably cooperate with Transferor, at Transferor's sole expense, if permitted by applicable Law, to the extent Transferor may reasonably seek to limit such disclosure in a manner consistent with applicable Law.

6.6 Appropriate Action; Consents; Filings. From and after the Execution Date, each of the Parties shall use its commercially reasonable efforts to obtain from any Governmental Entities or third parties any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained, or made, by such Party in connection with the authorization, execution and delivery of this OTA and the consummation of the transactions contemplated hereby and shall provide such notices, and Transferee shall post such escrows, as required by the applicable Governmental Entities and Laws, and each Party shall comply with any written agreements with third parties to consummate the transaction. The Parties shall cooperate with each other in connection with the making of all such filings, including the timing of such filings and providing copies of all such documents to the non-filing Parties and their advisors prior to filing and, if requested, to accept all reasonable additions, deletions or changes to such filings suggested in connection therewith.

6.7 Access to Records. From and after the Closing Date, Transferee shall allow Transferor and its Affiliates, agents and representatives to have reasonable access to (upon reasonable notice and during normal business hours), and to make copies of the Records (at Transferor's expense), to the extent reasonably necessary to enable Transferor to, among other things, investigate and defend malpractice, employee or other claims, to support medical review requests from Medicare or Medicaid, to support Medicare and Medicaid claims appeals, to file or defend Cost Reports and Tax returns, to complete/revise, as needed, any patient assessments which may be required for Transferor to seek reimbursement for services rendered prior to the Closing Date and to enable Transferor to complete, in accordance with Transferor's policies and procedures, any and all post-Closing Date accounting, reconciliation and closing procedures including, but not limited to, a month end close out of all accounts including, but not limited to, accounts payable and Medicare and Medicaid billing. Transferor agrees not to use or disclose any of the information obtained from Transferee except solely for the purposes described herein, and further agrees to maintain this information as confidential. Likewise, from and after the Closing Date, Transferor shall allow Transferee and its agents reasonable access to the Records including, without limitation, the Prior Records, to the extent Transferee reasonably requires such access in connection with, without limitation, accounting, billing, Tax filings or securities filings, Medicare and/or Medicaid filings and appeals. Transferor shall use its commercially reasonable efforts to provide such items which require expedited handling to Transferee within ten (10) Business Days of Transferee's request. Transferee agrees not to use or disclose any of the information obtained from Transferor except solely for the purposes described herein, and further agrees to maintain this information as confidential. Transferee shall assure that any successor operator of the Facility is legally obligated to provide Transferor access to the Records in the manner required by this Section 6.7.

6.8 Further Assurances. From time to time after the Closing, Transferor shall, at the reasonable request of Transferee and at Transferee's expense but without further consideration, execute and deliver any further deeds, bills of sale, endorsements, assignments, and other instruments of conveyance and transfer, and take such other actions as Transferee may reasonably request and consistent with this OTA in order to (a) more effectively transfer, convey, assign and deliver to Transferee, and to place Transferee in actual possession and operating control of, and to vest, perfect or confirm, of record or otherwise, in Transferee all right, title and interest in, to and under the Assets or the Facility, (b) assist in the collection or reduction to possession of any and all of the Assets or the Facility or to enable Transferee to exercise and enjoy all rights and benefits with respect thereto, (c) with respect to any payor agreement that is non-transferrable, reasonably cooperate with Transferee to assist Transferee in securing a new agreement, or (d) otherwise carry out the intents and purposes of this OTA. In the case of rights

(including, without limitation, under any Contract) which cannot be transferred effectively without the consent of third parties, Transferor shall use its commercially reasonable efforts (within commercially reasonable limits) to obtain such consent and to assure to Transferee the benefits thereof during the terms thereof.

6.9 No Negotiation. Until such time as this OTA may be terminated pursuant to Article IX, Transferor shall not directly or indirectly solicit, initiate, encourage or entertain any inquiries or proposals from, or discuss or negotiate with any Person other than Transferee or its representatives relating to an acquisition or other disposition of any material Assets of the Facility or any other asset which is required by the OTA to be transferred to Transferee at Closing. Notwithstanding the foregoing, Transferor shall not be in any way limited from initiating or participating in discussions concerning any transactions involving the Excluded Assets.

6.10 Accounts Receivable.

(a) Accounts Receivable. Transferor shall retain whatever right, title and interest it may have in and to all outstanding Accounts Receivable with respect to the Facility which relate to periods ending on or before the Effective Time, including any Accounts Receivable arising from rate adjustments which relate to a period ending on or before the Effective Time even if such adjustments occur after the Effective Time, and including any Medicaid lag payments (collectively, "*Transferor's A/Rs*"). Transferor acknowledges that Transferee owns all Accounts Receivable arising from services provided by or at the Facility after the Effective Time ("*Transferee's A/Rs*").

(b) Receipts by Transferee. In furtherance and not in limitation of the requirements set forth in Section 6.3(a), payments received by Transferee after the Effective Time from third party payors including, but not limited to, Medicare, Medicaid, VA, managed care and health insurance, shall be handled as follows:

(i) If such payments either specifically indicate on the accompanying remittance advice, or if Transferor and Transferee agree that such payments relate to the period ending before the Effective Time, they shall be forwarded by Transferee to Transferor, along with the applicable remittance advice, within twenty (20) days after receipt thereof; and

(ii) If such payments indicate on the accompanying remittance advice, or if Transferor and Transferee agree that such payments relate to the period after the Effective Time, they shall be retained by Transferee.

(c) Receipts by Transferor. Payments received by Transferor after the Effective Time from third party payors including, but not limited to, Medicare, Medicaid, VA, managed care and health insurance, shall be handled as follows:

(i) If such payments either specifically indicate on the accompanying remittance advice, or if Transferor and Transferee agree that such payments relate to the period after the Effective Time, they shall be forwarded by Transferor to Transferee, along with the applicable remittance advice, within twenty (20) days after receipt thereof; and

(ii) If such payments indicate on the accompanying remittance advice, or if Transferor and Transferee agree that they relate to the period ending on or before the Effective Time, they shall be retained by Transferor.

(d) Other Receipts. If the remittance advice indicates or the Parties agree that any payment relates to periods both prior to or on and after the Effective Time, the Party receiving the

payment shall forward the amount relating to the other Party's operation of the Business, along with the applicable remittance advice, within twenty (20) days after receipt thereof. If the remittance advice does not indicate the period to which a payment relates or whether it is for Transferor or Transferee, or if there is no accompanying remittance advice, or the payment is not otherwise identifiable using commercially reasonable efforts, and if the Parties do not otherwise agree as to how to apply such payment, then 100% of such payments received within the first sixty (60) days after the Effective Time shall be deemed to have been collected in respect of Transferor's A/Rs due from the payee in respect of services provided on or prior to the Effective Time. All such payments received in excess of the amount of Transferor's A/Rs due from said payee and all such payments received sixty (60) days after the Effective Time shall be deemed to have been collected in respect of Transferee's A/Rs from said payee. All such payments received by Transferee but which are deemed to be due Transferor under this Section 6.10 shall be forwarded by Transferee to Transferor within twenty (20) days after receipt thereof, and all such payments received by Transferor but which are deemed to be due Transferee under this Section 6.10 shall be forwarded by Transferor to Transferee within twenty (20) days after receipt thereof. All such payments received by Transferor which are deemed to have been collected in respect of Transferor's A/Rs shall be retained by Transferor and all such payments received by Transferee which are deemed to have been collected in respect of Transferee's A/Rs shall be retained by Transferee. Transferee shall pay to Transferor any and all reimbursements including retroactive rate adjustments, appeal settlements and/or Cost Report settlements for all Cost Report periods with fiscal years ended prior to the Effective Time that it receives after the Effective Time. During the five (5) year period following the Effective Time, Transferee shall also make a good faith effort to reconcile its Cost Report reimbursements and/or settlements with documentation Transferor provides to Transferee regarding Transferor Bad Debt and shall pay to Transferor any and all reimbursements and/or settlements related to Transferor Bad Debt pursuant to Section 6.11.

(e) Medicaid Applications. In connection with Transferor's attempts to collect Medicaid funds for services rendered to those Residents with pending Medicaid applications (collectively, the "*Pending Medicaid Applicants*"), each set out on Schedule 6.10(e), (i) Transferee shall provide Transferor with a written monthly progress report on the Medicaid application status of each Pending Medicaid Applicant until such time as all Pending Medicaid Applicants have been approved or denied by Medicaid, and (ii) if Transferee receives any notice or correspondence regarding such applications, Transferee shall provide such notice or correspondence to Transferor within five (5) Business Days following receipt. Transferee shall cooperate with and provide Transferor with such documents and information as Transferor shall reasonably request to enable Transferor to contest any denial or negative determinations by Medicaid with respect to the Pending Medicaid Applicants.

(f) Accounting for Accounts Receivable.

(i) Attached hereto as Schedule 6.10(f)(i) is a schedule of Transferor's A/Rs listing by Resident the amount due as of five (5) days prior to Closing. As soon as reasonably possible but not later than fifteen (15) Business Days after the Closing Date, Transferor shall provide Transferee with a schedule of Transferor's A/Rs listing by Resident the amounts due as of the Effective Time.

(ii) For a period of twelve (12) months following the applicable Effective Time or until Transferor receives payment of all Accounts Receivable attributable to the operation of the Facility on or before the Effective Time, whichever is sooner, Transferee shall provide Transferor (no less frequently than monthly) with (A) an accounting setting forth all amounts received by Transferee during the preceding month with respect to Transferee's A/Rs and Transferor's A/Rs using the same format of schedule as that provided by Transferor pursuant to Section 6.10(b), and (B) copies of all remittance advices relating to such amounts received and any other reasonable supporting documentation as may be required for Transferor to determine that Transferee's A/Rs and Transferor's A/Rs have been paid. Transferee shall deliver such accounting to Transferor at the following physical and email addresses: 680

South Fourth Street, Louisville, Kentucky 40202, Attention: Raye Ann Cole (raye.cole@kindred.com) and Linda Fisher (linda.fisher@kindred.com).

(iii) For a period of twelve (12) months following the Effective Time or until Transferee receives payment of all Accounts Receivable attributed to the operation of the Facility prior to the Closing Date, whichever is sooner, Transferor shall provide Transferee (no less frequently than monthly) with (A) an accounting setting forth all amounts received by Transferor with respect to Transferee's A/Rs and Transferor's A/Rs using the same type of schedule as that provided by Transferor pursuant to Section 6.10(b), and (B) copies of all remittance advices relating to such amounts received and any other reasonable supporting documentation as may be required for Transferee to determine Transferee's A/Rs and Transferor's A/Rs that have been paid. Transferor shall deliver such accounting to Transferee at the following address: _____, Attention: _____.

(iv) On two (2) occasions during the period of one (1) year following the Effective Time, Transferor and Transferee shall, upon reasonable notice and during normal business hours, have the right to inspect all cash receipts of the other Party in order to confirm the other Party's compliance with the obligations imposed on it under Sections 6.10 and 6.11. Notwithstanding the foregoing, if such information can be transmitted through electronic mail, then Transferor and Transferee may satisfy their obligations under this Section 6.10 in that manner.

(v) To enable Transferor to close its books with respect to the period ending on the Closing Date, Transferee will permit appropriate personnel of Transferor reasonable access to the Facility, in a manner that does not materially interfere with the operation of the Facility, for a period of no more than forty-five (45) Business Days after the Closing Date. During that period, Transferee will permit certain individuals employed by Kindred or its Affiliate immediately before the Closing Date to provide reasonably necessary assistance to Kindred in its closing of the books. Those individuals are the persons previously employed by Kindred or Transferor in following positions: Executive Director; Business Office Manager; Accounts Receivable Assistant; Accounts Payable Coordinator; Payroll Benefits Coordinator and MDS Coordinator.

(vi) Any amounts to be paid by one Party to the other Party under this Article VI shall be made by electronic transfer using the wire instructions set forth on Exhibit 6.10(f).

(g) Transferor Collection Activities. After the Closing Date, Kindred and Transferor shall have the right, and any agent or representative retained by the foregoing shall have the right on behalf of Kindred and Transferor, to engage in any commercially reasonable collection activities with respect to any unpaid Transferor's A/R's, including private pay amounts.

(h) Delivery of Mail. To the extent that Transferee or any of its Affiliates receives any mail or packages addressed to Kindred, Transferor or any of their Affiliates not relating to the Assets or the Assumed Liabilities, Transferee shall promptly deliver such mail or packages to Transferor. After the Closing Date, Transferee may deliver to Transferor any checks or drafts made payable to Transferor or its Affiliates that constitutes an Asset, and Transferor shall promptly deposit or cause to be deposited such checks or drafts and, upon receipt of funds, reimburse Transferee within ten (10) Business Days for the amounts of all such checks or drafts, or, if so requested by Transferee, endorse such checks or drafts to Transferee for collection. To the extent Transferor or its Affiliates receives any mail or packages addressed to Transferor or its Affiliates but relating to the Assets or the Assumed Liabilities relating to the Facility, Transferor shall promptly deliver such mail or packages to Transferee. After the Closing Date, to the extent that Transferee receives any cash or checks or drafts made payable to Transferee that constitutes an Excluded Asset, Transferee shall promptly use such cash to, or deposit such checks or drafts and upon receipt of funds from such checks or drafts, reimburse Transferor within ten (10) Business Days for such amount received, or, if so requested by Transferor, endorse such checks or drafts

to Transferor for collection. The Parties may not assert any set off, hold back, escrow or other restriction against any payment described in this Section 6.10(h).

6.11 Cost Reports.

(a) Transferor shall prepare and file with its fiscal intermediary the final Medicare Cost Reports covering its operation of the Business through the Effective Time as soon as reasonably practicable after the Effective Time, but in no event later than the date on which such final Cost Report is required to be filed by applicable Law under the terms of the Medicare program, and will provide the fiscal intermediary or CMS with any information needed to support claims for reimbursement made by Transferor either in said final Cost Report or in any Cost Reports filed for prior Cost Reporting periods. Simultaneously with such filing, Transferor shall provide Transferee with a copy of the final Medicare Cost Reports and such supporting documentation reasonably requested by Transferee in writing.

(b) After the Closing Date, Transferor shall promptly and diligently provide Transferee with reasonable and appropriate documentation regarding the Medicare bad debts incurred by Transferor prior to the Effective Time associated with the Facility ("**Transferor Bad Debt**") for purposes of facilitating Transferee's preparation of related Cost Reports. Transferor agrees to reasonably cooperate by providing reasonably requested pre-Effective Time data to Transferee in connection with Transferee's preparation of Cost Reports with respect to the period after the Effective Time.

(c) Transferee shall timely prepare and file with CMS and the appropriate state agency for the Facility, its initial Cost Report for the fiscal year commencing with the fiscal year in which the Closing Date occurs, and will include Transferor Bad Debt in its initial Cost Report.

(d) Transferee shall notify Transferor within ten (10) Business Days of receipt of any notice of adverse audit adjustments, overpayment, recoupment, fine, penalty, late charge or assessment accruing in relation to Transferor Bad Debt. Transferee agrees to appeal at the request of, on behalf of, and at the sole expense of Transferor, any Medicare claims audit, Cost Report audit, overpayment, recoupment, fines, penalties, late charges and assessment accruing in relation to Transferor Bad Debt. Transferor and Transferee shall each reasonably cooperate with the other respective Party, with respect to any such matters including, but not limited to, timely providing any requested documentation within the other Party's possession or control relating to such matters. Transferee is not responsible for (i) the actual results of any such appeal, or (ii) Transferor's failure to provide information and/or documents necessary to process any such appeal.

(e) Transferor and Transferee shall comply with all patient identity and information protection Laws in providing information under this Section 6.11.

(f) In the event that, following the applicable Effective Time, Transferee or any of its Affiliates suffers any offsets against reimbursement under any third party payor or reimbursement programs owed to such Party relating to amounts owing under any such program by Transferor or any of its Affiliates for services rendered prior to the Effective Time, Transferor shall immediately upon written demand from Transferee pay to such Party the amounts so billed or offset, even if Transferor appeals the adverse claim. To the extent that Transferor is successful in any appeal of any adverse audit adjustments, overpayment, recoupment, fine, penalty, late charge or assessment by any third party payor accruing for any period prior to the Effective Time, and Transferee or its Affiliates receive any monies from a third party payor or reimbursement program as a result of Transferor's successful appeal, then Transferee and/or its Affiliates agree that it will promptly refund to Transferor any amounts previously paid by Transferor to such Party for any reimbursement offsets in accordance with the preceding sentence.

6.12 Assistance in Proceedings. Transferee shall cooperate with any Transferor and its counsel in the contest or defense of, and make available its personnel and provide any testimony and access to its Records in connection with, any proceeding involving or relating to (a) any contemplated transaction herein, or (b) any action, activity, circumstance, condition, conduct, event, fact, failure to act, incident, occurrence, plan, practice, situation, status or transaction on or before the Closing Date involving Transferor, the Facility or its Business.

6.13 Overhead and Shared Services; National Contracts. Transferee acknowledges that the Facility currently benefits from the National Contracts and receives Overhead and Shared Services from Transferor and its Affiliates. Transferee further acknowledges that, as it relates to the operation of the Facility, all such benefits from the National Contracts and provision of Overhead and Shared Services shall cease, and any agreement by the Facility with Transferor or any of its Affiliates in respect to benefiting from the National Contracts or the provision of Overhead and Shared Services shall terminate, as of the Closing Date for the Facility. No Overhead and Shared Services shall be provided by Transferor or any of its Affiliates to the Facility after the Effective Time.

6.14 Business Relationships. After the Closing Date, each Party will reasonably cooperate with the other Parties in its efforts to continue and maintain for the benefit of those business relationships of Transferor existing prior to the Closing Date and relating to the business to be operated by Transferee after the Closing, including relationships with lessors, employees, regulatory authorities, licensors, patients, suppliers and others. The foregoing notwithstanding, Transferor does not make any representation or warranty as to the prospects or outlook for such business relationships as carried on by Transferee after the Closing Date.

6.15 Information Systems, Records in Electronic Form, Software and Data.

(a) Transferor shall use reasonable efforts to permit transfer of current data in fully operational form for use in Transferee's computer applications. Transferor further agrees that in order to assist Transferee in ensuring the continued operation of the Facility after the Closing Date in compliance with applicable Law and in a manner which does not jeopardize the health and welfare of the Residents of the Facility, Transferor shall, for a period of no longer than sixty (60) days after the Closing Date, provide Transferee access to Transferor's electronic medical records system to enable Transferee, at its expense, to print the medical treatment records and physician orders for each Resident as of the Closing Date that was a Resident as of the period between and including the Effective Time and the date that is eighteen (18) months prior to the Effective Time, and cooperate with Transferee regarding the delivery of all such Records to Transferee, in electronic form (including the provision to Transferee of the last eighteen (18) months of MDS (Minimum Data Set) history in the format submitted to CMS by Transferor), in order to enable Transferee to obtain the necessary copies of such medical records and physician orders.

(b) At least thirty (30) days prior to the Closing Date, Transferor shall provide Transferee and its representatives with access to the Facility so that Transferee can install lines necessary for computer hardware, together with servers, computer hardware and software. In addition, Transferor shall cooperate with Transferee and provide Transferee with such assistance as Transferee may reasonably request in order to provide for an orderly, efficient and safe transition of the operations from Transferor to Transferee and the continued operation of the Facility after the Closing Date in compliance with applicable Law and in a manner which does not jeopardize the health and welfare of the Residents of the Facility. During such time as Transferor provides Transferee with access to the Facility under this Section 6.15(b), Transferee shall not connect with or hook into Transferor's computer lines or computers. Such access shall be prescheduled with Transferor and shall not interrupt normal business operation. Transferee shall indemnify Transferor for any damage resulting from such access or installation of the lines. If, for any reason, this OTA terminates prior to the Closing Date, Transferor shall remove any lines

installed, at Transferee's cost and expense, and Transferee shall remit payment to Transferor within five (5) days of receiving an invoice for such costs and expenses of removal.

ARTICLE VII
CONDITIONS PRECEDENT TO THE OBLIGATIONS OF PARTIES

7.1 Conditions to Obligations of Transferee. The obligations of Transferee hereunder are subject to the fulfillment of all of the following conditions precedent unless such fulfillment is waived in writing by Transferee, subject to the limitations contained herein, as the case may be:

(a) Representations and Warranties. The representations and warranties of Transferor set forth in Article IV shall be true and correct in all material respects (or, with respect to any representation qualified as to materiality, true and correct) on and as of the Closing Date as if made on and as of the Closing Date, except to the extent any such representation or warranty expressly is made as of an earlier date or with respect to a particular period, in which case such representation or warranty shall have been true and correct in all material respects (or, with respect to any representation qualified as to materiality, true and correct) as of such date or with respect to such period.

(b) No Litigation. Without limiting the generality of any representation, no injunction, temporary restraining order, judgment or other order of any court or governmental agency or instrumentality shall have issued or have been entered which would be violated by the consummation of the transactions contemplated hereby; and no suit, action or other proceeding brought by the United States, the State of Vermont or any political subdivision, which any Facility is located or any agency or instrumentality thereof shall be pending in which it is sought to restrain or prohibit this OTA or the consummation of the transactions contemplated hereby.

(c) Compliance with Covenants. Transferor shall have performed and complied, in all material respects, with all terms, agreements, covenants and conditions of this OTA to be performed or complied with by it at or prior to the Closing.

(d) Authorization. Transferor shall have approved and authorized the transactions contemplated by this OTA.

(e) No Portfolio Material Adverse Effect. Since the date of execution of this OTA, there shall have been no Portfolio Material Adverse Effect.

(f) Purchase Agreement. All the conditions for closing of the Facility under the Purchase Agreement have been satisfied or waived other than the closing of the transactions contemplated under this OTA.

(g) Termination of Management Agreements. Any management agreements between Transferor and Kindred and/or its Affiliates shall have been terminated and any existing Leases related to the Facility between Transferor and Kindred and/or its Affiliates shall have been terminated.

(h) New License. Transferee shall have received the New License as of the Closing Date (or shall have obtained reasonable assurances from the Department that the New License has been or will be issued by the Department effective as of the Effective Time or promptly thereafter).

(i) Reserved.

(j) Closing Certificate. Transferor shall have delivered to Transferee a certificate of a duly authorized officer of Transferor dated as of the Closing Date stating that the conditions specified in Sections 7.1(a) and 7.1(c) have been satisfied.

(k) Good Standing Certificate. Transferor shall have delivered to Transferee a certificate of the Secretary of State of Delaware as of a recent date as to the legal existence and good standing of Transferor.

(l) Assignment and Assumption Agreement. Transferor shall have executed and delivered any Assignment and Assumption Agreements related to the Facility.

(m) Resident Trust Deposits. Transferor shall have delivered any and all assignment and assumptions of resident trust deposits.

(n) Reserved.

7.2 Conditions to Obligations of Transferor. The obligations of Transferor hereunder are subject to the fulfillment of all of the following conditions precedent unless such fulfillment is waived in writing by Transferor, subject to the limitations contained herein, as the case may be:

(a) Representations and Warranties. The representations and warranties of Transferee set forth in Article V shall be true and correct in all material respects (or, with respect to any representation qualified as to materiality, true and correct) on and as of the Closing Date as if made on and as of the Closing Date, except to the extent any such representation or warranty expressly is made as of an earlier date or with respect to a particular period, in which case such representation or warranty shall have been true and correct in all material respects (or, with respect to any representation qualified as to materiality, true and correct) as of such date or with respect to such period.

(b) No Litigation. Without limiting the generality of any representation, no injunction, temporary restraining order, judgment or other order of any court or governmental agency or instrumentality shall have issued or have been entered which would be violated by the consummation of the transactions contemplated hereby; and no suit, action or other proceeding brought by the United States, the State of Vermont, any political subdivision, which any Facility is located or any agency or instrumentality thereof shall be pending in which it is sought to restrain or prohibit this OTA or the consummation of the transactions contemplated hereby.

(c) Compliance with Covenants. Transferee shall have performed and complied, in all material respects, with all terms, agreements, covenants and conditions of this OTA to be performed or complied with by it at or prior to the Closing.

(d) Authorization. Transferee shall have approved and authorized the transactions contemplated by this OTA.

(e) No Portfolio Material Adverse Effect. Since the date of execution of this OTA, there shall have occurred, no event, circumstance or other change in Transferee or its assets that, alone or in the aggregate, has had or, reasonably could be expected to have, a Portfolio Material Adverse Effect with regard to Transferee.

(f) Purchase Agreement. All the conditions for closing of the Facility under the Purchase Agreement have been satisfied or waived other than the closing of the transactions contemplated under this OTA.

(g) New License. Transferee shall have received the New License as of the Closing Date (or shall have obtained reasonable assurances from the Department that the New License has been or will be issued by the Department effective as of the Effective Time or promptly thereafter).

(h) Reserved.

(i) Closing Certificate. Transferee shall have delivered to Transferor a certificate of a duly authorized officer of Transferee dated as of the Closing Date stating that the conditions specified in Sections 7.2(a) and 7.2(c) have been satisfied.

(j) Good Standing Certificate. Transferee shall have delivered to Transferor a certificate of the Secretary of State of Vermont as of a recent date as to the legal existence and good standing of Transferee.

(k) Assignment and Assumption Agreement. Transferee shall have executed and delivered any Assignment and Assumption Agreements related to the Facility.

(l) Reserved.

(m) Other Operations Transfer Agreements. The Affiliates of Transferee shall have consummated the transactions contemplated by the Other Operations Transfer Agreements, except to the extent any facility governed by any of the Other Operations Transfer Agreements is subject to a “Delayed Closing” (as governed by Sections 3.1, 6.9, 10.3 and 10.4 of the Purchase Agreement and defined below).

ARTICLE VIII DELAYED CLOSING

8.1 Delayed Closing. Notwithstanding anything in this OTA to the contrary, in the event the sale of the Facility under the Purchase Agreement does not occur or is delayed as a result of the provisions of Sections 3.1, 6.9, 10.3 or 10.4 of the Purchase Agreement (a “**Delayed Closing**”), the transfer of operations from Transferor associated with the Facility to Transferee shall occur, if at all, on the date of the eventual sale of such Facility pursuant to the Purchase Agreement. All of the provisions of this OTA shall apply to such transfer of operations, other than the Closing Date for such transfer of operations being adjusted accordingly in accordance with the Purchase Agreement.

ARTICLE IX TERMINATION

9.1 Termination. This OTA may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing:

(a) by either Transferor or Transferee if (i) the Closing has not occurred by the Outside Date (unless (A) such date has been extended under the Purchase Agreement in accordance with its terms, or (B) the Facility is subject to a Delayed Closing); or (ii) the Purchase Agreement has been terminated in accordance with its terms either in full or with respect to the Facility;

(b) by the mutual written consent of Transferor Representative and Transferee;

(c) by Transferee, by reason of the breach, inaccuracy or non-fulfillment of any representation, covenant, obligation or agreement by Transferor under this OTA that (i) has a Material Adverse Effect, and (ii)(A) is incapable of being cured prior to the Outside Date, or (B) has not been cured by Transferor within one hundred eighty (180) days after written notice thereof from Transferee; or

(d) by Transferor, by reason of the breach, inaccuracy or non-fulfillment of any representation, covenant, obligation or agreement by Transferee under this OTA that (i) is incapable of being cured prior to the Outside Date, or (ii) has not been cured by Transferee within forty-five (45) days after written notice thereof from Transferor Representative, except in the case of a breach of the covenants set forth in Section 2.2(a), in which case Transferee shall have five (5) days after written notice thereof from Transferor Representative to file for the applicable New Licenses and/or to notify Transferor that the necessary filings have been made in accordance with Section 2.2(a).

9.2 Procedure and Effect of Termination.

(a) In the event of termination of this OTA pursuant to this Article IX, the terminating Party shall give written notice thereof to the other Parties and this OTA shall terminate, and the transactions contemplated hereby shall be abandoned, without further action by any of the Parties.

(b) If this OTA is terminated as provided herein, no Party shall have any liability or further obligation hereunder to any other Party to this OTA, except (i) as provided in Section 6.5 or Article X, and/or (ii) as otherwise provided for in the Purchase Agreement, and (iii) nothing herein will relieve any Party from liability for any breach of this OTA.

ARTICLE X INDEMNIFICATION

10.1 Survival of Representations, Warranties and Covenants. All representations, warranties, pre-closing covenants and obligations of Transferor, including with respect to any Facility, on the one hand, and Transferee, on the other hand, contained in this OTA or in any document to be executed and delivered pursuant to this OTA at the Closing shall survive the Closing for such Facility for eighteen (18) months and automatically terminate thereafter without any action on the part of any Party hereto; *provided, however*, that (a) the representations and warranties set forth in Sections 4.1 (Corporate), 4.7 (Encumbrances), 4.18 (Broker), 5.1 (Corporate), and 5.3 (Broker) shall survive indefinitely after the Closing for such Facility, (b) the representations and warranties set forth in Sections 4.4 (Taxes), shall survive until thirty (30) days after the expiration of the statute of limitations period (including all extensions thereof) applicable to the underlying subject matter being represented, and (c) the representations and warranties set forth in Section 4.5 (Employee Benefit Plans) and 4.8 (Healthcare) shall survive until the three-year anniversary of the Closing Date for such Facility. The representations and warranties contained in Sections 4.1, 4.4, 4.7, 4.18, 5.1, and 5.3 are sometimes collectively referred to herein as the “*Fundamental Representations.*” Except as otherwise set out in this OTA, post-Closing covenants and obligations of the Parties shall survive the Closing Date for such Facility for three (3) years and automatically terminate without any action on the part of any Party hereto; *provided, however*, that (a) non-monetary obligations for access and/or retention of records, confidentiality, general cooperation, delivery of property received belonging to the other Party, and further assurances, shall survive for the Closing Date for the period of the statute of limitations or the specific period set forth herein, (b) Transferee’s obligations with respect to Assumed Liabilities will survive the Closing Date for the period of the underlying obligation plus the relevant statute of limitations (including all extensions thereof) applicable for such Assumed Liability, and (c) Transferor’s obligations with respect to Retained Liabilities will survive the Closing Date for the period of the underlying obligation plus the relevant statute of limitations (including all extensions thereof) applicable for such Retained Liability. Notwithstanding the foregoing, any covenant, obligation, representation or warranty in respect of which indemnity may be sought hereunder shall survive the time at which it would otherwise terminate pursuant to this Section 10.1 (such time, the “*Expiration Date*”) if a Notice of Indemnification shall have been given to the applicable Indemnifying Party on or before the applicable Expiration Date; *provided, however*, that such survival shall automatically expire if Indemnified Party does not bring a judicial action against Indemnifying Party within one hundred eighty (180) days following the Expiration Date, and

further, in the absence of the filing of such an action, the Escrow shall be released one hundred eighty (180) days after the three-year anniversary of the Initial Closing Date.

10.2 **Indemnification by Transferor.** Subject to Section 10.1 and any cure periods set forth in this OTA, Transferor and Kindred or their respective successors and assigns, as applicable, shall jointly and severally indemnify and hold harmless Transferee, Purchaser and their respective Affiliates (collectively, “**Transferee Indemnified Parties**”) from and against any Loss incurred or suffered by such Transferee Indemnified Party arising out of or resulting from:

(a) a breach of any representation or warranty made by Transferor in this OTA or any other Transaction Document;

(b) a failure by Transferor to perform or comply with the covenants on the part of Transferor set forth in this OTA or any other Transaction Document; and

(c) any Retained Liabilities, and any obligations arising with respect to an Excluded Asset from and after the Closing Date.

10.3 **Indemnification by Transferee.** Subject to Section 10.1 and any cure periods set forth in this OTA, Transferor or its successors and assigns, as applicable, shall indemnify and hold harmless Transferee and its Affiliates (“**Transferor Indemnified Parties**”), from and against any Loss incurred or suffered by such Transferor Indemnified Party arising out of or resulting from:

(a) a breach of any representation or warranty made by Transferee in this OTA or any other Transaction Document;

(b) a failure by Transferee to perform or comply with any covenant of Transferee in this OTA or any other Transaction Document; and

(c) any Assumed Liability, and any obligations arising with respect to an Asset from and after the Closing Date.

10.4 **Indemnification Limitations.** Notwithstanding Section 10.2, if the Closing occurs:

(a) An Indemnifying Party shall not have any obligation to indemnify an Indemnified Party with respect to a Facility whatsoever from and against any Loss pursuant to Section 10.2(a) or Section 10.3(a) unless and until the aggregate claims for such Losses with respect to such Facility (and with respect to any Transferee Indemnified Party, combined with claims for Losses by the applicable Purchaser for breaches of Seller’s representations and warranties under the Purchase Agreement) exceed Fifty Thousand Dollars (\$50,000.00) (the “**Indemnification Threshold**”), at which time Indemnified Parties shall be entitled to recover all such Losses in excess of the Indemnification Threshold, subject to the allocated portion of the Indemnification Cap attributed to the Facility under the Purchase Agreement.

(b) Indemnified Parties shall not be entitled to recover Losses with respect to the Facility pursuant to Section 10.2(a) or Section 10.3(a) for an aggregate amount (and with respect to Transferee Indemnified Parties, combined with the aggregate amount of Losses recovered by Purchaser for breaches of Seller’s representations and warranties under the Purchase Agreement) in excess of the amount of the Indemnification Cap allocated to the Facility pursuant to the Purchase Agreement; *provided, however*, that claims for fraud or any breach of any of the Fundamental Representations shall not be subject to the foregoing limits and shall not be included in the determination of whether the Indemnification Cap has been reached. For all purposes of this Article X, when determining the amount

of the Losses arising out of or resulting from a breach of a representation or warranty of Transferor or Transferee, any Material Adverse Effect or other materiality qualifier contained in any such representation or warranty will be disregarded.

(c) Any Losses for which any Indemnified Party would be entitled to indemnification under this Article X shall be reduced by the amount of insurance proceeds actually received or recovered under any insurance policies for the benefit of such Indemnified Party (including any title policies) and any cash payments, setoffs or recoupment of any payments actually recovered by such Indemnified Party in respect of such Losses. Each Indemnified Party shall use commercially reasonable efforts to mitigate losses for which such Indemnified Party is subject to indemnification under this Article X. If, after Indemnifying Party has made an indemnification payment to an Indemnified Party with respect to Losses in satisfaction of its obligations under this Article X, Indemnified Party actually recovers from any third parties amounts in respect of such Losses, Indemnified Party shall as promptly as practicable forward to Indemnifying Party such amounts, but not in excess of the indemnification payment received by Indemnified Party. For the avoidance of doubt, Transferor shall have no obligation to indemnify (whether under this Article or otherwise) both (A) Purchaser, or an assignee of Purchaser, and (B) a Transferee with respect to any single Loss, and shall not be required to pay duplicative damages, and the Indemnification Cap allocated to the Facility under the Purchase Agreement shall be the maximum liability for indemnification claims with respect to the Facility under both this OTA and the Purchase Agreement. In no event shall the Indemnified Parties receive duplicative Losses under such agreements.

(d) Any indemnification payments made pursuant to this OTA shall be treated as an adjustment to the allocated Purchase Price for the Facility as set forth and in accordance with the Purchase Agreement (as determined for U.S. federal income tax purposes). In the event of a claim under this Article X, a Party shall have a duty to mitigate its Losses.

10.5 Assumption of Defense. An Indemnified Party shall promptly give notice (each, a “*Notice of Indemnification*”) to each Indemnifying Party after obtaining knowledge of any matter as to which recovery may be sought against such Indemnifying Party because of the indemnity set forth above and, if such indemnity shall arise from the claim of a third party and Indemnifying Party provides written notice to Indemnified Party stating that Indemnifying Party is responsible for the entire claim within ten (10) days after Indemnifying Party’s receipt of the applicable Notice of Indemnification, shall permit such Indemnifying Party to assume the defense of any such claim or any proceeding resulting from such claim; *provided, however*, that failure to give any such Notice of Indemnification promptly shall not affect the indemnification provided under this Article X, except and only to the extent such Indemnifying Party shall have been actually prejudiced as a result of such failure or if such Notice of Indemnification is not given to Indemnifying Party prior the applicable Expiration Date. If an Indemnifying Party assumes the defense of such third party claim, such Indemnifying Party shall have full and complete control over the conduct of such proceeding on behalf of Indemnified Party and shall, subject to the provisions of this Section 10.5, have the right to decide all matters of procedure, strategy, substance and settlement relating to such proceeding; *provided, further, however*, that any counsel chosen by such Indemnifying Party to conduct such defense shall be reasonably satisfactory to Indemnified Party; and *provided, further, however*, that Indemnifying Party shall not without the written consent of Indemnified Party consent to the entry of any judgment or enter into any settlement with respect to the matter which (a) does not include a provision whereby the plaintiff or the claimant in the matter releases Indemnified Party from all liability with respect thereto; and (b) in the case of Transferee as Indemnifying Party, does not include any provision that would impose any obligation (including an obligation to refrain from taking action) upon Seller. Indemnified Party may participate in such proceeding and retain separate co-counsel at its sole cost and expense (and, for the avoidance of doubt, such cost and expense shall not constitute a Loss for purposes of the Indemnification Obligations).

10.6 Non-Assumption of Defense. If no Indemnifying Party is permitted or elects to assume the defense of any such claim by a third party or proceeding resulting therefrom, Indemnified Party shall diligently defend against such claim or litigation in such manner as it may deem appropriate and, in such event, Indemnifying Party or Parties shall reimburse Indemnified Party for all reasonable and actually incurred out-of-pocket costs and expenses, legal or otherwise, incurred by Indemnified Party and its Affiliates in connection with the defense against such claim or proceeding, within thirty (30) days after the receipt of detailed invoices.

10.7 Indemnified Party's Cooperation as to Proceedings. Indemnified Party will cooperate in all reasonable respects with any Indemnifying Party in the conduct of any proceeding as to which such Indemnifying Party assumes the defense, except to the extent Indemnified Party could reasonably be expected to be prejudiced thereby. Indemnifying Party or Parties shall promptly reimburse Indemnified Party for all reasonable out-of-pocket costs and expenses, legal or otherwise, incurred by Indemnified Party or its Affiliates in connection therewith, within thirty (30) days after the receipt of detailed invoices therefor.

10.8 Indemnification for Resident Trust Property.

(a) Kindred and Transferor will jointly and severally indemnify, protect, defend and hold Transferee harmless for, from and against all liabilities, claims and demands, including reasonable attorneys' fees and costs, in the event the corpus of the Resident Trust Property transferred to Transferee does not represent the correct balance of Resident Trust Property delivered to Transferor as custodian, and for claims which arise from actions or omissions of Transferor with respect to the Resident Trust Property held or handled by Transferor at any time.

(b) Transferee will indemnify, protect, defend and hold Transferor harmless for, from and against all liabilities, claims and demands, including reasonable attorneys' fees and costs, in the event a claim is made against Transferor by a resident or his or her family for his/her Resident Trust Property where such Resident's funds or other property were properly transferred to Transferee pursuant to the terms hereof.

10.9 Damages Disclaimed. **EXCEPT AS SUCH MAY BE PART OF ANY CLAIM OF ANY THIRD PARTY THAT IS NOT A TRANSFEREE INDEMNIFIED PARTY OR A PURCHASER INDEMNIFIED PARTY (AS DEFINED IN THE PURCHASE AGREEMENT), UNDER NO CIRCUMSTANCES (WHETHER UNDER THIS ARTICLE OR OTHERWISE) SHALL ANY PARTY BE RESPONSIBLE OR LIABLE IN ANY WAY HEREUNDER FOR LOSS OF PROFITS, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, DIMINUTION IN VALUE, OR ANY EXEMPLARY DAMAGES, REGARDLESS OF WHETHER THE ACTION IS FOUNDED IN CONTRACT, TORT, STATUTORY OR OTHERWISE.**

10.10 Individual Liability Disclaimed. For the avoidance of doubt, except in the event of fraud, no individual officer, director, member, managing member, shareholder, equity holder, partner, employee, agent, or representative of either Party shall have any liability for any claims of the other Party related to this OTA, or any agreements, certificates or instruments delivered in connection herewith, in any way.

10.11 Exclusive Remedy Post-Closing. With the exception of fraud and injunctive relief for specific performance or an action required under this OTA post-Closing for any Transferred Facility, the exclusive remedy of any Party after a Closing shall be indemnity under this Article X.

ARTICLE XI
ASSIGNMENT

11.1 **Assignment.** Neither this OTA, nor any rights, interests or obligations hereunder, may be assigned or transferred, in whole or in part, by operation of law or otherwise by Transferor or Transferee without the prior written consent of the other Party which shall not be unreasonably withheld, conditioned or delayed, and any such assignment that is not consented to shall be null and void. Notwithstanding the foregoing, upon prior written notice to Transferor Representative, Transferee may assign all, but not less than all, of its rights, duties and obligations under this OTA to a wholly-owned subsidiary of Transferee or Purchaser or to a Substitute OTA Transferee, provided (a) it is understood that a Substitute OTA Transferee which is substantially similar to Transferee as of the Closing shall be deemed acceptable to Transferor, and (b) that no such assignment shall relieve Transferee or Transferee Guarantor from their obligations under this OTA.

ARTICLE XII
MISCELLANEOUS

12.1 **Disclosure Schedules.** The information contained in the Disclosure Schedules shall be deemed to qualify to the specific Section (or subsection, as appropriate) of this OTA to which it corresponds, and shall be cumulative so that if the existence of the fact or item or its contents disclosed in any particular schedule is relevant to any other schedule, then such fact or item shall be deemed to be disclosed with respect to the other schedule to the extent such relevance is reasonably apparent whether or not a specific cross-reference appears. The headings contained in the Disclosure Schedules are included for convenience only, and are not intended to limit the effect of the disclosures contained in such schedule or to expand the scope of the information required to be disclosed in such schedule. Descriptions of documents in the Schedules are summaries only and are qualified in their entirety by the specific terms of such documents. Matters reflected in the Disclosure Schedules are not necessarily limited to matters required by this OTA to be reflected herein; additional matters are set forth for informational purposes and the fact that any item of information is disclosed in the Disclosure Schedules shall not be construed to mean that such information is required to be disclosed by this OTA. Any information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the term “material” or other similar terms in this OTA or constitute an admission that such items are required to be disclosed under this OTA.

12.2 **Payment of Expenses.** Except as otherwise provided in this OTA, each of the Parties shall bear its own expenses in connection with the negotiation and the consummation of the transactions contemplated by this OTA. Subject to the foregoing, no expenses of Transferor relating in any way to the purchase and sale of the Assets hereunder and the transactions contemplated hereby, including legal, accounting or other professional expenses of Transferor shall be charged to or paid by Transferee or included in any of the Assumed Liabilities. No expenses of Transferee relating in any way to the purchase and sale of the Assets hereunder and the transactions contemplated hereby, including legal, accounting or other professional expenses of Transferee shall be charged to or paid by any Transferor or included in any of the Excluded Liabilities. The foregoing shall not limit, however, any Party’s right to include such expenses in any claim for damages against any other Party who breaches any legally binding provision of this OTA to the extent provided in this OTA.

12.3 **Entire Agreement; Assignment; Etc.** This OTA (including the Disclosure Schedules and all other schedules and exhibits hereto which are incorporated into and are a part of this OTA), together with the Purchase Agreement, and with any certificates and other instruments delivered hereunder, state the entire agreement of the Parties, merge all prior negotiations, agreements and understandings, if any, whether written or oral, and state in full all representations, warranties, covenants and agreements that have induced this OTA. Each Party agrees that in dealing with third parties no contrary representations

will be made. This OTA shall not be assignable by operation of Law or otherwise. The Parties acknowledge that Purchaser is a third party beneficiary of this OTA to the extent provided below.

12.4 Captions. The Article, Section and paragraph captions in this OTA are for convenience of reference only, do not constitute part of this OTA and shall not be deemed to limit or otherwise affect any of the provisions hereof.

12.5 Severability. The invalidity or unenforceability of any provision of this OTA shall not affect the validity or enforceability of any other provision of this OTA.

12.6 Enforcement.

(a) The Parties agree that irreparable damage would occur in the event that any of the provisions of this OTA were not performed in accordance with their specific terms or were otherwise breached and that any breach of this OTA could not be adequately compensated in all cases by monetary damages alone. The Parties acknowledge and agree that, prior to the valid termination of this OTA pursuant to Section 9.1, the Parties shall be entitled to an injunction, specific performance and other equitable relief to prevent breaches of this OTA and to enforce specifically the terms and provisions hereof, in addition to any other remedy to which they are entitled at Law or in equity, but in all events subject to the limitations set forth in this OTA.

(b) Nothing set forth in this Section 12.6 shall require Transferor to institute any proceeding for (or limit Transferor's right to institute any proceeding for) specific performance under this Section 12.6 prior or as a condition to exercising any termination right under Section 9.1, nor shall the commencement of any legal proceeding pursuant to this Section 12.6 or anything set forth in this Section 12.6 restrict or limit Transferor's right to terminate this OTA in accordance with the terms of Section 9.1 or pursue any other remedies under this OTA.

(c) To the extent any Party brings any Action to enforce specifically the performance of the terms and provisions of this OTA (other than an Action to specifically enforce any provision that expressly survives termination of this OTA pursuant to Section 9.1 when expressly available to such Party pursuant to the terms of this OTA, each Termination Date shall automatically be extended by (i) the amount of time during which such Action is pending, plus twenty (20) Business Days, or (ii) such other time period established by the court presiding over such Action.

12.7 Modification or Amendment. The Parties may modify or amend this OTA at any time, only by a written instrument duly executed and delivered by Transferee and Transferor Representative. Notwithstanding the foregoing, prior to the Closing, the Parties may not amend, modify or terminate this OTA without the prior written consent of Purchaser.

12.8 Construction of Agreement. If an ambiguity or question of intent or interpretation arises under this OTA, this OTA shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this OTA.

12.9 Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been duly given or made as of the date delivered if delivered personally or by a nationally recognized overnight courier service to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice, except that notices of changes of address shall be effective upon receipt):

If to Transferor, addressed to:

Kindred Healthcare, Inc.
680 South Fourth Street
Louisville, Kentucky 40202
Attn: Joseph L. Landenwich, General Counsel
Attn: Douglas Curnutte, Senior Vice President, Corporate Development

With a copy to (which shall not constitute notice):

Polsinelli PC
401 Commerce Street, Suite 900
Nashville, TN 37219
Attn: Bobby Guy, Esq.

If to Transferee, addressed to:

Birchwood Operations LLC
c/o Ari Erlichman
101 Lawrence Avenue
Lawrence NY 11559
arierlichman@gmail.com

With a copy to (which shall not constitute notice):

Shireen T. Hart
Primmer Piper Eggleston & Cramer PC
shart@primmer.com

or to such other address or to such other Person as either Party shall have last designated by such notice to the other Party.

12.10 Remedies Cumulative. Except as otherwise provided herein, the remedies provided for or permitted by this OTA shall be cumulative and the exercise by any Party of any remedy provided for herein shall not preclude the assertion or exercise by such Party of any other right or remedy provided for herein.

12.11 Governing Law; Consent to Jurisdiction. This OTA shall be governed by and construed in accordance with the domestic Laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware.

12.12 Forum; Waiver of Jury Trial.

(a) With respect to any Action between any of the Parties arising out of or relating to this OTA, or any of the transactions contemplated by this OTA, (i) each of the Parties irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of either the state or federal courts located in the State of Delaware, and (ii) each of the Parties irrevocably consents to service of process by first-class certified mail, return receipt requested, postage prepaid.

(b) Each of the Parties hereby irrevocably waives any and all right to trial by jury of any claim or cause of action in any legal proceeding arising out of or related to this OTA or the

transactions or events contemplated hereby or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any Party. The Parties each agree that any and all such claims and causes of action shall be tried by the court without a jury. Each of the Parties hereto further waives any right to seek to consolidate any such legal proceeding in which a jury trial has been waived with any other legal proceeding in which a jury trial cannot or has not been waived.

12.13 Time of Essence. With regard to all dates and time periods set forth or referred to in this OTA, time is of the essence unless such delay is caused by factors outside the control of the Party in which case a reasonable delay shall be granted to the requesting Party.

12.14 Counterparts. This OTA may be executed in the original or by facsimile or electronic .pdf in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. The exchange of copies of this OTA and of signature pages by facsimile transmission or e-mail shall constitute effective execution and delivery of this OTA as to the Parties and may be used in lieu of the original OTA for all purposes. Signatures of the Parties transmitted by facsimile or e-mail shall be deemed to be their original signatures for all purposes.

12.15 Representation Waiver. Each of the Parties hereto acknowledges and agrees, on its own behalf and on behalf of its members, partners, officers, employees and Affiliates, that Transferor is a client of Polsinelli PC and Cleary Gottlieb Steen & Hamilton (collectively, the “*Firms*”) in the preparation, negotiation and execution of this OTA and the other Transaction Documents. After the Closing, it is possible that the Firms will represent Transferor and/or its Affiliates in the future in connection with issues that may arise under this OTA and the other Transaction Documents or any claims that may be made thereunder. Each of the Firms (or any successor) may serve as counsel to Transferor and/or its Affiliates or any member, partner, manager, officer, employee, representative or Affiliate of such Persons in connection with any claim arising out of or relating to this OTA or the other Transaction Documents. Each of the Parties hereto consents thereto, and waives any conflict of interest arising therefrom, and each such Party shall cause any Affiliate thereof to consent to waive any conflict of interest arising from such representation. Each of the Parties hereto acknowledges that such consent and waiver is voluntary, that it has been carefully considered, and that the Parties have consulted with counsel or have been advised they should do so in connection therewith.

12.16 Third-Party Beneficiary. Purchaser shall be a third-party beneficiary of the representations and warranties of Transferor under Article IV and the indemnification provisions of Article X; *provided, however*, that Transferor shall have no obligation to indemnify (whether under this Article or otherwise) both (a) Purchaser, or an assignee of Purchaser other than Transferee, and (b) any Transferee with respect to any single Loss.

12.17 Transferor Representative.

(a) Transferor hereby irrevocably constitutes and appoints Kindred as its representative (“*Transferor Representative*”) and its true and lawful attorney-in-fact, with full power and authority in each of their names and on behalf of each of them to act on behalf of Transferor in the absolute discretion of Transferor Representative for purposes of this OTA, the Purchase Agreement and the transactions to be carried out pursuant hereto and thereto, and the execution of this OTA, by Transferor will constitute ratification and approval of such designation on the terms set forth herein. All decisions, actions, consents and instructions by Transferor Representative with respect to this OTA will be binding upon Transferor, and Transferor will not have the right to object to, dissent from, protest or otherwise contest the same. Transferee will be entitled to rely on any decision, action, consent or instruction of Transferor Representative as being the decision, action, consent or instruction of Transferor. By way of example and not limitation, Transferor Representative will be authorized and empowered, as agent of and on behalf of Transferor to (i) execute and deliver and take all actions under the OTA on

behalf of Transferor; (ii) give and receive notices and communications as provided herein; (iii) object to any claims of an Indemnified Party; (iv) agree to, negotiate, enter into settlements and compromises of, and comply with orders of courts and awards of arbitrators with respect to, such claims or Losses; (v) waive after the Closing Date any breach or default of Transferee of any obligation to be performed by it under this OTA; (vi) receive service of process on behalf of Transferor in connection with any claims against Transferor arising under or in connection with this OTA; and (vii) take all other actions that are either (A) necessary or appropriate in the judgment of Transferor Representative for the accomplishment of the foregoing, or (B) specifically mandated by the terms of this OTA. Notices or communications to or from Transferor Representative will constitute notice to or from Transferor.

(b) The grant of authority provided for in this Section 12.17 is coupled with an interest and is being granted, in part, as an inducement to Transferee to enter into this OTA, and will be irrevocable and survive the dissolution, liquidation or bankruptcy of any Transferor, and will be binding on any successor thereto.

12.18 Attorney-Client Privilege. Neither of Transferor or Transferee is waiving, and each will not be deemed to have waived or diminished, any of its attorney work product protections, attorney-client privileges or similar protections and privileges as a result of disclosing its Confidential Information (including Confidential Information related to pending or threatened litigation) to the others, regardless of whether such Party has asserted, or is or may be entitled to assert, such privileges and protections. The Parties (a) share a common legal and commercial interest in all of the Confidential Information that is subject to such privileges and protections; (b) are or may become joint defendants in proceedings to which such Party's Confidential Information covered by such protections and privileges relates; (c) intend that such privileges and protections remain intact should any Party become subject to any actual or threatened proceeding to which the Confidential Information covered by such protections and privileges relates; and (d) intend that after the Closing the Proprietary Party whose Confidential Information is at issue shall have the right to assert such protections and privileges. No Party shall admit, claim or contend, in proceedings involving any Party or otherwise, that any Party waived any of its attorney work-product protections, attorney-client privileges or similar protections and privileges with respect to any information, documents or other material not disclosed to a Party due to any Party disclosing its Confidential Information (including Confidential Information related to pending or threatened litigation) to another Party.

12.19 Guaranty; Obligations of Transferee Guarantor. Transferee Guarantor unconditionally guarantees the full and prompt payment and performance of all of Transferee's obligations to Transferor, Kindred, and Transferor Indemnified Parties in accordance with this OTA or any other agreement between Transferor and Transferee arising in connection with the Transaction. The liability of Transferee Guarantor under this Section 12.19 will in no way be affected or impaired by any failure or delay by Transferor in enforcing payment of any amount required under this OTA, in enforcing the performance of any obligations under this OTA, in enforcing payment under this Section 12.19, or in exercising any right or power in respect thereto, or to any compromise, waiver, settlement, change, subordination, modification, or disposition of any payments due under this OTA or any performance required under this OTA or any of the other Transaction Documents, and Transferee Guarantor hereby waives all defenses of suretyship. The amendment or modification of this OTA will not affect Transferee Guarantor's liability under this Section 12.19, unless such Transferee Guarantor's liability is amended or modified in a writing signed by the Parties.

12.20 Guaranty; Obligations of Kindred. Kindred unconditionally guarantees the full and prompt payment and performance of all of Transferor's obligations to Transferee, Transferee Guarantor, and Transferee Indemnified Parties in accordance with this OTA or any other agreement between Transferor and Transferee arising in connection with the Transaction. The liability of Kindred under this Section 12.20 will in no way be affected or impaired by any failure or delay by Transferee in enforcing

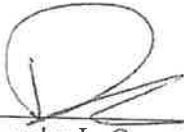
payment of any amount required under this OTA, in enforcing the performance of any obligations under this OTA, in enforcing payment under this Section 12.20, or in exercising any right or power in respect thereto, or to any compromise, waiver, settlement, change, subordination, modification, or disposition of any payments due under this OTA or any performance required under this OTA or any of the other Transaction Documents, and Kindred hereby waives all defenses of suretyship. The amendment or modification of this OTA will not affect Kindred's liability under this Section 12.20, unless such Kindred's liability is amended or modified in a writing signed by the Parties.

[The Next Page is the Signature Page]

IN WITNESS WHEREOF, each of the undersigned in the capacity indicated below has executed this OTA as of the day and year first above written.

TRANSFEROR:


Kindred Nursing Centers East, L.L.C.

By: 

Douglas L. Curnutte
Senior Vice President, Corporate Development

KINDRED:


Kindred Healthcare Operating, Inc.

By: 

Douglas L. Curnutte
Senior Vice President, Corporate Development

TRANSFeree:

Birchwood Operations LLC

By: 
Name: Ari Erlichman
Title: Owner

TRANSFeree GUARANTOR:

E&R Operations LLC


By: 
Name: Ari Erlichman
Title: Owner

Exhibit A

Definitions

Definitions. In addition to the terms otherwise defined herein, the following terms shall have the following meaning:

“***Accounts Receivable***” means all accounts receivable and incentive payments of the Business, including without limitation, the IGT Credit Amount and other incentive payments related to the QIPP, QASP or similar incentive programs in additional states.

“***Action***” has the meaning set forth in the Purchase Agreement.

“***Affected Participants***” has the meaning set forth in Section 2.5(m).

“***Affiliate***” has the meaning set forth in the Purchase Agreement.

“***Affiliated-Service Transferee Employees***” has the meaning set forth in Section 2.5(d).

“***Ancillary Permits and Approvals***” has the meaning set forth in Section 2.2(a).

“***A/R Collection Period***” has the meaning set forth in Section 6.10(b).

“***Assets***” has the meaning set forth in Section 2.1.

“***Assignment and Assumption Agreement***” has the meaning set forth in Section 3.2(b).

“***Assumed Contracts***” has the meaning set forth in Section 2.1(e).

“***Assumed Liabilities***” has the meaning set forth in Section 2.4(a).

“***Bill of Sale***” has the meaning set forth in Section 3.2(a).

“***Bring Down Certificate***” has the meaning set forth in Section 3.2(c).

“***Broker***” has the meaning set forth in Section 4.18.

“***Business***” means the business conducted by Transferor exclusively at or exclusively related to the Facility.

“***Business Days***” has the meaning set forth in the Purchase Agreement.

“***Closing***” has the meaning set forth in Section 3.1.

“***Closing Date***” has the meaning set forth in Section 3.1.

“***CMS***” means the Centers for Medicare and Medicare Services.

“***COBRA***” means the Consolidated Omnibus Budget Reconciliation Act or similar state law.

“***Code***” has the meaning set forth in the Purchase Agreement.

“***Compliance Violations***” has the meaning set forth in Section 3.3(h).

“Confidential Information” has the meaning set forth in Section 6.5(b).

“Contracts” has the meaning set forth in Section 2.1(e).

“Cost Reports” means all Cost Reports exclusively related to the Facility filed by Transferor prior to the Execution Date pursuant to the requirements of any applicable Government Reimbursement Programs for cost-based payments or reimbursement due to or claimed by Transferor from any applicable Government Reimbursement Programs or their fiscal intermediaries or payor agents.

“Current Records” has the meaning set forth in Section 2.1(h).

“Deficiencies” has the meaning set forth in Section 3.3(g).

“Delayed Closing” has the meaning set forth in Section 8.1.

“Department” has the meaning set forth in Section 2.2(a).

“Disclosure Updates” has the meaning set forth in Section 4.21.

“Effective Time” has the meaning set forth in Section 3.1.

“Employee Benefit Plan” means any plan, program, agreement or policy for the benefit of any current or former employee, director, independent contractor, or owner (or any dependent or beneficiary thereof) that is (a) a welfare plan within the meaning of Section 3(1) of ERISA, (b) a pension plan within the meaning of Section 3(2) of ERISA, (c) a stock bonus, stock purchase, stock option, restricted stock, stock appreciation right or similar equity-based plan, or (d) any other compensation, deferred-compensation, retirement, welfare-benefit, bonus, incentive, retention, severance pay, sick leave, vacation pay, salary continuation, disability, dental, vision, medical, life insurance or fringe-benefit plan, program, agreement or policy.

“Encumbrance” has the meaning set forth in the Purchase Agreement.

“Environmental Law” has the meaning set forth in the Purchase Agreement.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” has the meaning set forth in Section 4.5(c).

“Escrow Facility” has the meaning set forth in the Purchase Agreement.

“Excluded Assets” shall mean the Assets which are not being transferred to Transferee from Transferor as described in Section 2.7.

“Execution Date” has the meaning set forth in the Preamble.

“Expiration Date” has the meaning set forth in Section 10.1.

“Facility” has the meaning set forth in the Recitals.

“Financial Statements” means the unaudited balance sheets and profit and loss statements relating to the operations of the Business for the 2016 fiscal year.

“Firms” has the meaning set forth in Section 12.15.

“Fundamental Representations” has the meaning set forth in Section 10.1.

“GAAP” means U.S. generally accepted accounting principles, as in effect on the Execution Date, consistently applied.

“Government Reimbursement Program” means the Medicare program, any relevant state Medicaid program and any other similar or successor federal, state or local health care payment programs with or sponsored by any Governmental Authority (excluding the TRICARE Program).

“Governmental Authority” or **“Governmental Entity”** means any federal, state, or local government or any court of competent jurisdiction, administrative agency or commission or other domestic governmental or quasi-governmental authority or instrumentality.

“Group Health Plan” means a group health plan offering major medical, dental and other medical coverage subject to COBRA.

“Hazardous Substances” means any chemicals, materials, compounds or substances defined, regulated, listed or otherwise classified under any applicable Law as a “hazardous substance,” “extremely hazardous substance,” “hazardous material,” “hazardous waste,” “universal waste,” “mixed waste,” “bio-hazardous waste,” “medical waste,” “radioactive waste,” “pharmaceutical waste,” “commingled waste,” “mold,” “toxic substance,” “toxin,” “pollutant” or “contaminant,” including petroleum (including petroleum products, constituents, additives, or derivatives thereof), asbestos, asbestos-containing materials, and polychlorinated biphenyls.

“Healthcare Requirements” means the requirements of or with respect to Government Reimbursement Programs, Referral Laws, Patient Privacy Requirements, the False Claims Act, 31, U.S.C. Section 3729 et seq. as amended, and 42 USC Section 1320a-7k(d), 42 U.S.C. 1320a-7a(a).

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

“IGT Credit Amount” shall mean the amount of any cash or other amounts due to Transferor (regardless of whether such amounts are paid after the applicable Closing) which is set forth on the IGT balance sheets of the Facility as of immediately prior to the applicable Closing, and any payment or part thereof received pursuant to a UPL Program related to or attributable to the period prior to the Effective Time.

“IMA” has the meaning set forth in Section 4.1(b).

“Indemnification Cap” has the meaning set forth in the Purchase Agreement.

“Indemnification Obligation” means the indemnification obligations of an Indemnifying Party under this OTA.

“Indemnified Party” and **“Indemnified Parties”** means any Person entitled to indemnification under Article X of this OTA and Article IX of the Purchase Agreement.

“Indemnifying Party” and **“Indemnifying Parties”** means any Person required to provide indemnification under Article X of this OTA and Article IX of the Purchase Agreement.

“Indemnity Threshold” has the meaning set forth Section 10.4(a).

“Intellectual Property” has the meaning set forth in the Purchase Agreement (excluding such intellectual property listed as an Excluded Asset).

“*Inventory*” has the meaning set forth in Section 2.1(d).

“*Kindred*” has the meaning set forth in the Preamble.

“*Knowledge*” means, when used with respect to Transferor, the actual awareness after due inquiry of a particular fact or matter of any of the following: Michael Beal, President Nursing Center Division; Jerry Kemper, Chief Financial Officer Nursing Center Division; Jill Bosa, Chief Operating Officer Nursing Center Division, Melonie McManus, Chief Clinical Officer Nursing Center Division, Patricia McGillan, Chief Counsel Nursing Center Division, and Glenn Cote, DVP, Facilities Management Nursing Center Division.

“*Law*” means any statute, law, rule or regulation or ordinance of any Governmental Authority.

“*Loss*” or “*Losses*” has the meaning set forth in the Purchase Agreement.

“*LSC*” has the meaning set forth in Section 3.3(g).

“*Material Adverse Effect*” means any event, change, development or occurrence that has had or would reasonably be expected to have a material and adverse effect on the operations, condition (financial or otherwise) or results of operations of the Business, taken as a whole, but excluding any such event, change, development or occurrence attributable to or resulting from (i) any change in applicable Law or the interpretation thereof, (ii) any change in GAAP or the interpretation thereof, (iii) any events, changes, developments or occurrences generally affecting the industries in which the Business operates, (iv) general economic, political or market conditions, (v) any disasters, calamities, emergencies, acts of war, sabotage or terrorism (or an escalation or worsening of any of the foregoing), (vi) the entry into or announcement of this OTA and the transactions contemplated hereby, (vii) any action taken or omitted to be taken by Transferor or its Affiliates pursuant to this OTA or at the written request or with the prior written consent of Transferee, (viii) any loss of, or change in, the relationship of the Business with its customers, employees or suppliers (but not any breach of Contract by Transferor or its Affiliate) that is a direct result of the execution, delivery or performance (in accordance with its terms) of this OTA, the consummation of the transactions contemplated by this OTA or the announcement of any of the foregoing, (ix) the failure of the Business to achieve internal or external financial forecasts or projections, provided that the events, changes, developments or occurrences underlying such failure shall not be excluded as a result of this clause (ix), or (x) any breach by Transferee of this OTA.

“*Medicaid Agreement*” shall have the meaning set forth in Section 2.2(b)(ii).

“*Medicare Agreement*” shall have the meaning set forth in Section 2.2(b)(i).

“*National Contracts*” means all Contracts between Kindred, Transferor, or any of their respective Affiliates, on the one hand, and any third party, on the other hand, that have been entered into on a national or regional basis including, without limitation, any Contract pursuant to which any services are provided by or to any hospital, inpatient rehabilitation facility, nursing facility or other facility of Kindred or any of its Affiliates that is not the Facility.

“*New License*” shall have the meaning set forth in Section 2.2(a).

“*Non-Competition Covenant*” has the meaning set forth in Section 6.3.

“*Non-Senior Executive Employee Liquidated Damages*” has the meaning set forth in Section 6.3.

“*Non-Solicitation Covenant*” has the meaning set forth in Section 6.3.

“Notice of Indemnification” has the meaning set forth in Section 10.5.

“Novation” has the meaning set forth in Section 2.2(c).

“Order” has the meaning set forth in the Purchase Agreement.

“OSHPD” means the California Office of Statewide Health Planning and Development.

“OSHPD Work” has the meaning set forth in Section 4.8(c).

“OTA” has the meaning set forth in the Preamble.

“Other Operations Transfer Agreements” means those certain Operations Transfer Agreements dated the same date hereof, by and between the Affiliates of Transferor and Transferee for the purposes of transferring the operations of facilities located in Vermont.

“Outside Date” means September 30, 2018, in all instances, provided that such date shall be October 31, 2018, with respect to and Escrow Facility eligible for Closing hereunder except for satisfaction of the closing conditions set forth in Section 7.1, so long as the applicable parties are using its good faith efforts to satisfy such closing conditions.

“Overhead and Shared Services” means ancillary corporate or shared services provided to or in support of any Facility that are general corporate, overhead or other services or provided to both (a) the Facility, and (b) any other business or facility of Seller and its Affiliates that is not a Facility including, without limitation, access to hardware and software related to financial and clinical operations, use of intellectual property, travel and entertainment services, temporary labor services, purchasing and supply services, personal telecommunications services, computer hardware and software services, energy/utilities services, treasury services, public relations, legal and risk management services (including workers’ compensation), payroll services, sales and marketing support services, information technology and telecommunications services, accounting services, tax services, internal audit services, executive management services, investor relations services, human resources and employee relations management services, employee benefits services, credit, collections and accounts payable services, logistics services, property management services, environmental support services, training, federal and state reimbursement services, state licensing and Medicare and Medicaid certification and maintenance support, in each case including services relating to the provision of access to information, operating and reporting systems and databases and all hardware and software or other intellectual property used in connection therewith.

“Party” and ***“Parties”*** have the meaning set forth in the Preamble.

“Patient Privacy Requirements” means the applicable requirements of the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act of 1996 as amended by the American Recovery and Reinvestment Act of 2009 and the implementing regulations thereunder governing the privacy of individually identifiable health information and the security of such information maintained in electronic form or of any similar state Laws.

“Pending Medicaid Applicants” has the meaning set forth in Section 6.10(e).

“Permits” has the meaning set forth in Section 2.1(i).

“Permitted Encumbrance” has the meaning set forth in the Purchase Agreement.

“Person” means an individual, partnership, venture, unincorporated association, organization, syndicate, corporation, limited liability company, or other entity, trust, trustee, executor, administrator or other legal or personal representative or any government or any agency or political subdivision thereof.

“Plan” has the meaning set forth in Section 4.5(a).

“Policy and Procedure Manual” has the meaning set forth in Section 2.1(f).

“Policy Return Date” has the meaning set forth in Section 2.1(f).

“Portfolio” has the meaning set forth in the Purchase Agreement.

“Portfolio Material Adverse Effect” means any event, change, development or occurrence that has had or would reasonably be expected to have a material and adverse effect on the operations, condition (financial or otherwise) or results of operations of the Portfolio (as such term is defined in the Purchase Agreement) in which the Facility is located, taken as a whole, but excluding any such event, change, development or occurrence attributable to or resulting from (i) any change in applicable Law or the interpretation thereof, (ii) any change in GAAP or the interpretation thereof, (iii) any events, changes, developments or occurrences generally affecting the industries in which the Business operates, (iv) general economic, political or market conditions, (v) any disasters, calamities, emergencies, acts of war, sabotage or terrorism (or an escalation or worsening of any of the foregoing), (vi) the entry into or announcement of this OTA and the transactions contemplated hereby, (vii) any action taken or omitted to be taken by Transferor or Transferor its Affiliates pursuant to this OTA or at the written request or with the prior written consent of Transferor, (viii) any loss of, or change in, the relationship of the Business with its customers, employees or suppliers (but not any breach of Contract by Transferor or its Affiliate) that is a direct result of the execution, delivery or performance (in accordance with its terms) of this OTA, the consummation of the transactions contemplated by this OTA or the announcement of any of the foregoing, (ix) the failure of the Business to achieve internal or external financial forecasts or projections, provided that the events, changes, developments or occurrences underlying such failure shall not be excluded as a result of this clause (ix), or (x) any breach by Transferee of this OTA.

“Pre-Closing Imposition(s)” one or more deficiencies identified on the most recent pre-Closing survey of the Facility by a Governmental Entity that remains unresolved and results in or imposes (1) a deficiency rating of “I”, “J” or higher, (2) civil money penalties, or (3) denial of payment for new admission (DPNA).

“Prior Records” has the meaning set forth in Exhibit 2.7.

“Public Announcement” has the meaning set forth in Section 6.5.

“Purchase Agreement” has the meaning set forth in the Recitals.

“Purchaser” has the meaning set forth in the Recitals.

“Qualified Plan” has the meaning set forth in Section 4.5(b).

“Records” has the meaning set forth in Exhibit 2.7.

“Referral Laws” means Section 1128B(b) of the Social Security Act, as amended, 42 USC Section 1320a 7(b) (Criminal Penalties Involving Medicare or State Health Care Programs), commonly referred to as the “Federal Anti-Kickback Statute,” Section 1877 of the Social Security Act, as amended, 42 USC Section 1395nn and related regulations (Prohibition Against Certain Referrals), commonly referred to as “Stark Law,” 42 USC Section 1320a-7a(a)(5).

“Regulatory Approvals” shall have the meaning set forth in Section 2.2(a).

“RehabCare” means RehabCare Group, Inc. or its Affiliate.

“Resident” means a resident of the Transferred Facilities.

“Resident Trust Funds” has the meaning set forth in Section 2.1(k).

“Restricted Party” has the meaning set forth in Section 6.3.

“Restricted Period” has the meaning set forth in Section 6.3.

“Retained Liabilities” has the meaning set forth in Section 2.4(b).

“Return” and ***“Returns”*** have the meaning set forth in the Purchase Agreement.

“Seller” has the meaning set forth in the Purchase Agreement.

“Seller Party” has the meaning set forth in the Purchase Agreement.

“Senior Executive” has the meaning set forth in Section 6.3.

“Senior Executive Liquidated Damages” has the meaning set forth in Section 6.3.

“Substitute OTA Transferee” has the meaning set forth in the Purchase Agreement.

“Tax” and ***“Taxes”*** have the meaning set forth in the Purchase Agreement.

“Termination Date” has the meaning set forth in the Purchase Agreement.

“Transaction Documents” has the meaning set forth in the Purchase Agreement.

“Transferee” has the meaning set forth in the Preamble.

“Transferee Employees” has the meaning set forth in Section 2.5(b).

“Transferee Guarantor” means E&R Operations LLC.

“Transferee Indemnified Parties” has the meaning set forth in Section 10.2.

“Transferee’s A/R” has the meaning set forth in Section 6.10(a).

“Transferee Plan” has the meaning set forth in Section 2.5(m).

“Transferor” has the meaning set forth in the Preamble.

“Transferor Bad Debt” has the meaning set forth in Section 6.11(b).

“Transferor Confidential Information” has the meaning set forth in Section 6.5(c).

“Transferor Indemnified Parties” has the meaning set forth in Section 10.3.

“Transferor Representative” has the meaning set forth in Section 12.17(a).

“Transferor’s A/R” has the meaning set forth in Section 6.10(a).

“Transferred Employees” has the meaning set forth in Section 2.5(b).

“Transferred Facilities” has the meaning set forth in the Purchase Agreement.

“Transition Period” has the meaning set forth in Section 2.2(b)(ii).

“UPL Contract” has the meaning set forth in the Purchase Agreement.

“UPL Program” has the meaning set forth in the Purchase Agreement.

“VA” has the meaning set forth in Section 2.2(c).

“VA Contract” has the meaning set forth in Section 2.2(c).

“VA Subcontract” has the meaning set forth in Section 2.2(c).

“VDR” has the meaning set forth in the Purchase Agreement.

“WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988, as amended.

Exhibit 2.2 (c)

SUBCONTRACT PENDING NOVATION

THIS SUBCONTRACT PENDING NOVATION (this "**Agreement**") is made as of this ___ day of _____, 2017, by and between _____, a _____ ("**Contractor**"), and _____, a _____ ("**Successor**"). Reference is made herein to that certain Operations Transfer and Surrender Agreement dated as of _____, 2017, to which Successor and Contractor are parties (the "**OTA**"), the terms and conditions of which are incorporated herein by reference.

RECITALS:

WHEREAS, Contractor is transferring to Successor, and Successor is assuming from Contractor, the operations of that certain skilled nursing facility located at _____ and commonly known as _____, effective as of _____, 2017 (the "**Closing Date**"), according to the terms set forth in the OTA;

WHEREAS, Contractor is currently a party to a contract with the United States of America (the "**Government**"), Contract Number _____ (the "**VA Contract**"), and Successor is assuming the obligations and liabilities of Contractor thereunder in accordance with Section 2.2(c) of the OTA;

WHEREAS, Successor and Contractor will file an application for novation of the VA Contract (the "**Novation Application**") pursuant to which the parties will request that the Government recognize Successor as successor to Contractor under the VA Contract; and

WHEREAS, the parties hereto desire to set forth their rights and obligations with respect to the continued performance of the VA Contract pending approval of the Novation Application.

NOW, THEREFORE, the parties, intending to be legally bound, hereby agree as follows:

1. Statement of Work. On the terms and subject to the conditions hereinafter set forth, Contractor subcontracts to Successor all aspects of performance of the VA Contract during the term of this Agreement. Successor agrees to comply with all terms and conditions of the VA Contract including, but not limited to, the Federal Acquisition Regulation clauses contained therein. Contractor agrees to cooperate with Successor and to take such actions as may be reasonably requested by Successor to facilitate Successor's performance of the VA Contract during the Term (as defined herein).

2. Term. The term of this Agreement shall commence as of the Closing Date, and shall continue until the date on which the Novation Application is approved or the date upon which a final denial of such application is received by Contractor or Successor, unless sooner terminated as provided herein (the "**Term**"). Contractor shall have the right to terminate this Agreement at any time if such termination is required by the Government or is otherwise necessary to avoid Contractor's termination for default under the VA Contract.

3. Successor's Duties. During the Term, Successor shall:

(a) keep accurate accounting records showing all services performed and expenditures made or incurred in connection with its performance of the VA Contract;

(b) keep such records and underlying receipts as may be required under the VA Contract;

(c) perform the VA Contract in a legal manner, abiding by all applicable terms, conditions, laws, and regulations; and

(d) maintain and pay premiums for comprehensive bodily injury, liability (professional and general) and property damage insurance in amounts sufficient to provide reasonable and adequate protection of both Successor and Contractor against liability which may arise in connection with the performance of the VA Contract.

4. Contractor's Duties. During the Term, Contractor shall use its commercially reasonable efforts to cooperate with Successor in pursuing the Novation Application including, but not limited to, using commercially reasonable efforts to provide Successor with all documents and information necessary for Successor to seek a novation of the VA Contract and signing any novation agreement and other forms reasonably requested by Successor or the Government. Contractor shall also take such actions reasonably required by Successor to facilitate Successor's performance of the VA Contract and the receipt of payments by Successor for services and goods rendered to the Government by Successor under the VA Contract including, but not limited to, submitting invoices prepared by Successor to the Government on behalf of Successor for goods and services rendered to the Government by Successor under the VA Contract, receiving payments on behalf of Successor on such invoices from the Government, and promptly remitting such payments to Successor.

5. Compensation. In consideration of the services to be rendered by Successor to Contractor hereunder, Successor shall be entitled to retain all revenues from goods and services provided by Successor during the Term to the Government under the VA Contract (the "**Compensation**"). Notwithstanding anything contained herein, the Compensation shall be deemed Accounts Receivable (as defined in the OTA) and subject to Section 6.10 of the OTA.

6. Document Delivery. Contractor shall deliver to Successor copies of all documents and information that are received by Contractor with respect to the VA Contract.

7. No Partnership or Joint Venture or Agency. Successor and Contractor are not partners, joint venturers or agents and nothing herein shall be so construed. Successor shall perform its duties hereunder solely as an independent contractor of Contractor.

8. Indemnification. Successor hereby agrees to indemnify and hold Contractor harmless from and against any claim, liability, loss, damage, cost, expense or other deficiency including, but not limited to, reasonable attorneys' fees and other legal costs and expenses in any way arising out of, resulting from, or relating to (i) Successor's breach of any representation or warranty made by Successor herein; or (ii) failure of Successor to perform any of its obligations as set forth herein.

9. Amendments; Binding Effect. Except as provided in Section 2 hereof, this Agreement shall not be modified or terminated except by an instrument in writing signed by both parties hereto or their respective successors or assigns, and shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

10. Subcontracting and Assignment. Successor shall not further subcontract or assign its rights or obligations under this Agreement without Contractor's express written consent.

11. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Subcontract Pending Novation as of the date first above written.

Contractor:

Successor:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit 2.7

Excluded Assets

- (a) Any cash, cash equivalents, or bank accounts;
- (b) All Accounts Receivable, prepaid expenses, security deposits and other current assets of the Facility (excluding deferred tax assets);
- (c) All National Contracts;
- (d) All Overhead and Shared Services, including any Contracts for or assets related to Overhead and Shared Services;
- (e) Licenses and permits that are not assignable or transferable, whether with or without third party consent, to Transferee;
- (f) Assets of Transferor disposed of in the ordinary course of business prior to the Effective Time; provided that Transferor shall not dispose of any material Assets without the prior written consent of Transferee (other than Inventory used at the Facility in the ordinary course of business, which may be used and disposed of provided that it shall also be replenished to a quantity that is required by Law);
- (g) Any management agreement between Transferor and Kindred or its Affiliates, as the case may be;
- (h) All insurance policies and any claims and rights to proceeds thereunder;
- (i) The minute books and ownership records of Transferor, including all organizational documents, stock registers and such other Records of Transferor as they pertain to the ownership, organization, or existence of Transferor and duplicate copies of such records;
- (j) Any claims for refunds of Taxes and other governmental charges imposed on Transferor of whatever nature including, but not limited to, those with respect to the Facility or the business attributable to periods ending on or prior to the Closing Date;
- (k) All shares of any capital stock, membership interests or partner interests in any partnership, of Transferor;
- (l) All of Transferor's email accounts;
- (m) All rights of Transferor under this OTA or the other Transaction Document;
- (n) All insurance policies of Transferor or any of its Affiliates and all rights of every nature and description under or arising out of such insurance policies, including the right to make claims thereunder, to the proceeds thereof and to any insurance refunds relating thereto;
- (o) Transferor's Returns for periods up to and including the Closing Date and all rights of Transferor to any recoveries or refunds in respect of Taxes for periods up to and including the Closing Date, whether or not any refund of or credit for claims have been filed prior to the Closing Date;
- (p) Transferor's attorney-client privilege;
- (q) All Employee Benefit Plans (including Plans) and all assets related thereto;

(r) Transferor's information technology systems, emails, software licenses, corporate minute books, records, marketing materials, policies and procedures, and all assets that are used at the corporate level and do not solely relate to the operations of the Business;

(s) All claims or rights of Transferor with and among any other Transferor or amounts due from related parties;

(t) All of Kindred's or any of its Affiliate's proprietary manuals, marketing materials, policy and procedure manuals, standard operating procedures and marketing brochures, and all data and studies or analyses generated for the benefit of the Facility;

(u) All funds and accounts of all employee retirement, deferred compensation, health, welfare or benefit plans and programs, including assets representing a surplus or overfunding of any Employee Benefit Plan;

(v) All unclaimed property of any third party as of the Closing, including, without limitation, property which is subject to applicable escheat Laws;

(w) All assets of Transferor not used in connection with or held in whole or in part for use in connection with the Business;

(x) The items of personal property brought to the Facility by employees of Transferor or its Affiliates that are not used or held for use with the Business and the operation of any of the Facility;

(y) All tradenames, trademarks, service marks, domain names (URLs) and websites owned by Kindred or its Affiliates including, without limitation, any use of the names "Kindred" or "RehabCare," in whole or in part, or any derivation thereof, and all references to any of the foregoing on social media channels (including, without limitation, Facebook, Twitter and YouTube) associated with any or all of the Facility or Kindred or its Affiliates;

(z) All files, charts, and other information relating to all Residents who previously occupied the Facility or used the Facility prior to the Effective Time and are not Residents of the Facility as of the Effective Time (including, but not limited to, all patient records, medical records, therapy records, pharmacy records, clinical records, and Resident Trust Funds records) for all periods prior to the date that is three (3) years before the Effective Time (collectively, "**Prior Records**" and together with the Current Records, "**Records**");

(aa) And any asset transferred to Purchaser, its Affiliate or assignee under the terms of the Purchase Agreement;

(bb) Any assets listed as an "Excluded Asset" pursuant to the terms of the Purchase Agreement;

(cc) All assets owned by RehabCare;

(dd) all claims, rights, interests and proceeds (whether received in cash or by credit to amounts otherwise due to a third party) with respect to amounts overpaid by Transferor to any third party with respect to periods prior to the Closing (e.g., such overpaid amounts may be determined by billing audits undertaken by Transferor or Transferor's consultants) to the extent not offset against any underpayments by any applicable third party payor in respect of services rendered prior to the Closing;

(ee) any receipts (i) relating to Transferor's Cost Reports or rights to settlements and retroactive adjustments on the same (whether resulting from an appeal by Transferor or otherwise) with

respect to time periods prior to the Closing, or (ii) which result from Transferor's pursuit of one or more appeals pertaining to a Government Reimbursement Program to the extent not offset against any overpayments by such Government Reimbursement Program in respect of services rendered prior to the Closing.

Exhibit 3.2(a)

BILL OF SALE

_____, 2017

In consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, _____, a _____ ("**Transferor**"), does hereby grant, bargain, sell, convey, assign and transfer all of Transferor's right, title and interest in and to, all and singular, the Assets to _____, a _____ ("**Transferee**"), and Transferee does hereby purchase, take accept and assume, all of Transferor's right, title and interest in and to, all and singular, the Assets. Capitalized terms used herein without definition shall have the meanings given to them in that certain Operations Transfer and Surrender Agreement dated as of _____, 2017, by and among Transferor, Transferee, [Transferor Guaranty], a _____, and Kindred Healthcare Operating, Inc., a Delaware corporation (the "**OTA**").

TO HAVE AND TO HOLD, all and singular, for Transferee's use and benefit, and Transferor hereby represents and warrants to Transferee that Transferor has full right, power and authority to sell the foregoing Assets and to make this Bill of Sale and that the foregoing Assets are free and clear of all liens and encumbrances except for the Permitted Encumbrances.

Nothing contained in this Bill of Sale shall be deemed to supersede or change any of the obligations, agreements, provisions, covenants, warranties or representations of Transferor or Transferee in the OTA, which obligations, agreements, provisions, covenants, warranties and representations shall remain in full force and effect to the full extent provided therein.

[Remainder of this Bill of Sale intentionally left blank – signature page to follow]

IN WITNESS WHEREOF, Transferor has caused this Bill of Sale to be duly executed as of the first date written above.

TRANSFEROR:

By: _____

Name: _____

Title: _____

TRANSFeree:

By: _____

Name: _____

Title: _____

Exhibit 3.2(b)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "**Assignment**") is made and entered into as of _____, 2017, by and between _____, a _____ ("**Assignor**"), and _____, a _____ ("**Assignee**"). Capitalized terms used herein without definition shall have the meanings given to them in the Operations Transfer and Surrender Agreement dated _____, 2017, by and among Assignor, Assignee, and Kindred Healthcare Operating, Inc., a Delaware corporation (the "**OTA**").

WITNESSETH:

WHEREAS, pursuant to the OTA, Assignor has agreed to sell, transfer, assign, and deliver to Assignee, and Assignee has agreed to accept from Assignor all existing contracts described in Exhibit A attached hereto and incorporated by reference herein (the "**Assumed Contracts**"); and

WHEREAS, pursuant to the OTA, Assignee has agreed to accept and assume Assignor's rights, claims, and interests with respect to the Assumed Contracts, and to assume the obligations under the Assumed Contracts which relate to the period of time after the Effective Time.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Assignment and Assumption. Effective as of the Closing, Assignor hereby transfers, assigns and delivers to Assignee all right, title and interest of Assignor in and to the Assumed Contracts.

Section 2. Assignee's Acceptance and Assumption. Assignee hereby accepts such transfer, assignment and delivery of the Assumed Contracts from Assignor and expressly assumes any and all rights, responsibilities, obligations and liabilities of Assignor in connection with the Assumed Contracts which relate to the period of time after the Effective Time.

Section 3. Appointment. Assignor hereby irrevocably appoints Assignee, its successors and assigns, as the attorney and agent of Assignor, in Assignor's name and stead, to enforce the provisions of the Assumed Contracts.

Section 4. Binding Effect. This Assignment shall be binding on and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

Section 5. Captions. The captions of this Assignment are solely for the convenience of reference and shall not affect its interpretation.

Section 6. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Section 7. Governing Law. This Assignment shall be governed by and interpreted in accordance with the laws of the State of Delaware without giving effect to its conflict of law principles.

[Remainder of this Assignment intentionally left blank – signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Assignment and Assumption Agreement as of the day and year first above written.

ASSIGNOR:

By: _____

Name: _____

Its: _____

ASSIGNEE:

By: _____

Name: _____

Its: _____

Exhibit A

Assumed Contracts

Exhibit 3.2(c)

BRING DOWN CERTIFICATE

_____, 2017

_____, a _____ (“*Transferee/Transferor*”) hereby certifies that:

(i) This Certificate is being delivered pursuant to [Section 3.2(c)] of that certain Operations Transfer and Surrender Agreement dated _____, 2017 (hereinafter referred to as the “*OTA*”), by and among [Transferee/Transferor], _____, a _____, and Kindred Healthcare Operating, Inc., a Delaware corporation.

(ii) All of the representations and warranties of [Transferee/Transferor] set forth in [Article IV/Article V] the OTA are true and correct in all material respects (or, with respect to any representation qualified as to materiality, true and correct) as of the date hereof as if made on and as of the date hereof, except to the extent any such representation or warranty expressly was made as of an earlier date or with respect to a particular period, in which case such representation or warranty was true and correct in all material respects (or, with respect to any representation qualified as to materiality, true and correct) as of such date or with respect to such period.

(iii) [Transferor/Transferee] has performed and complied, in all material respects, with all terms, agreements, covenants and conditions of the OTA to be performed or complied with by it as of the date hereof.

[Remainder of this Bring Down Certificate intentionally left blank – signature page to follow]

IN WITNESS WHEREOF, the undersigned has executed this Bring Down Certificate as of the first date written above.

[TRANSFeree/TRANSFEROR]:

By: _____

Name: _____

Title: _____

Exhibit 6.10(f)

Wire Instructions

If to Kindred:

ABA# 021000021

Bank Name: JPMorgan Chase Bank

Bank Address: 270 Park Avenue, New York, NY 10017

Account Name: Kindred Healthcare Operating, Inc.

Account Number: 323272681

SWIFT CODE: CHASUS33

Kindred Wire Contacts:

Temesha Smith 502-596-2007

Keff Helstowski 502-596-2971

If to Purchaser:

[to be provided by OTA Transferee within thirty (30) days following the Execution Date]

**DISCLOSURE SCHEDULES
(VERMONT - BIRCHWOOD)**

These Disclosure Schedules are made and given pursuant to those certain Operations Transfer and Surrender Agreements by and between Kindred Healthcare Operating, Inc., a Delaware corporation (“*Kindred*”); Kindred’s affiliated seller entities which operate the Facilities listed on **Exhibit A** of these Disclosure Schedules (“*Transferors*”); and Birchwood Operations LLC, a Vermont limited liability company (“*Transferee*”), dated June 30, 2017 (the “*Agreement*”). Capitalized terms used herein and not otherwise defined herein have the meanings ascribed to them in the Agreement.

The information contained in the Disclosure Schedules shall be deemed to qualify to the specific Section (or subsection, as appropriate) of the Agreement to which it corresponds, and shall be cumulative so that if the existence of the fact or item or its contents disclosed in any particular Schedule is relevant to any other Schedule, then such fact or item shall be deemed to be disclosed with respect to the other Schedule to the extent such relevance is reasonably apparent whether or not a specific cross-reference appears. The headings contained in the Disclosure Schedules are included for convenience only, and are not intended to limit the effect of the disclosures contained in such Schedule or to expand the scope of the information required to be disclosed in such Schedule. Descriptions of documents in the Schedules are summaries only and are qualified in their entirety by the specific terms of such documents. Matters reflected in the Disclosure Schedules are not necessarily limited to matters required by the Agreement to be reflected herein; additional matters are set forth for informational purposes and the fact that any item of information is disclosed in the Disclosure Schedules shall not be construed to mean that such information is required to be disclosed by the Agreement. Any information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the term “material” or other similar terms in the Agreement or constitute an admission that such items are required to be disclosed under the Agreement.

Exhibit A
Facility

Kindred Transitional Care and Rehabilitation – Birchwood Terrace
Facility No. 559
43 Starr Farm Rd
Burlington, VT 05408-1321

Schedule 2.1(e)
Assumed Contracts

All Contracts listed on Schedule 4.12(a), subject to change until fifteen (15) days prior to Closing at Transferee's discretion per Section 2.1(e) of the Agreement.

Schedule 2.5(a)
Ineligible Employees

None.

**Schedule 4.2
Notices**

(a) None.

(b) See below.

DPNA

None.

CMPs

None.

Survey Deficiencies

See attached.

Survey Deficiencies

Facility Name	Exit Date	State	QIS	# of Tags	Def Free	SMART Training Completed	8 Months from Last Std Survey	9 Month from Last Std Survey	15 Month from Last Std Survey
Kindred Transitional Care and Rehabilitation- Birchwood Terrace	4/19/2017	VT	Y	0	Y	9/19/2016	12/19/2017	1/19/2018	7/19/2018

The surveys listed below (for which, as of the Execution Date, the Facility has not received certification that it has achieved substantial compliance) may result in the imposition of recommended or mandatory remedies (for, e.g., civil money penalties, denial of payment for new admissions, and termination of Medicare or Medicaid participation) in the future and/or on a retroactive basis and regardless of whether such remedies are specified below:

Facility	Start	Exit	CMS Letter	Date Certain	Survey Type	Result	FTag/KTag Scope/Severity	Proposed Remedies	Imposed Remedies
Kindred Transitional Care and Rehabilitation- Birchwood Terrace	5/10/17	5/10/17			Complaint	2567 Pending (Complaint & Self Rpt) - Verbal exit Both Unsubstantiated			

Schedule 4.3
Litigation

1. Kindred Transitional Care and Rehabilitation-Birchwood Terrace, Vermont, Facility No. 559: Two OAG investigations (abuse allegations) fall 2016. The self-reported events involved a staff member accused of unwanted physical touching of a resident. Information was provided to the OAG. Message left with OAG to obtain status.

**Schedule 4.5(a)
Employee Benefits Plans**

2017 Plans

401(k)

T. Rowe Price

Deferred Compensation - Non Qualified Plan

T. Rowe Price

**Kindred Healthcare Operating, Inc. Employee Medical and Welfare Benefits
Plan**

Medical

Anthem

Aetna

UHC

Prescription

ESI - Carve out

Wellness

Limeade

H.S.A.

Discovery

Commuter/Parking

Discovery

HMO

Kaiser CA Union

Kaiser CA Non-Union (High & Medium)

UHC of CA Union

Advocacy

Health Advocate

Dental

CIGNA

Delta

Vision

Davis

UHC

Basic Life/AD&D

Unum

Supplemental Life - EE, Spouse & Child Benefit

Unum

Voluntary AD&D

Unum

STD & Buy-Up

Unum

LTD & Buy-Up

Unum

Accident

Unum

Critical Illness

Transamerica

Hospital Indemnity

Transamerica

Permanent Life

Unum

Identity Theft

InfoArmor

Legal

Hyatt Legal

Pet Insurance

VPI

Kindred Healthcare Operating, Inc. Cafeteria Plan

FSA - General Purpose Healthcare, Limited Purpose Healthcare, Dependent

Care

Discovery

Auto/Home

MetLife

EAP

Unum

Discount Mall

Perkspot

Corporate Bonus Plans

Short Term Incentive Comp Plan

Long Term Cash Incentive Plan

Kindred Stock Incentive Plan

Division Specific Bonus Plans

AVPS Incentive Plan

ADS Incentive Plan

CL Incentive Plan

Support Center Insurance Specialist Bonus Plan

Business Office Bonus Plan

Every Moment Counts

Additional Fringe Benefits

Paid Time Off/Holidays

Tuition Reimbursement

ED/DNS - Take a Break on Us Housekeeping & Lawn Service

Retention Agreements

See attached chart.

**Schedule 4.6(a)
Employees**

See attached.

Schedule 4.6(b)
Employee Compensation

None.

Schedule 4.6(e)
Labor and Employment Disputes

None.

Schedule 4.6(f)
Collective Bargaining Agreements

None.

**Schedule 4.6(g)
Labor Disputes**

None.

Schedule 4.6(i)
At-Will Employment Exceptions

See disclosures set forth on Schedule 4.6(a).

Schedule 4.7(b)
Requests for Repairs, Restorations or Alterations

None.

Schedule 4.7(c)
Encumbrances

1. JP Morgan Chase Bank, N.A., as a collateral agent, has a priority security interest in all Kindred assets.

Schedule 4.8(a)(i)
Government Reimbursement Programs

(a) See Medicare and Medicaid numbers in the attached chart and the VA contract below:

MNumber	Contract Profile	Payor Parent Name	Payor Name	Contract Start Date
M0003665	M0003665.80002.VAMas_25.VA Birchwood	VETERANS ADMINISTRATION	VA Massachusetts	3/1/2013

(b) None.

Kindred Nursing Facilities - Vermont															
Type	Medicare	Medicaid	State	Facility Name	Facility Address	NPI #	Licensee	State License #	License		Licensed Beds	Medicare Cert. Date	CLIA Cert No.	Comments	Initial
	Provider #	Provider #							Effective	Expiration					Licensure
									Date	Date					Date
SNF	47-5003	47-5003	VT	Kindred Transitional Care and Rehabilitation-Birchwood Terrace	43 Starr Farm Rd, Burlington, VT 05408	1659481943	Kindred Nursing Centers East LLC	27-0000393	02/01/17	01/31/18	144	02/26/69	47D0670331	10 beds delicensed effective 4/1/2010; 6 beds delicensed eff 4/1/11	

Schedule 4.8(a)(iv)
Threatened Recoupment, Suspensions, Terminations or Restrictions

See disclosures set forth on Schedule 4.2(b).

**Schedule 4.8(a)(v)
Audits**

(a) None.

(b) and (c) see charts below.

MEDICAID COST REPORTS								
FYE	2011	2012	2013	2014	2015	2016	2017	NOTES
Vermont	Completed	Completed	Completed	Completed	Open	Open	Open	Cost report audit occurs each year, no specific timeframe to begin. Nursing Care component rebases every two years; Resident Care, Indirect, and DON components rebase every 4 years; Ancillary & Property components rebase the next quarterly rate after the conclusion of an audit.

MEDICARE COST REPORTS					
Medicare Provider Number	Fac	State	Name	Ending Date	Date of NPR
Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable

(d) See disclosures set forth on Schedule 4.2(b).

Schedule 4.8(b)(i)
Licenses

See License disclosures set forth on the chart attached to Schedule 4.8(a)(i).

**Schedule 4.8(b)(ii)
Number and Type of Beds**

See Licensed Beds attached.

ID # / FACILITY	Licensed Beds	Medicare Beds as of 1/1/17	Increases 1/1/17-6/30/17	Decreases 1/1/17-6/30/17	Medicare Beds	Dual Certification or Exception Detail	Effective Date or Certification Change	Beds (included in total)
559 KTC&R-Birchwood	144	144			144	100% DUAL	04/01/2011	144

Schedule 4.8(b)(iii)
Reduction in Number of Beds

None.

**Schedule 4.8(b)(iv)
Violations**

See Survey Deficiencies contained in the attachment to Schedule 4.2(b).

Schedule 4.8(b)(v)
Life Safety Code

See Survey Deficiencies contained in the attachment to Schedule 4.2(b).

**Schedule 4.8(c)(i)
Compliance**

See disclosures as set forth on Schedule 4.2(b).

**Schedule 4.8(c)(ii)
Referral Laws**

None.

Schedule 4.8(d)
Convictions/Exclusions

None.

**Schedule 4.8(e)-1
Audits; Settlements**

See disclosures as set forth on Schedule 4.2(b) and Schedule 4.8(a)(iv).

**Schedule 4.8(e)-2
Special Focus Facility**

None.

**Schedule 4.10
Absence of Changes**

None.

Schedule 4.12(a)
Proposed Assumed Contracts

See attached.

Fac. No.	Kindred Facility	State	Kindred Party	Vendor	Category	Contract type	Additional Contact Persons	Comments
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		TLC Nursing Associates LLC	Clinical	Staffing		
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Ecolab	Non-Clinical	Dishmachine Lease		
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Alliance Mechanical	Non-Clinical	Proactive Maintenance Agreement		
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Bayada Nurses, Inc. dba Bayada Hospice	Clinical	Inpatient Services Agreement	Kelli A. Marans, Esq. Bayada Nurses, Inc. 101 Executive Dr. Ste 8 Moorestown, NJ 08057	
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Brook Field Service	Non-Clinical	Prevenative Maintenance Agreement		For contractual year 2013; silent on renewal terms
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Comcast	Non-Clinical	Services Agreement (cable)		
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Excel Property Maintenance	Non-Clinical	Landscaping Services Agreement		For 2016 season
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Farrell Vending	Non-Clinical	Vending Services Agreement		

Fac. No.	Kindred Facility	State	Kindred Party	Vendor	Category	Contract type	Additional Contact Persons	Comments
559	Rehabilitation- Birchwood Terrace Kindred Transitional Care and	VT		Fire Tech	Non- Clinical	Agreement for Sprinkler Inspection Services		
559	Rehabilitation- Birchwood Terrace Kindred Transitional Care and	VT		Fletcher Allen Health Care, Inc.	MD	Medical Director Services Agreement	Dr. Zail S. Berry, MD	
559	Rehabilitation- Birchwood Terrace Kindred Transitional Care and	VT		Fletcher Allen Health Care, Inc.	Clinical	Professional Services Agreement - Psychiatry		
559	Rehabilitation- Birchwood Terrace Kindred Transitional Care and	VT		Fletcher Allen Health Care	Clinical	Laboratory and X-Ray Services Agreement		
559	Rehabilitation- Birchwood Terrace Kindred Transitional Care and	VT		Gauthier Trucking Company, Inc.	Non- Clinical	Solid waste disposal		
559	Rehabilitation- Birchwood Terrace Kindred Transitional Care and	VT		Haun Specialty Gases, Inc	Clinical	Agreement for Oxygen Supplies		
559	Rehabilitation- Birchwood Terrace Kindred Transitional Care and	VT		Healthcare Service Group	Non- Clinical	Certificate of Insurance		
559	Rehabilitation- Birchwood Terrace Kindred Transitional Care and	VT		Boylan, Joseph	Non- Clinical	Snowplowing		
559	Rehabilitation- Birchwood Terrace Kindred Transitional Care and	VT		Med Waste Disposal	Non- Clinical	Agreement for Medical Waste Disposal		Expired

Fac. No.	Kindred Facility	State	Kindred Party	Vendor	Category	Contract type	Additional Contact Persons	Comments
	Birchwood Terrace							
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Millers Pest Control	Non-Clinical	Pest Control Service Agreement		
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Mother Nature's Helper	Non-Clinical	Agreement for Plant Maintenance Services		
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Phillips, Melinda	Non-Clinical	NCD Beauty/Barber Services Agreement		
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		Simplex Grinnell	Non-Clinical	Fire alarm/sprinkler services		
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		SSTA	Non-Clinical	Price Chart - hourly rate to a seat charge		
559	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	VT		UVM - Technical Services Program	Non-Clinical	Preventative Mainenance		

Schedule 4.17(a)
Financial Statements

None.

Schedule 4.18
Transferor Broker

1. Guggenheim Securities, LLC.
2. Healthcare Transactions Group, Inc.

**Schedule 5.3
Transferee Broker**

None.

Schedule 6.3
Non-Competition Covenant

(a) The following facilities, until Seller relinquishes ownership of such facilities and the applicable Transferor transfers operations of such facilities:

<u>State</u>	<u>Facility Name</u>	<u>Facility Address</u>
AZ	Kindred Nursing and Rehabilitation-Hacienda	660 South Coronado Drive, Sierra Vista, AZ 85635
AZ	Kindred Transitional Care - Phoenix	1880 East Van Buren St, Phoenix, AZ 85006-3742
CA	Kindred Nursing and Healthcare - Livermore	76 Fenton Street, Livermore, CA 94550
CA	Kindred Nursing and Healthcare - Victorian	2121 Pine St, San Francisco, CA 94115
CA	Kindred Nursing and Healthcare-Bayberry	1800 Adobe Street, Concord, CA 94520-2313
CA	Kindred Nursing and Rehabilitation - Medical Hill	475 29th Street, Oakland, CA 94609
CA	Kindred Nursing and Rehabilitation - Ygnacio Valley	1449 Yganacio Valley Rd, Walnut Creek, CA 94959
CA	Kindred Nursing and Rehabilitation-Golden Gate	2707 Pine Street, San Francisco, CA 94115
CA	Kindred Nursing and Rehabilitation-Nineteenth Avenue	2043 19th Ave, San Francisco, CA 94116
CA	Kindred Nursing and Transitional Care - Pacific Coast	720 E. Romie Lane, Salinas, CA 93901
CA	Kindred Nursing and Transitional Care - Santa Cruz	1115 Capital Rd, Santa Cruz, CA 95062
CA	Kindred Nursing and Transitional Care-South Marin	1220 S. Eliseo Dr, Greenbrea, CA 94904
CA	Kindred Transitional Care and Rehabilitation - Valley Gardens	1517 Knickerbocker Drive, Stockton, CA 95210
CA	Kindred Transitional Care and Rehabilitation - Walnut Creek	1224 Rossmoor Parkway, Walnut Creek, CA 94595
CA	Kindred Transitional Care and Rehabilitation-Canyonwood	2120 Benton Drive, Redding, CA 96003-2151
CA	Kindred Transitional Care and Rehabilitation-Foothill	401 W Ada Ave, Glendora, CA 91741
CA	Kindred Transitional Care and Rehabilitation-Lawton	1575 7th Ave, San Francisco, CA 94122

<u>State</u>	<u>Facility Name</u>	<u>Facility Address</u>
CA	Kindred Transitional Care and Rehabilitation-Siena	11600 Education Street, Auburn, CA 95602
CA	Kindred Transitional Care and Rehabilitation-Smith Ranch	1550 Silveria Pkwy, San Rafael, CA 94903
CA	Kindred Transitional Care and Rehabilitation-Tunnell Center	1359 Pine St, San Francisco, CA 94109
CO	Kindred Nursing and Rehabilitation - Aurora	10201 East Third Ave, Aurora, CO
GA	Kindred Transitional Care and Rehabilitation-Lafayette	110 Brandywine Blvd, Fayetteville, GA 30214
ID	Kindred Nursing and Rehabilitation - Aspen Park	420 Rowe St, Moscow, ID 83843
ID	Kindred Nursing and Rehabilitation - Caldwell	210 Cleveland Blvd, Caldwell, ID 83605
ID	Kindred Nursing and Rehabilitation - Canyon West	2814 S. Indiana Ave, Caldwell, ID 83605
ID	Kindred Nursing and Rehabilitation - Mountain Valley	601 W. Camerson Ave, Kellogg, ID 83837
ID	Kindred Nursing and Rehabilitation - Nampa	404 N. Horton St, Nampa, ID 83651
ID	Kindred Nursing and Rehabilitation - Weiser	331 E. Park St, Weiser, ID 83672
ID	Kindred Transitional Care and Rehabilitation-Lewiston	3315 8th St, Lewiston, ID 83501
IN	Kindred Nursing and Rehabilitation-Valley View	333 W. Mishawaka Rd, Elkhart, IN
IN	Kindred Transitional Care and Rehabilitation-Allison Pointe	5226 E 82nd St, Indianapolis, IN
IN	Kindred Transitional Care and Rehabilitation-Bridgewater	14751 Carey Road, Carmel IN
IN	Kindred Transitional Care and Rehabilitation-Columbus	2100 Midway St, Columbus, IN
IN	Kindred Transitional Care and Rehabilitation-Dyer	2300 Great Lakes Dr, Dyer, IN
IN	Kindred Transitional Care and Rehabilitation-Eagle Creek	4102 Shore Dr, Indianapolis, IN
IN	Kindred Transitional Care and Rehabilitation-Greenfield	200 Green Meadows Dr, Greenfield, IN
IN	Kindred Transitional Care and Rehabilitation-Greenwood	377 Westridge Blvd, Greenwood, IN

<u>State</u>	<u>Facility Name</u>	<u>Facility Address</u>
IN	Kindred Transitional Care and Rehabilitation-Harrison	150 Beechmont Dr, Corydon, IN
IN	Kindred Transitional Care and Rehabilitation-Indian Creek	240 Beechmont Dr, Corydon, IN
IN	Kindred Transitional Care and Rehabilitation-Kokomo	429 Lincoln Rd, Kokomo, IN
IN	Kindred Transitional Care and Rehabilitation-Rolling Hills	3625 St Joseph Rd, New Albany, IN
IN	Kindred Transitional Care and Rehabilitation-Sellersburg	7823 Old Hwy #60, Sellersburg, IN
IN	Kindred Transitional Care and Rehabilitation-SouthPointe	4904 War Admiral Drive, Indianapolis, IN
IN	Kindred Transitional Care and Rehabilitation-Southwood	2222 Margaret Ave, Terre Haute, IN
IN	Kindred Transitional Care and Rehabilitation-Wedgewood	101 Potters Lane, Clarksville, IN
IN	Kindred Transitional Care and Rehabilitation-Wildwood	7301 E. 16th Street, Indianapolis, IN
KY	Heritage Manor Healthcare Center	401 Indiana Ave, Mayfield, KY 42066
KY	Kindred Nursing and Rehabilitation-Maple	515 Greene Drive, Greenville, KY 42345
MA	Clark House Nursing Center at Fox Hill Village	30 Longwood Drive, Westwood, MA 02090
MA	Kindred Nursing and Rehabilitation-Braintree	1102 Washington Street, Braintree, MA 02184
MA	Kindred Nursing and Rehabilitation-Harborlights	804 East 7th Street, Boston, MA 02127
MA	Kindred Nursing and Rehabilitation-Laurel Lake	620 Laurel Street, Lee, MA 01238
MA	Kindred Nursing and Rehabilitation-Tower Hill	One Meadowbrook Way, Canton, MA 02021
MA	Kindred Transitional Care and Rehabilitation-Avery	100 West Street, Needham, MA 02194
MA	Kindred Transitional Care and Rehabilitation-Country Estates	1200 Suffield Street, Agawam, MA 01001
MA	Kindred Transitional Care and Rehabilitation-Eagle Pond	1 Love Lane, South Dennis, MA 02660
MA	Kindred Transitional Care and Rehabilitation-	50 Indian Neck Road, Wareham, MA 02571

<u>State</u>	<u>Facility Name</u>	<u>Facility Address</u>
	Forestview	
MA	Kindred Transitional Care and Rehabilitation-Harrington	160 Main Street, Walpole, MA 02081
MA	Kindred Transitional Care and Rehabilitation-Highgate	10 CareMatrix Drive, Dedham, MA 02026
MA	Kindred Transitional Care and Rehabilitation-Highlander	1748 Highland Ave, Fall River, MA 02720
MA	Kindred Transitional Care and Rehabilitation-Westborough	8 Colonial Drive, Westborough, MA 01581
MA	Ledgewood Rehabilitation and Skilled Nursing Center	87 Herrick Street, Beverly, MA 01915
MA	Seacoast Nursing and Rehabilitation Center	292 Washington Street, Gloucester, MA 01930
MT	Kindred Nursing and Rehabilitation - Parkview	200 North Oregon St, Dillon, MT
MT	Kindred Transitional Care and Rehabilitation-Park Place	1500 32nd St S, Great Falls, MT
NC	Kindred Nursing and Rehabilitation-Henderson	280 S Beckford Dr, Henderson, NC 27536
NC	Kindred Transitional Care and Rehabilitation-Elizabeth City	901 S. Halstead Blvd., Elizabeth City, NC 27909
NC	Kindred Transitional Care and Rehabilitation-Rose Manor	280 S Beckford Dr, Henderson, NC 27536
NH	Kindred Transitional Care and Rehabilitation-Greenbriar	55 Harris Road, Nashua, NH 03062
OH	Kindred Nursing and Rehabilitation-Community	175 Community Drive, Marion, OH 43302
OH	Kindred Transitional Care and Rehabilitation-LakeMed	70 Normandy Drive, Painesville, OH 44077
OH	Kindred Transitional Care and Rehabilitation-Newark	75 McMillen Drive, Newark, OH 43055
OH	Kindred Transitional Care and Rehabilitation-Stratford	7000 Cochran Rd, Glenwillow, OH 44139
OH	Kindred Transitional Care and Rehabilitation-The Greens	1575 Brainard Road, Lyndhurst, OH 44124
TN	Kindred Nursing and Rehabilitation - Fairpark	307 North Fifth Street, Maryville, TN

<u>State</u>	<u>Facility Name</u>	<u>Facility Address</u>
TN	Kindred Nursing and Rehabilitation - Loudon	1520 Grove St, Loudon, TN
TN	Kindred Nursing and Rehabilitation - Northhaven	3300 North Broadway, Knoxville, TN
TN	Kindred Nursing and Rehabilitation - Smith County	112 Health Care Drive Carthage, TN
TN	Kindred Transitional Care and Rehabilitation- Maryville	1012 Jamestown Way, Maryville, TN
TX	Kindred Transitional Care and Rehabilitation- Grapevine	1005 IRA E. Woods Parkway, Grapevine, TX 76051
TX	Kindred Transitional Care and Rehabilitation- Mansfield Plaza	301 N. Miller Road, Mansfield, TX 76063
TX	Kindred Transitional Care and Rehabilitation- Ridgmar	6600 Lands End Court, Fort Worth, TX 76116
VA	Kindred Nursing and Rehabilitation-River Pointe	4142 Bonney Rd, Virginia Beach, VA 23452
VA	Kindred Transitional Care and Rehabilitation-Bay Pointe	1148 First Colonial Rd, VA Beach, VA 23454
VA	Kindred Transitional Care and Rehabilitation- Nansemond Pointe	200 West Constance Road, Suffolk, VA 23434
VA	Kindred Assisted Living – Nansemond Commons	200 West Constance Road, Suffolk, VA 23434
VT	Kindred Transitional Care and Rehabilitation- Birchwood Terrace	43 Starr Farm Rd, Burlington, VT 05408
VT	Starr Farm Nursing Center	98 Starr Farm Rd, Burlington, VT 05408
WA	Kindred Nursing and Rehabilitation-Arden	16357 Aurora Ave North, Seattle, WA 98133
WA	Kindred Transitional Care and Rehabilitation- Lakewood	11411 Bridgeport Way SW, Tacoma, WA 98499
WA	Kindred Transitional Care and Rehabilitation- Vancouver	400 East 33rd Street, Vancouver, WA 98663

(b) The following facilities to be retained by Seller and/or its Affiliates:

<u>State</u>	<u>Facility Name</u>	<u>Facility Address</u>
AZ	Kindred N&R Hacienda	660 S Coronado Dr, Sierra Vista, AZ 85635
CA	KH Brea SAU	875 N Brea Blvd, Brea, CA 92821

FL	KH South Florida Hollywood SAU	1859 Van Buren St, Hollywood, FL 33020
KY	KH Louisville SAU	1313 Saint Anthony Pl, Louisville, KY 40204
NC	KH Greensboro SAU	2401 Southside Blvd, Greensboro, NC 27406
NV	Kindred TC&R Spring Valley	5650 S Rainbow Blvd, Las Vegas NV 89118
NV	Kindred TC&R at KH Las Vegas Flamingo	2250 E Flamingo Rd, Las Vegas, NV 89119
TX	KH Dallas SAU	9525 Greenville Ave, Dallas, TX 75243
WA	KH Seattle First Hill SAU	1334 Terry Ave, Seattle, WA 98101
WA	KH Seattle Northgate SAU	10631 8 th Ave NE, Seattle, WA 98125

**Schedule 6.10(e)
Pending Medicaid Applicants**

[To come at closing.]

Schedule 6.10(f)(i)
Accounts Receivables by Resident

[See attached.] [To come at closing]

Schedule 7.2(h)
UPL Program Transfers

None.

ATTACHMENT 33

AMENDED AND RESTATED ASSIGNMENT AND ASSUMPTION AGREEMENT

VERMONT

THIS AMENDED AND RESTATED ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is entered into as of August 1, 2017 and effective as of June 30, 2017 (the "Assignment Effective Date"), by and among BM Eagle Holdings, LLC ("Assignor"), Starr Farm Operations LLC ("Starr Farm Assignee") and BIRCHWOOD PROP LLC ("Birchwood Assignee" and together with Starr Farm Assignee, "Assignees"). Capitalized terms used but not defined herein shall have the same meanings ascribed to such terms in the Purchase Agreement, as defined below.

RECITALS

WHEREAS, pursuant to the terms of that certain Asset Purchase Agreement (the "Purchase Agreement"), dated as of the Assignment Effective Date, by and between Assignor and Kindred Healthcare Operating, Inc. ("Kindred"), as Purchaser and Seller thereunder respectively, Purchaser agreed to purchase from Seller, among other things, the portfolio of skilled nursing facilities set forth on Exhibit A hereto (the "Assigned Facilities"); and

WHEREAS, Assignor and Birchwood Assignee previously entered into that certain Assignment and Assumption Agreement, dated June 30, 2017, pursuant to which Assignor assigned its interest under the Purchase Agreement in the Assigned Facilities to Birchwood Assignee; and

WHEREAS, the principals of Birchwood Assignee and Starr Farm Assignee now desire to amend and restate such Assignment and Assumption Agreement in its entirety as set forth herein so that Assignor's interest under the Purchase Agreement in the Assigned Facility known as Birchwood Terrace will be assigned to the Birchwood Assignee and Assignor's interest under the Purchase Agreement in the Assigned Facility known as the Starr Farm Nursing Center will be assigned to the Starr Farm Assignee, as set forth on Exhibit A hereto.

WHEREAS, the parties hereto desire to execute this Assignment to set forth the terms and conditions under which Assignor shall assign to Assignees, subject to the terms and conditions hereof, all of its right, title, and interest in and to the Purchase Agreement, solely with respect to the Assigned Facilities, including all real estate related thereto and as further described in the Purchase Agreement (collectively, the "Assigned Assets").

NOW THEREFORE, in consideration of the mutual premises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. Assignment and Assumption.

(a) Provided that each Assignee delivers and pays the Assignment Purchase Price in accordance with Section 2(a) and subject to the terms of Section 1(c), Assignor hereby assigns, transfers and conveys to Birchwood Assignee, all of Assignor's rights under the Purchase

Agreement with respect to the Assigned Assets of the Assigned Facility known as Birchwood Terrace, and Assignor hereby assigns, transfers and conveys to Starr Farm Assignee, all of Assignor's rights under the Purchase Agreement with respect to the Assigned Assets of the Assigned Facility known as the Starr Farm Nursing Center, each as set forth on Exhibit A hereto.

(b) Subject to the terms of Section 1(c), each Assignee hereby accepts the assignment of Assignor's rights under the Purchase Agreement with respect to the Assigned Assets and assumes and agrees to fulfill, carry out and discharge all of Assignor's obligations, liabilities, duties, and terms and conditions of and applicable to Assignor's rights under the Purchase Agreement with respect to the Assigned Assets.

(c) Notwithstanding any provision herein to the contrary, this Assignment shall not transfer, and Assignor shall retain, any and all of Assignor's rights, obligations or liabilities under Sections 2.1, 2.5(a)(i), 2.5(a)(x), 2.5(b), 2.5(c) (solely with respect to the first sentence), 3.4, 5.6, 6.9(e), 6.9(f), 10.1(a), 10.1(b), 10.1(c)(i), 10.1(d), 10.1(e), 10.1(f), 10.1(h), 10.2(b)(i), and each of 10.4(a), 10.4(b) and 10.4(c) (solely as each relates to the Termination Payment and the surrender of the Deposit), of the Purchase Agreement; provided, however, that upon the payment of the Assignment Purchase Price with respect to an Assigned Facility in accordance with this Assignment, the parties shall execute and deliver an assignment and assumption in the form attached hereto as Exhibit B (the "Assignment of Certain Retained Rights") pursuant to which Assignor shall assign to the applicable Assignee all rights, and such Assignee shall assume all obligations of Assignor, with respect to the Assigned Assets under Sections 2.1 and 3.4 of the Purchase Agreement with respect to such Assigned Facility. For the avoidance of doubt, Assignor shall remain obligated under the Purchase Agreement for the payment at the Closing of the portion of the Purchase Price allocated to the Assigned Facilities.

2. Purchase Price; Deposit.

(a) In consideration of the assignment of the Assigned Assets, Assignees shall deposit or shall cause their affiliate(s) to deposit with Madison Title Company, LLC (the "Escrow Holder") an aggregate cash amount equal to \$8,500,000 (the "Assignment Purchase Price") prior to the Closing or first of two Closings (as applicable) with respect to the Assigned Assets, each of which shall occur in accordance with and subject to the terms and conditions of the Purchase Agreement. Not less than 5:00 PM EST one (1) Business Day prior to the each Closing with respect to the Assigned Assets (a "Payment Deadline"), Assignees will deliver to the Escrow Holder, by wire transfer of immediately available funds, the portion of the Assignment Purchase Price allocated to the Assigned Facilities being acquired by each Assignee at such Closing, less the amount of the Assignee Deposit being credited to the Assignment Purchase Price at such Closing pursuant to this Assignment, to be held in escrow in accordance with an escrow agreement substantially in the form attached hereto as Exhibit C (the "Purchase Price Escrow Agreement"). Time shall be of the essence with respect to Assignees' obligation to deliver and pay the Assignment Purchase Price. In the event that Assignees fail to make a payment of the Assignment Purchase Price by the applicable Payment Deadline, this Assignment shall automatically and immediately terminate with respect to all Assigned Facilities that are not yet Transferred Facilities, and Assignor shall be entitled to retain the Assignee Deposit (as defined below) as liquidated damages, but shall not have the right to sue for damages or pursue specific performance.

(b) On or prior to the Assignment Effective Date, Assignees have made one or more deposits in an amount equal to \$425,000 (collectively, the “Assignee Deposit”) in an escrow account with the Escrow Holder to be held pursuant to this Assignment and the Escrow Agreement dated May 30, 2017 (the “Deposit Escrow Agreement”). The Assignee Deposit shall serve as a portion of the Assignment Purchase Price or be paid in accordance with this Assignment and the Deposit Escrow Agreement, and to the extent applied to the Assignment Purchase Price, shall be applied at the final Closing with respect to the Assigned Facilities.

3. Default. In the event that Assignor fails to execute and deliver the Assignment of Certain Retained Rights in violation of its obligations hereunder, Assignees, in addition to all other rights and remedies, shall be entitled to specific performance.

4. Representations, Warranties and Covenants.

(a) Assignor hereby covenants, warrants, and represents to Assignees that all of the representations and warranties of Assignor in the Purchase Agreement are, without condition or exception, incorporated and restated herein by Assignor as of the Assignment Effective Date as though fully stated in this Assignment, and such representations and warranties are true and correct in all material respects.

(b) Each Assignee hereby represents and warrants to Assignor that all representations and warranties made by Assignor in the Purchase Agreement (specifically excluding the representations and warranties under Section 5.6 of the Purchase Agreement) are true and correct with respect to such Assignee to the same extent as if such representations and warranties were made by such Assignee as of the Assignment Effective Date; provided, however, that the representations and warranties set forth in Section 5.1(a) of the Purchase Agreement with respect to organizational matters shall be deemed made with respect to the entity type of such Assignee, if different from that of Assignor.

(c) Each party hereby represents and warrants to the other party that this Assignment has been duly authorized by all necessary corporate or company action of such party and is enforceable in accordance with its respective terms with respect to such party, except as the enforceability may be subject to or limited by: (i) bankruptcy, insolvency, reorganization, arrangement, moratorium, fraudulent or preferential conveyance, or similar laws affecting the rights of creditors generally, or (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(d) Assignor represents and warrants to Assignees the following with respect to the Assigned Assets: (i) a true and complete copy of the Purchase Agreement as of the Assignment Effective Date, including all schedules and exhibits thereto, is attached hereto as Exhibit D; (ii) the Purchase Agreement is a valid, binding and enforceable obligation of Assignor, enforceable against Assignor in accordance with its terms, and is in full force and effect, except as the enforceability may be subject to or limited by: (1) bankruptcy, insolvency, reorganization, arrangement, moratorium, fraudulent or preferential conveyance, or similar laws affecting the rights of creditors generally, or (2) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); (iii) neither Assignor nor, to Assignor’s knowledge, any other party thereto is in default under or in violation of (or, to

Assignor's knowledge, is alleged to be in default under or in violation of), or has provided or received any written or, to Assignor's knowledge, oral notice of any intention to terminate, the Purchase Agreement; (iv) Assignor has not received any written or, to Assignor's knowledge, oral notice of any disputes under the Purchase Agreement; and (v) to Assignor's knowledge, there are no disputes pending or, threatened, under the Purchase Agreement.

(e) Assignor represents and warrants to Assignees that the consideration received by Assignees pursuant to this Assignment, is full, adequate and independent consideration for the covenants and representations made by Assignees.

(f) Except as set forth in this Assignment and the Purchase Agreement and the OTA for each Assigned Asset, each Assignee acknowledges, represents and warrants to Assignor that neither Assignor nor any other Person has made any representation or warranty, expressed or implied, as to the accuracy or completeness of any information regarding Kindred, the Assigned Assets or the Assigned Facilities furnished or made available to Assignees and their respective representatives. Each Assignee acknowledges that, except for the representations and warranties contained in the Purchase Agreement (and the OTA for each Assigned Asset) and this Assignment, neither Assignor nor any other Person has made, and such Assignee has not relied on, any other express or implied representation or warranty by or on behalf of the Assignor.

(g) Prior to the Closing, Assignor shall comply with the reasonable instructions of Assignees, solely with respect to the Assigned Assets, as necessary for the Assignees to exercise the rights assigned to them under this Assignment.

(h) Each Assignee shall comply with the requirements of Sections 10.4(a) and 10.4(b) of the Purchase Agreement, with respect to the Assigned Assets, to secure Substitute OTA Transferees in accordance with the timelines set forth therein and take such other actions as may be necessary or reasonably requested by Assignor from time to time to enable Assigned Facilities subject to either Section 10.4(a) or Section 10.4(b) to reach a Closing under the Purchase Agreement. Assignees shall not appoint a Substitute OTA Transferee without the prior written consent of Assignor (not to be unreasonably withheld). In the event Assignor determines in its reasonable discretion that an OTA Transferee or Substitute OTA Transferee selected by an Assignee is unable to fulfill its obligations under the OTA, upon written notice by Assignor to such Assignee of such determination, such Assignee shall replace such OTA Transferee or Substitute OTA Transferee in accordance with terms of this Assignment and the Purchase Agreement. In the event of a termination by Seller under Sections 10.4(a), 10.4(b) or 10.4(c) of the Purchase Agreement with respect to any Assigned Facility, this Assignment shall automatically terminate with respect to such Assigned Facility and the Assignor shall be entitled to retain the Assignee Deposit as liquidated damages, but shall not have the right to sue for damages or pursue specific performance.

(i) Within ten (10) Business Days of the date on which an OTA is executed with respect to an Assigned Facility, each Assignee shall enter into a binding agreement with the applicable OTA Transferee, under which such Assignee shall have the right to cause such OTA Transferee to assign the OTA in the event the Assigned Facility has become an Operator Delay Facility or such OTA Transferee has otherwise materially breached its obligations under the

OTA in a manner which would reasonably be expected to cause the failure of any Closing Condition under the Purchase Agreement or the OTA.

(j) Each Assignee shall execute a joinder to the Escrow Agreement with respect to the Assigned Assets effective on the applicable Closing Date.

5. Indemnification.

(a) Any and all indemnification claims by and between Assignees, on the one hand, and Kindred, on the other hand, arising in connection with the Assigned Facilities or the Assigned Assets shall be governed under the applicable indemnification provisions of the Purchase Agreement. Except as set forth in Section 5(b) of this Assignment, it is expressly understood and agreed that Assignees shall have no right to seek indemnification from Assignor for any matter whatsoever arising in connection with Assignees' purchase of the Assigned Assets or the Assigned Facilities.

(b) Assignor shall indemnify, defend and hold Assignees harmless from and against any and all Losses arising out of or relating to any breach by Assignor of any representation, warranty, covenant or agreement made by Assignor in this Assignment.

(c) Assignees shall jointly and severally indemnify, defend and hold Assignor harmless from and against any and all Losses arising out of or relating to any breach by either Assignee of any representation, warranty, covenant or agreement made by such Assignee in this Assignment.

6. Termination.

(a) This Assignment may be terminated with respect to an Assigned Facility prior to the applicable Closing for such Assigned Facility (i) at any time by mutual consent of the Assignor and the applicable Assignee; (ii) automatically with respect to any Assigned Facility that is not a Transferred Facility, without any further action by the parties hereto, in the event of a termination of the Purchase Agreement with respect to such Assigned Facility pursuant to Sections 6.9 or 10.1 thereof; (iii) by the Assignor, by reason of the material breach by the applicable Assignee of its representations, warranties, covenants or other obligations set forth in this Assignment or the Purchase Agreement; and (iv) by the applicable Assignee, by reason of the material breach by Assignor of any representations, warranties, covenants or other obligations set forth in this Assignment.

(b) In the event of a termination of this Assignment pursuant to Section 6.1(a)(i) or 6.1(a)(ii), the Assignee Deposit shall be returned to the applicable Assignee. Assignor agrees to promptly provide Escrow Holder with written instructions in the form required by Escrow Holder in connection with a return of the Assignee Deposit to Assignees.

(c) In the event of a material breach that gives rise to a right of Assignor to terminate the Assignment pursuant to Section 6.1(a)(iii), Assignor shall have the right as its sole and exclusive remedy to retain the Assignee Deposit as liquidated damages and terminate this Assignment. Assignor shall not have the right to sue for damages or pursue specific performance.

(d) In the event of an uncured material breach that gives rise to a right of the applicable Assignee to terminate the Assignment pursuant to Section 6.1(a)(iv), such Assignee shall have the right to (i) recover the Assignee Deposit and terminate the Assignment and sue for damages (in which case Assignor agrees to promptly provide Escrow Holder with written instructions sufficient to cause Escrow Holder to release the Assignee Deposit to such Assignee) or (ii) pursue specific performance solely to require the consummation of the transactions contemplated under this Assignment (but not to obtain money for losses and the Assignee Deposit shall be left in escrow pending the outcome of any action for specific performance).

7. Miscellaneous.

(a) Delivery of Notices. Assignor shall, within two (2) business days of receipt, deliver to Assignees a copy of any notices received by Assignor under Section 11.4 of the Purchase Agreement (and expressly including any Disclosure Updates delivered pursuant to Section 4.17 of the Purchase Agreement), or delivered by Assignor to Kindred under the Purchase Agreement, to extent related to, or concerning, the Assigned Facilities or the Assigned Assets. Without limiting the generality of the foregoing, Assignor shall, promptly following Assignor's learning of any default with respect to the Assigned Assets, notify Assignees of the existence of any such default by or on the part of Kindred and/or Assignor under the Purchase Agreement.

(b) Binding Effect. All the covenants and agreements contained in this Assignment shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

(c) Incorporation of Recitals. The Recitals set forth at the beginning of this Assignment are incorporated in and made a part of this Assignment by this reference.

(d) Amendments. This Assignment supersedes and cancels the prior Assignment and Assumption Agreement, dated June 30, 2017, by and between Assignor and Birchwood Assignee and all prior understandings between the parties relating to the subject matter hereof. This Assignment may not be further amended or changed without the written consent of the parties hereto. Assignor agrees that it shall not enter into any amendment, restatement, or other modification to the Purchase Agreement that materially and negatively affects the Assigned Facilities or Assignees' obligations with respect to any of the Assigned Assets without Assignees' prior written consent.

(e) Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law principles thereof.

(f) Disputes. Any claims, controversies or disputes arising out of or related to this Assignment shall be governed by the terms and conditions set forth in the Purchase Agreement.

(g) Failure or Delay Not Waiver; Remedies Cumulative. No failure or delay on the part of any party in the exercise of any right hereunder shall impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty, covenant or agreement herein, nor shall any single or partial exercise of any such right preclude other or

further exercise thereof or of any other right. Unless otherwise provided in this Assignment, all rights and remedies existing under this Assignment are cumulative to, and not exclusive of, any rights or remedies otherwise available.

(h) No Assignment. No party shall assign its rights and obligations to this Assignment without the written consent of the parties hereto. Notwithstanding the foregoing, any written consent requested in connection with a party's assignment to one or more of its Affiliates shall not be unreasonably withheld. Assignor acknowledges and agrees that Assignees may assign the Assignment to certain of their respective Affiliates as specified in Exhibit 7(h) provided that such Assignee and its Affiliates shall remain jointly and severally liable for all obligations of such Assignee as set forth in this Assignment related to the Assigned Assets.

(i) Further Assurances. The parties agree that at any time and from time to time, upon the written request of another party, each party will execute and deliver any and all further instruments and documents necessary or desirable to effectuate the transactions contemplated herein, or take any other actions as reasonably necessary to effectuate the foregoing.


(j) Announcements. If reasonably requested by Assignees, Assignor agrees to provide Assignees with the opportunity to review and comment prior to the issuing of any initial press release pursuant to Section 6.4(a) of the Purchase Agreement, to the extent concerning this Assignment and the transactions contemplated hereby.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Assignment, which may be executed in multiple counterparts (including electronically-transmitted counterparts), all of which shall constitute one agreement, effective as of the date first above written.

ASSIGNOR

BM EAGLE HOLDINGS, LLC
By: BM EAGLE MANAGER, LLC,
its Manager

By: 
Name: Elliot Mandelbaum
Title: Authorized Signatory

ASSIGNEES

BIRCHWOOD PROP LLC

By: 
Name: Ari Erlichman
Title: Authorized Signatory

STARR FARM OPERATIONS LLC

By: 
Name: Ari Erlichman
Title: Authorized Signatory

Exhibit A

Assigned Facilities

To Birchwood Assignee:

Kindred Transitional Care and Rehabilitation-Birchwood Terrace
43 Starr Farm Road
Burlington, VT 05401

To Starr Farm Assignee:

Starr Farm Nursing Center
98 Starr Farm Road
Burlington, VT 05401

Exhibit B

Assignment of Certain Retained Rights

Exhibit C

Form of Purchase Price Escrow Agreement

Exhibit D

Purchase Agreement

[See Attached]

Exhibit 7.1(h)

Assignees

None

ATTACHMENT 34



101 Park Ave Suite 1101
New York, NY 10178

January 22, 2018

Neil Gamss
Housing & Healthcare Finance
1979 Marcus Avenue, Suite 210
New Hyde Park, NY 11042

Re: Kindred Transitional Care & Rehab – Birchwood Terrace

Dear Neil:

This term sheet is for discussion purposes only and is issued at a time when Customers Bank the "Lender" has not completed its credit review of the Borrower. All terms of the credit facility will be outlined in a comprehensive loan agreement if the credit facility is approved by Customers Bank. The loan agreement and related documentation may contain additional terms and conditions regarding matters not addressed in this term sheet.

Borrower (Co): Birchwood Prop, LLC, and Birchwood Operations, LLC

Guarantors The unconditional Joint and Several personal guarantees from Milton Ostreicher and all members of Birchwood Prop, LLC, and Birchwood OpCo, LLC

Purpose: Acquire the real estate and operations of the Kindred Transitional Care & Rehab – Birchwood Terrace

Loan Amount: An aggregate principal amount of \$3,752,000 will be available upon the terms and conditions hereinafter set forth.
\$2,752,000 senior secured Term Loan subject to the lesser of 80% As-Is LTV or the loan amount
\$1,000,000 Capex Loan subject to an 80% As-Complete Senior LTV when combined with Facility availability as later detailed.

Line Of Credit Amount \$1,500,000

Line of Credit: Availability under the Revolver will be subject to a borrowing base formula, which is equal to the sum of the lesser of (i) \$1,500,000 or ii) up to 80% on all Eligible Accounts Receivable.

Eligible Accounts receivable would include the following:

- All Medicaid receivables less than 90 days.
- All Medicare receivables less than 90 days.
- All Insurance receivables less than 90 days.

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- Third party receivables less than 90 days.

Private Pay receivables and any Medicaid, Medicare, Managed Care or Hospice receivables in dispute would be considered ineligible. Additionally, all credit amounts in any of the eligible receivable categories would be deducted from the "current"

Unused Fee: An unused fee of .25% per quarter will be due on the unused portion of the Line of Credit

Maturity: **Term Loan:** 5 years
Line of Credit 12 months from closing

Amortization & Structure:

Borrower will make monthly interest and principal payments to the lender based upon a 25-year amortization schedule.

The borrower has the option to fund the principal payments into a sinking fund held in escrow by the lender until the HUD takeout is complete

Advances on capital improvements will be subject to proper documentation requesting payment. Interest only will be charged on the \$1,000,000 allocated for capital improvements from the date of loan closing until the capital improvements have been substantially completed, but after 24 months, the \$1,000,000 shall amortize on a 25-year schedule.

Interest Rate: 30 day LIBOR plus 325bps

Interest Rate Protection

Borrower will be required to provide Interest Rate Protection in the form of an interest rate swap, for 50% of the Mortgage Loan. The interest rate swap will be cross defaulted (i.e. defaults under the swap will constitute a default under the loan, and vice versa); cross terminated and cross collateralized with the Mortgage Loan.

Commitment Fee: A "Commitment Fee" of 1.0% of the sum of (a) the \$3,752 million Term Loan and Line of Credit (or such lesser, maximum amount approved for the commitments approved including any amounts withheld at closing

Prepayment: The credit facilities may be prepaid in whole (but not partially) provided that if prepaid before the 36-month anniversary of the closing, there will be a penalty ("Pre-payment Penalty") assessed of 1% of the maximum amount of the facilities

Collateral: The Term loan shall be evidenced and secured by 1) a first mortgage lien on the land and improvements now and hereafter acquired or

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construction thereon, 2) a chattel mortgage or security agreement creating first mortgage lien on the furnishings and equipment to be located at the projects and 3) an assignment of the lease with the operating entities. The term loan will shall also be secured by a lien on Birchwood OpCo, LLC's tangible and intangible personal property including but not limited to cash and deposit accounts: to the extent assignable under applicable law, licenses, certificates, permits and other governmental approvals necessary and required to operate the projects; the books and records of the Projects and accounts receivable. A Deposit Account Control Agreement will be required from the operator.

Additional Collateral: Borrower may establish a sinking fund cash collateral account with Customers Bank. At closing, and each month thereafter through maturity, borrower will make payments into the cash collateralized account described in Amortization and Structure section. Upon closing and funding from HUD or any other lender, the cash collateral account will be released to the borrower.

Covenants: **Birchwood Prop, LLC, and Birchwood Operations, LLC Combined**

DSCR not to be less than 1.25x before distributions and 1.10x after distributions. EBITDAR (excluding extraordinary income and expenses) less (a) replacement reserves of not less than \$350 per bed and (b) the amount, if any, by which management fees are less than 5 percent of effective gross income, divided by the principal and interest payments due Lenders for the applicable period.

The DSCR shall be calculated quarterly, commencing with the first full quarter immediately after the sixth month of closing the Mortgage Loan, and thereafter, commencing with June 30, 2018, the DSCR shall be tested on a trailing twelve month period. The DSCR for the twelve-month period ending December 31, 2018 shall be determined based on audited, fiscal year-end financial statements; all other periods will be tested on internally prepared financial statements.

Birchwood Operations, LLC shall demonstrate on a rolling four quarters basis, minimum average occupancy of 85%.

Management Fees are subject to subordination or curtailment in the event of Covenant default.

No additional indebtedness without Lender's written Consent

Ancillary Business Requirements:

Borrower will use Customers Bank for all accounts for this facility.

Other Expenses:

All legal fees, costs for third-party reports, disbursements and any other Lender out-of-pocket expenses for underwriting and closing the loan will be for Borrower's account and payable on the date of closing to the extent not paid for directly by the lender from the deposit referenced below.

This term sheet is for discussion purposes only and is issued at a time when Customers Bank has not completed its credit review of the borrower and the collateral to secure the credit facility outlined herein. All terms and conditions are subject to a satisfactory audit by Customers Bank. Furthermore, all terms of the credit facility will be outlined in a comprehensive Loan Agreement if the credit facility is approved by Customers Bank. The Loan Agreement and related documentation may contain additional terms and conditions regarding matters not addressed in this term sheet.

Documentation: Documentation shall be satisfactory to Lenders and will include, but not be limited to, the terms and conditions included herein as well as provisions that are customary for a transaction of this type.

Conditions Precedent: Lender site visit and meeting with Borrower's senior management. Additional operational, financial and regulatory compliance information may be required. Order and satisfactory review of a Phase one Environmental, Appraisal report, Property condition report, and all operating agreements, personal financial information of the guarantors and purchase agreements and any other documentation not mentioned.

Representations and Warranties: The documents will contain those representations and warranties and covenants customarily found in transactions of this nature, and others appropriate to this transaction

Deposit A deposit of \$40,000 will be required to cover underwriting cost upon execution of the term sheet. Any unused portion will be applied to the closing cost.

Closing: TBD

Expiration Date: This proposal will expire on 10 business days from the date of issuance unless previously accepted.

On behalf of Customers Bank, thank you for this opportunity and we look forward to continuing to work with you in regard to this financing request. If you have any questions concerning this matter, or if I may be of assistance in regard to any other issue, please do not hesitate to contact me at (212) 843-4549.

Sincerely,

Anthony Mai
Senior Vice President
Group Head, Healthcare

This term sheet is for discussion purposes only and is issued at a time when Customers Bank has not completed its credit review of the borrower and the collateral to secure the credit facility outlined herein. All terms and conditions are subject to a satisfactory audit by Customers Bank. Furthermore, all terms of the credit facility will be outlined in a comprehensive Loan Agreement if the credit facility is approved by Customers Bank. The Loan Agreement and related documentation may contain additional terms and conditions regarding matters not addressed in this term sheet.

The undersigned acknowledges that this loan proposal does not constitute a commitment to provide financing but is intended to facilitate further discussions and due diligence.

Accepted and acknowledged the _____ day of _____, 2017

By: Milton Ostreicher

Title: As Managing Member and as Personal Guarantor

Date: _____

This term sheet is for discussion purposes only and is issued at a time when Customers Bank has not completed its credit review of the borrower and the collateral to secure the credit facility outlined herein. All terms and conditions are subject to a satisfactory audit by Customers Bank. Furthermore, all terms of the credit facility will be outlined in a comprehensive Loan Agreement if the credit facility is approved by Customers Bank. The Loan Agreement and related documentation may contain additional terms and conditions regarding matters not addressed in this term sheet.

NOTICES

If your application for business credit is denied, you have the right to a written statement of the specific reasons for the denial. To obtain the statement, please contact Customers Bank, Attn: Credit Administration Department

/ DLR, 99 Bridge Street, Phoenixville, PA 19460, 484-920-7028, or your Lender, within 60 days from the date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request for the statement.

When contacting the Credit Administration Department for a written statement of the specific reasons for the denial, please be prepared to offer the following information: (1) First and Last Name, (2) Date of the Notice of Declination, (3) Name of the Lender or Relationship Manager Who Worked with You, and (4) Current Mailing Address Where You Wish the Statement to be Delivered.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract); because all or a part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is the Federal Reserve Consumer Help Center, PO Box 1200, Minneapolis, MN 55480.



This information and the information provided on all accompanying financial statements and schedules is provided for the purpose of obtaining credit for the Applicant(s) or for the purpose of Applicant(s) guaranteeing credit for others. Applicant(s) acknowledge that representations made in this statement will be relied on by Creditor in its decision to grant such credit. This statement is true and correct in every detail and accurately represents the financial condition of the Applicant(s) on the date given below. Creditor is authorized to make all inquiries it deems necessary, either directly or through any agency employed by Lender for that purpose, to verify the accuracy of the information contained herein and to determine the creditworthiness of the Applicant(s).

Applicant(s) will promptly notify Creditor of any subsequent changes which would affect the accuracy of this Statement. Creditor is further authorized to answer any questions about Creditor's credit experience with Applicant(s). Applicant(s) are aware that any knowing or willful false statements regarding the value of the above property for purposes of influencing the actions of Creditor can be a violation of federal law and may result in a fine or imprisonment or both.

By signing below, each Applicant declares that he/she has read and understands the Notice Section above and, if applicable, has received the Reg B notification regarding denied credit, as well as made an election under the right to copy of appraisal or valuation.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

Institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

This term sheet is for discussion purposes only and is issued at a time when Customers Bank has not completed its credit review of the borrower and the collateral to secure the credit facility outlined herein. All terms and conditions are subject to a satisfactory audit by Customers Bank. Furthermore, all terms of the credit facility will be outlined in a comprehensive Loan Agreement if the credit facility is approved by Customers Bank. The Loan Agreement and related documentation may contain additional terms and conditions regarding matters not addressed in this term sheet.

ATTACHMENT 35

Birchwood Operations, LLC and Birchwood Prop, LLC

COMBINED FINANCIAL STATEMENTS

Years Ending December 31, 2018 through 2020 (Projected)
and
Year ending December 31, 2017 (Forecasted)
and
Years Ended December 31, 2014 through 2016 (Historical)

Birchwood Operations, LLC and Birchwood Prop, LLC
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Kittell Branagan & Sargent

Certified Public Accountants

Vermont License # 167

ACCOUNTANT'S COMPILATION REPORT

Ari Erlichman and Isaac Rubin
Birchwood Operations, LLC and Birchwood Prop, LLC
Burlington, VT 05408

Management is responsible for the accompanying projection of Birchwood Operations, LLC and Birchwood Prop, LLC, which comprises the projected combined balance sheets as of December 31, 2018, 2019, and 2020, and the projected statements of income, changes in members' equity, and cash flows for the years then ending, including the related summaries of significant assumptions and accounting policies in accordance with guidelines for the presentation of a projection established by the American Institute of Certified Public Accountants (AICPA).

Management also is responsible for the accompanying forecasted financial statements of Birchwood Terrace, which comprise the balance sheet as of December 31, 2017 and the related statements of income and members' equity and cash flows for the year then ended, and the related notes to the financial statements in accordance with accounting principles generally accepted in the United States of America.

Management also is responsible for the accompanying historical financial statements of Birchwood Terrace, which comprise the balance sheets as of December 31, 2014, 2015, and 2016 and the related statements of income and members' equity and cash flows for the years then ended, and the related notes to the financial statements in accordance with accounting principles generally accepted in the United States of America.

We have performed the compilation engagements in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not examine or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements.

Even if the CON approval from Green Mountain Care Board (GMCB) and financing occurred, there will usually be differences between the projection and actual results because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this report for events and circumstances occurring after the date of this report.

The accompanying projections were previously compiled by us and we stated in our report originally dated November 20, 2017 that we have not audited or reviewed the projections and accordingly do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements. As disclosed in Note 8, management has changed certain assumptions and has restated its December 31, 2018 through 2020 (Projected) financial statements and has included a column reflecting forecasted financial statements as of and for the year ending December 31, 2017.

The accompanying financial statements and this report are intended solely for the information and use of Birchwood Operations, LLC and Birchwood Prop, LLC and GMCB, and are not intended to be and should not be used by anyone other than these specified parties.

Kattell Brannagan & Sugar

St. Albans, Vermont
January 17, 2018

Birchwood Operations, LLC and Birchwood Prop, LLC
 COMBINED BALANCE SHEETS
 UNDER THE HYPOTHETICAL ASSUMPTIONS IN NOTE 1
 December 31, 2014 through 2016 (Historical), 2017 (Forecasted) and 2018 through 2020 (Projected)

	<u>ASSETS</u>						
	Seller Historical 2014	Seller Historical 2015	Seller Historical 2016	Seller Forecasted 2017	Buyer Projected 2018	Buyer Projected 2019	Buyer Projected 2020
CURRENT ASSETS							
Cash and cash equivalents	\$ 19,800	\$ 5,973	\$ 57,833	\$ 61,127	\$ 267,236	\$ 498,623	\$ 752,409
Accounts receivables, net	1,862,772	1,415,546	1,646,392	1,679,320	1,712,906	1,747,164	1,782,108
Inventories	30,726	30,886	30,765	31,380	32,008	32,648	33,301
Insurance recoverables	332,700	336,254	481,596	491,228	-	-	-
Other current assets	<u>62,634</u>	<u>3,600</u>	<u>4,228</u>	<u>4,313</u>	<u>4,399</u>	<u>4,487</u>	<u>4,577</u>
TOTAL CURRENT ASSETS	<u>2,308,632</u>	<u>1,792,259</u>	<u>2,220,814</u>	<u>2,267,368</u>	<u>2,016,549</u>	<u>2,282,922</u>	<u>2,572,394</u>
PROPERTY AND EQUIPMENT							
Land and land improvements	12,260	12,260	12,260	12,260	-	-	-
Buildings and improvements	-	-	-	-	3,213,785	3,313,785	3,413,785
Leasehold improvements	2,004,158	2,219,001	2,716,674	2,816,674	-	-	-
Equipment	1,151,446	1,230,518	1,340,381	1,390,381	350,000	400,000	450,000
Construction in progress	<u>7,526</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
	3,175,390	3,461,779	4,069,315	4,219,315	3,563,785	3,713,785	3,863,785
Less: Accumulated depreciation	<u>(2,592,478)</u>	<u>(2,748,262)</u>	<u>(2,900,820)</u>	<u>(3,056,429)</u>	<u>(98,916)</u>	<u>(224,974)</u>	<u>(363,176)</u>
TOTAL PROPERTY, PLANT & EQUIPMENT	<u>582,912</u>	<u>713,517</u>	<u>1,168,495</u>	<u>1,162,886</u>	<u>3,464,869</u>	<u>3,488,811</u>	<u>3,500,609</u>
OTHER ASSETS							
Insurance recoverables	621,244	694,025	939,646	958,439	-	-	-
Patient fund accounts	<u>38,653</u>	<u>41,505</u>	<u>37,193</u>	<u>37,937</u>	<u>38,696</u>	<u>39,470</u>	<u>40,259</u>
TOTAL OTHER ASSETS	<u>659,897</u>	<u>735,530</u>	<u>976,839</u>	<u>996,376</u>	<u>38,696</u>	<u>39,470</u>	<u>40,259</u>
TOTAL ASSETS	<u>\$ 3,551,441</u>	<u>\$ 3,241,306</u>	<u>\$ 4,366,148</u>	<u>\$ 4,426,629</u>	<u>\$ 5,520,114</u>	<u>\$ 5,811,202</u>	<u>\$ 6,113,262</u>
<u>LIABILITIES AND EQUITY</u>							
CURRENT LIABILITIES							
Accounts payable	\$ 241,194	\$ 189,791	\$ 241,376	\$ 246,204	\$ 251,128	\$ 256,150	\$ 261,273
Salaries, wages and other compensation	185,633	219,676	222,496	226,946	231,485	236,115	240,837
Patient credit balances	117,402	41,716	76,970	78,509	80,080	81,681	83,315
Professional liability and workers compensation	332,700	336,254	481,596	491,228	-	-	-
Line of Credit	-	-	-	-	800,000	400,000	-
Current Portion of Long-term Debt	-	-	-	-	59,388	62,308	65,372
Other accrued liabilities	<u>1,559</u>	<u>3,009</u>	<u>3,187</u>	<u>3,251</u>	<u>3,316</u>	<u>3,382</u>	<u>3,450</u>
TOTAL CURRENT LIABILITIES	<u>878,488</u>	<u>790,446</u>	<u>1,025,625</u>	<u>1,046,138</u>	<u>1,425,396</u>	<u>1,039,636</u>	<u>654,246</u>
LONG-TERM LIABILITIES							
Mortgage payable, Less current portion	-	-	-	-	2,555,036	2,492,728	2,427,356
Unamortized Debt Issuance costs	-	-	-	-	(90,737)	(68,053)	(45,368)
Mortgage payable, less unamortized debt issuance costs	-	-	-	-	2,464,299	2,424,675	2,381,988
Patient fund accounts	38,653	41,505	37,193	37,937	38,696	39,470	40,259
Deferred rent	401,863	362,973	324,083	330,565	-	-	-
Professional liability and workers compensation	<u>621,244</u>	<u>694,025</u>	<u>939,646</u>	<u>977,608</u>	<u>-</u>	<u>-</u>	<u>-</u>
TOTAL LONG-TERM LIABILITIES	<u>1,061,760</u>	<u>1,098,503</u>	<u>1,300,922</u>	<u>1,346,109</u>	<u>2,502,995</u>	<u>2,464,145</u>	<u>2,422,246</u>
TOTAL LIABILITIES	<u>1,940,248</u>	<u>1,888,949</u>	<u>2,326,547</u>	<u>2,392,247</u>	<u>3,928,391</u>	<u>3,503,781</u>	<u>3,076,493</u>
MEMBERS' EQUITY							
Members' Equity	-	-	-	-	1,591,723	2,307,421	3,036,769
Accumulated deficit	(2,896,936)	(3,787,137)	(5,189,681)	(6,565,617)	-	-	-
Net contributions from Kindred Healthcare, Inc.	<u>4,508,129</u>	<u>5,139,494</u>	<u>7,229,282</u>	<u>8,600,000</u>	<u>-</u>	<u>-</u>	<u>-</u>
TOTAL MEMBERS' EQUITY	<u>1,611,193</u>	<u>1,352,357</u>	<u>2,039,601</u>	<u>2,034,383</u>	<u>1,591,723</u>	<u>2,307,421</u>	<u>3,036,769</u>
TOTAL LIABILITIES AND MEMBERS' EQUITY	<u>\$ 3,551,441</u>	<u>\$ 3,241,306</u>	<u>\$ 4,366,148</u>	<u>\$ 4,426,629</u>	<u>\$ 5,520,114</u>	<u>\$ 5,811,202</u>	<u>\$ 6,113,262</u>

See Summary of Significant Projection Assumptions and Accounting Policies and Accountant's Report

Birchwood Operations, LLC and Birchwood Prop, LLC
 COMBINED STATEMENTS OF INCOME
 UNDER THE HYPOTHETICAL ASSUMPTIONS IN NOTE 1
 For the Years Ended December 31, 2014 through 2016 (Historical), and the year ending 2017 (Forecasted)
 and the Years Ending 2018 through 2020 (Projected)

	Seller Historical 2014	Seller Historical 2015	Seller Historical 2016	Seller Forecasted 2017	Buyer Projected 2018	Buyer Projected 2019	Buyer Projected 2020
REVENUE							
Private room & board	\$ 938,791	\$ 960,343	\$ 1,110,988	\$ 1,133,208	\$ 993,698	\$ 1,007,013	\$ 1,020,328
Medicaid room & board	7,303,250	7,245,427	6,804,376	6,940,464	8,037,105	8,197,847	8,361,804
Medicare room & board	3,817,463	3,415,805	3,763,251	3,838,516	3,668,081	3,741,443	3,816,272
Other room & board	561,413	661,398	828,706	845,280	947,326	966,272	985,598
Ancillary & other patient revenue	417,642	427,414	414,441	422,730	431,184	439,808	448,604
	<u>13,038,559</u>	<u>12,710,387</u>	<u>12,921,762</u>	<u>13,180,197</u>	<u>14,077,394</u>	<u>14,352,383</u>	<u>14,632,606</u>
Less: Provision for Bad Debts	<u>(174,631)</u>	<u>(256,544)</u>	<u>(64,825)</u>	<u>(66,122)</u>	<u>(140,774)</u>	<u>(143,524)</u>	<u>(146,326)</u>
INCOME FROM PATIENT CARE	<u>12,863,928</u>	<u>12,453,843</u>	<u>12,856,937</u>	<u>13,114,076</u>	<u>13,936,620</u>	<u>14,208,860</u>	<u>14,486,280</u>
EXPENSES							
Administrative & general	3,566,011	3,811,438	3,773,941	3,835,252	3,572,872	3,676,460	3,740,996
Property and related expenses	1,935,051	1,838,412	1,842,540	1,879,018	523,523	552,964	567,368
Plant operation and maintenance	522,124	536,872	524,057	534,538	545,228	556,133	567,255
Dietary	805,247	805,258	848,244	865,209	882,513	900,162	918,166
Laundry and linen	180,334	181,202	188,933	192,712	176,882	180,419	184,027
Housekeeping	269,924	271,214	281,646	287,279	263,499	268,769	274,144
Nursing	4,736,745	4,721,470	4,884,081	4,941,645	5,040,479	5,141,289	5,244,114
Therapy services	1,058,981	989,569	1,063,226	1,084,490	818,450	834,820	851,516
Other services	731,802	714,471	853,765	870,840	888,257	906,023	924,144
	<u>13,806,219</u>	<u>13,869,906</u>	<u>14,260,433</u>	<u>14,490,983</u>	<u>12,711,703</u>	<u>13,017,039</u>	<u>13,271,730</u>
OPERATING INCOME (LOSS)	<u>(942,291)</u>	<u>(1,416,063)</u>	<u>(1,403,496)</u>	<u>(1,376,907)</u>	<u>1,224,918</u>	<u>1,191,821</u>	<u>1,214,550</u>
OTHER REVENUE							
Miscellaneous	618	24	584	596	608	620	632
Interest income	1,682	329	368	375	383	391	398
	<u>2,300</u>	<u>353</u>	<u>952</u>	<u>971</u>	<u>990</u>	<u>1,010</u>	<u>1,030</u>
TOTAL OTHER REVENUE	<u>2,300</u>	<u>353</u>	<u>952</u>	<u>971</u>	<u>990</u>	<u>1,010</u>	<u>1,030</u>
INCOME TAX BENEFIT	<u>176,378</u>	<u>525,509</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
NET INCOME (LOSS)	<u>\$ (763,613)</u>	<u>\$ (890,201)</u>	<u>\$ (1,402,544)</u>	<u>\$ (1,375,936)</u>	<u>\$ 1,225,908</u>	<u>\$ 1,192,831</u>	<u>\$ 1,215,580</u>

See Summary of Significant Projection Assumptions and Accounting Policies and Accountant's Report

Birchwood Operations, LLC and Birchwood Prop, LLC
 COMBINED STATEMENTS OF CHANGES IN MEMBERS' EQUITY
 UNDER THE HYPOTHETICAL ASSUMPTIONS IN NOTE 1
 For the Years Ended December 31, 2014 through 2016 (Historical), and the year ending 2017 (Forecasted)
 and the Years Ending 2018 through 2020 (Projected)

	Seller Historical 2014	Seller Historical 2015	Seller Historical 2016	Seller Forecasted 2017	Buyer Projected 2018	Buyer Projected 2019	Buyer Projected 2020
Beginning Balance	\$ (2,133,323)	\$ (2,896,936)	\$ (3,787,137)	\$ (5,189,681)	\$ -	\$ 1,591,723	\$ 2,307,421
Equity Contributions	-	-	-	-	856,178	-	-
Distributions	-	-	-	-	(490,363)	(477,132)	(486,232)
Net Income (loss)	<u>(763,613)</u>	<u>(890,201)</u>	<u>(1,402,544)</u>	<u>(1,375,936)</u>	<u>1,225,908</u>	<u>1,192,831</u>	<u>1,215,580</u>
Ending Balance	<u>\$ (2,896,936)</u>	<u>\$ (3,787,137)</u>	<u>\$ (5,189,681)</u>	<u>\$ (6,565,617)</u>	<u>\$ 1,591,723</u>	<u>\$ 2,307,421</u>	<u>\$ 3,036,769</u>

See Summary of Significant Projection Assumptions and Accounting Policies and Accountant's Report

Birchwood Operations, LLC and Birchwood Prop, LLC
 COMBINED STATEMENTS OF CASH FLOWS
 UNDER THE HYPOTHETICAL ASSUMPTIONS IN NOTE 1
 For the Years Ended December 31, 2014 through 2016 (Historical), and the year ending 2017 (Forecasted)
 and the Years Ending 2018 through 2020 (Projected)

	Seller Historical 2014	Seller Historical 2015	Seller Historical 2016	Seller Forecasted 2017	Buyer Projected 2018	Buyer Projected 2019	Buyer Projected 2020
CASH FLOWS FROM OPERATING ACTIVITIES							
Net Income (loss)	\$ (763,613)	\$ (890,201)	\$ (1,402,544)	\$ (1,375,936)	\$ 1,225,908	\$ 1,192,831	\$ 1,215,580
Adjustments to Reconcile Net Income (Loss) to Net Cash Provided by Operating Activities							
Depreciation & Amortization	253,132	155,784	152,558	155,609	121,600	148,743	160,886
Provision for doubtful accounts	205,060	256,544	64,825	66,122	140,774	143,524	146,326
Other	1,306	-	-	-	-	-	-
(Increase) decrease in:							
Accounts receivable	(350,738)	190,682	(295,671)	(99,049)	(1,853,680)	(177,782)	(181,269)
Inventory and other assets	(59,923)	(17,461)	(391,470)	(29,125)	(36,407)	(728)	(743)
Increase (decrease) in:							
Accounts Payable	(62,522)	(32,357)	41,592	4,828	251,128	5,023	5,123
Salaries, wages and other compensation	(57,621)	34,043	2,820	4,450	231,485	4,630	4,722
Patient credit balances and other accrued liabilities	<u>217,895</u>	<u>(36,791)</u>	<u>387,505</u>	<u>55,678</u>	<u>83,395</u>	<u>1,668</u>	<u>1,701</u>
NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES	<u>(617,024)</u>	<u>(339,757)</u>	<u>(1,440,385)</u>	<u>(1,217,424)</u>	<u>164,203</u>	<u>1,317,908</u>	<u>1,352,326</u>
CASH FLOWS FROM INVESTING ACTIVITIES							
Purchases of property & equipment	<u>(127,680)</u>	<u>(298,576)</u>	<u>(592,163)</u>	<u>(150,000)</u>	<u>(3,563,785)</u>	<u>(150,000)</u>	<u>(150,000)</u>
CASH FLOWS FROM FINANCING ACTIVITIES							
Proceeds from new debt					2,671,028	-	-
Principal Payments of Long-Term Debt					(56,604)	(59,388)	(62,308)
Capital Contributions					856,178	-	-
Debt Issuance Costs					(113,421)	-	-
Proceeds from Line of Credit					1,000,000	-	-
Principal Payments on Line of Credit					(200,000)	(400,000)	(400,000)
Distributions to owners for taxes					(490,363)	(477,132)	(486,232)
Net increase in contributions due from K.H., Inc.	<u>721,849</u>	<u>624,506</u>	<u>2,084,408</u>	<u>1,370,718</u>	<u>-</u>	<u>-</u>	<u>-</u>
NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES	<u>721,849</u>	<u>624,506</u>	<u>2,084,408</u>	<u>1,370,718</u>	<u>3,666,818</u>	<u>(936,520)</u>	<u>(948,540)</u>
NET INCREASE (DECREASE) IN CASH	(22,855)	(13,827)	51,860	3,294	267,236	231,387	253,786
CASH AT BEGINNING OF YEAR	<u>42,655</u>	<u>19,800</u>	<u>5,973</u>	<u>57,833</u>	<u>-</u>	<u>267,236</u>	<u>498,623</u>
CASH AT END OF YEAR	<u>\$ 19,800</u>	<u>\$ 5,973</u>	<u>\$ 57,833</u>	<u>\$ 61,127</u>	<u>\$ 267,236</u>	<u>\$ 498,623</u>	<u>\$ 752,409</u>
SUPPLEMENTARY DISCLOSURES							
Interest paid	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 156,199</u>	<u>\$ 167,896</u>	<u>\$ 136,015</u>
Transfers of property and equipment to Kindred	<u>\$ (4,333)</u>	<u>\$ 6,859</u>	<u>\$ 5,380</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Property and equipment purchases payable	<u>\$ 9,254</u>	<u>\$ (19,046)</u>	<u>\$ 10,801</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

See Summary of Significant Projection Assumptions and Accounting Policies and Accountant's Report

Birchwood Operations, LLC and Birchwood Prop, LLC.
SUMMARY OF SIGNIFICANT PROJECTION ASSUMPTIONS
AND ACCOUNTING POLICIES
December 31, 2014 through 2016 (Historical) and
2017 (Forecasted) and 2018 through 2020 (Projected)

NOTE 1 NATURE AND LIMITATIONS OF PROJECTIONS

The accompanying projections assume that the Company obtains approval from GMCB for a certificate of need (CON) to purchase an existing 144 bed nursing home in Burlington, Vermont and can obtain financing for the purchase. These financial projections present, to the best of management's knowledge and belief, the Company's expected financial position, results of operations, and cash flows for the years ending December 31, 2018 through 2020 if it obtains CON approval and financing. Accordingly, the projections reflect its judgment as of January 17, 2018 the date of these projections, of the expected conditions, and its expected course of action given those hypothetical assumptions. See note 8 relating to restatement of the projections from our report originally dated November 20, 2017.

The presentation is designed to assist GMCB in its decision regarding CON approval and should not be considered to be a presentation of expected future results. Accordingly, these projections may not be useful for other purposes. The assumptions disclosed herein are those that management believes are significant to the projections. Even if the projected assumptions are attained, there will usually be differences between projected and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization and Combination:

Birchwood Operations, LLC has been organized as the entity that will operate the 144 bed nursing home facility. They will lease the property from Birchwood Prop, LLC (a related organization) which will be organized to own the property being purchased. These attached projected financial statements are presented as one combined entity with all eliminating entries being reflected.

Nature of Operations:

The Company will continue to provide nursing home care and short term rehabilitation for up to 144 residents in the Burlington, Vermont area.

Inventories:

Inventories are stated at the lower of cost or market. Cost is determined on the first-in, first-out (FIFO) basis.

Property, Plant and Equipment:

Property, plant and equipment is recorded at cost and depreciation thereon is computed by the straight-line method over the assets estimated useful life.

Revenues:

A significant amount of revenues are from Medicaid and Medicare reimbursements.

Estimates

The preparation of financial statements in conformity with generally accepted accounting principles require management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Birchwood Operations, LLC and Birchwood Prop, LLC.
SUMMARY OF SIGNIFICANT PROJECTION ASSUMPTIONS
AND ACCOUNTING POLICIES
December 31, 2014 through 2016 (Historical)
and 2018 through 2020 (Projected)

NOTE 3 PROJECT FUNDING AND CAPITALIZATION

The projections assume that the purchase will be funded by approximately 20% of the purchase price (\$667,757) from the owner's equity and the company will borrow 80% of the purchase price (\$2,671,028) through conventional financing with an amortization over 25 years at an estimated interest rate of LIBOR plus 3.25 basis points (for a total estimate of 4.81% for these projections). This will fund the \$3,338,785 purchase price. The Loan is estimated to balloon in 5 Years and the buyers are contemplating refinancing to a HUD loan at that time.

Additional financing costs estimated at \$113,421 and additional costs associated with obtaining the CON approval estimated at \$75,000 will be funded by the owners as equity contributions for a total estimated equity contribution of \$856,178.

It is also anticipated that any cash shortfall in the first year of operation will be covered with by a Line of Credit in the amount of \$1,500,000 estimated to have the same interest rate as the mortgage above and will be paid back as cash flow allows. For the purpose of these projections, it is anticipated that the owner's will have to borrow from the line of credit in the first year for cash flow purposes and that it will be paid back as cash flow permits by the end of the third year.

NOTE 4 REVENUE ASSUMPTIONS

All revenue assumptions are based on management's best judgment about circumstances and conditions at the time these projections were prepared and are not all inclusive.

Census - Overall census numbers are projected to remain the same as they were in the first Quarter of 2017 annualized at 92.29% occupancy. No changes in overall occupancy or in the patient mix of that occupancy percentage are projected. The mix of approximately 14.1% Medicare, 73.7% Medicaid, 5.5% Private and 6.7% VA and other insurance is projected to remain the same throughout the projections.

<u>Projected Census</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Private	2,663	2,663	2,663
VA & Other Insurances	3,227	3,227	3,227
Medicaid	35,763	35,763	35,763
Medicare	6,852	6,852	6,852
 Total	 <u>48,505</u>	 <u>48,505</u>	 <u>48,505</u>

Birchwood Operations, LLC and Birchwood Prop, LLC.
SUMMARY OF SIGNIFICANT PROJECTION ASSUMPTIONS
AND ACCOUNTING POLICIES
December 31, 2014 through 2016 (Historical)
and 2018 through 2020 (Projected)

NOTE 4 REVENUE ASSUMPTIONS (continued)

Rates – Private rates are anticipated to increase \$5.00 per day annually from a beginning average of \$368.15 per day to cover normal inflationary costs. VA & Other insurance rates are anticipated to continue with their current average rates inflated annually by 2% to cover normal inflationary costs. Medicaid rates are projected at the October 2017 current Medicaid Rate of \$218.12 plus an estimated Stepped up capital rate increase of \$2.25 inflated 2% annually to cover normal inflationary costs. Medicare rates are based on the Current average rate of \$535.33 and are expected to increase 2% annually to cover normal inflationary costs. Private and Part B ancillaries are expected to increase 2% per year using the 2016 revenues as a base.

Provision for Bad Debts – The projections estimate that the provision for bad debts will be approximately 1% of revenues

NOTE 5 EXPENSE ASSUMPTIONS

All expense assumptions are based on management's best judgment about circumstances and conditions at the time these projections were prepared and are not all inclusive.

Overall expenses – except where otherwise indicated below, expenses are projected using the current facility's historical 2016 costs increased annually by an estimated 2.0% for inflation.

Interest costs – Mortgage and Line of credit interests are calculated based on amortization schedules for projected debt as described in Note 3 above.

Depreciation – calculated based on allocation of the \$3,338,785 purchase price and other purchase costs of \$75,000 plus an annual increase for normal equipment and furnishings of \$50,000 annually and improvements of \$100,000 annually. Lives on all depreciable assets are set using the American Hospital Association's estimated useful lives guide.

Amortization of Debt Issuance costs – calculated based on amortizing projected financing costs of \$113,421 being amortized over the 5 year life of the loan.

Management fee – the current owner's management fee has been replaced with a management fee of 5% of revenues before bad debts per year that will cover administrative, accounting and oversight provided by a related management company.

General insurance and Worker's Compensation Insurance will not be self-funded. The estimated premiums for these insurances are management's best estimate based on the current information at the time of these projections.

Corporate – Integrated Marketing – This cost related marketing costs passed down to Birchwood relating to marketing done by the national management company and won't be continuing under new ownership and are therefore not included in these projections.

Birchwood Operations, LLC and Birchwood Prop, LLC.
SUMMARY OF SIGNIFICANT PROJECTION ASSUMPTIONS
AND ACCOUNTING POLICIES
December 31, 2014 through 2016 (Historical)
and 2018 through 2020 (Projected)

NOTE 5 EXPENSE ASSUMPTIONS (continued)

Contracted Services – Laundry – Management’s best estimate of the cost for these services under new ownership will be \$3.60 per day.... inflated by 2% for normal inflationary cost increases.

Contracted Services – Housekeeping – Management’s best estimate of the cost for these services under new ownership will be \$5.40 per day.... inflated by 2% for normal inflationary cost increases.

Contracted Therapy Services – management estimates that it will be able to realize a \$37.16 per day savings for each Medicare, Medicare HMO, and Other Insurance patient day from the cost the previous owner was incurring. Costs are then inflated 2% for annual inflation

Bed Tax – it is not anticipated the bed tax will increase throughout these projections as it has remained the same for the last several years.

Facility Rent- Ground Lease – Facility rent will go away with the purchase of the Facility. However, the current ground lease will continue and be assigned to management at closing. The remaining terms of this lease are \$2,000 per year through June 30, 2062. Management is in negotiations to try to extend this lease.

NOTE 6 2017 FORECAST ASSUMPTIONS

The assumptions for the forecast of the seller’s 2017 activity are based on the seller’s actual 2016 results and reflect no significant changes in census, revenues or expenses other than 2% inflationary increases throughout.

NOTE 7 DISTRIBUTIONS TO OWNERS

Distributions to owners to cover income taxes on profits passed through to them are estimated at 40% of profits. For purposes of this projection book income is estimated to approximate taxable income.

NOTE 8 RESTATEMENT OF FINANCIAL STATEMENTS

In our report dated November 20, with respect to the Projected 2018 through 2020 financial statements, management’s assumptions included that part of the purchase price of \$3,338,785 would include \$100,000 for Land. The projections have been updated to reflect that the purchase price does not include Land and therefore that \$100,000 has been allocated to the cost of the building. It also reflects that there will be an assumption at closing of the ground lease that the seller has with the landowner as described in note 5. Also, financing terms have been updated as indicated in note 3.

The financial statements have also been updated to include Forecasted statements as of and for the year ending December 31, 2017.

SUPPLEMENTARY INFORMATION

Birchwood Operations, LLC and Birchwood Prop, LLC
COMBINED DEPARTMENTAL EXPENSE SCHEDULES
UNDER THE HYPOTHETICAL ASSUMPTIONS IN NOTE 1
For the Years Ended December 31, 2014 through 2016 (Historical), and the year ending 2017 (Forecasted)
and the Years Ending 2018 through 2020 (Projected)

	Seller Historical 2014	Seller Historical 2015	Seller Historical 2016	Seller Forecasted 2017	Buyer Projected 2018	Buyer Projected 2019	Buyer Projected 2020
ADMINISTRATIVE & GENERAL							
Salary - Administrator	\$ 140,541	\$ 172,453	\$ 150,140	\$ 153,143	\$ 156,206	\$ 159,330	\$ 162,517
Salary - Other Admin	280,816	268,853	259,436	264,625	269,918	275,316	280,822
Office supplies & postage	43,898	44,876	50,929	51,948	52,987	54,047	55,128
Communications	43,232	44,016	51,223	52,247	53,292	54,358	55,445
Travel & meetings	20,486	18,613	31,396	32,024	32,664	33,317	33,983
Advertising	22,505	64,596	74,657	76,150	77,673	79,226	80,811
Licenses & dues	22,333	19,485	25,923	26,441	26,970	27,509	28,059
Professional services	52,981	60,671	60,335	61,542	62,773	64,028	65,309
Insurances - general	51,785	48,046	58,602	59,774	60,000	61,200	62,424
Insurance - Worker's Comp	176,597	154,698	233,294	237,960	232,289	236,935	241,674
Employee benefits	308,754	313,673	340,048	346,849	353,786	360,862	368,079
Payroll taxes	464,312	477,402	495,129	505,032	545,435	589,070	636,196
Miscellaneous	34,885	23,055	24,786	25,282	25,788	26,304	26,830
Employee physicals	5,072	18,482	13,116	13,378	13,646	13,919	14,197
Seminars/in-services	6,715	18,437	34,152	34,835	35,532	36,243	36,968
Medicaid Assessment	708,412	708,412	708,412	708,412	708,412	708,412	708,412
Purchased services	38,247	128,977	126,820	129,356	131,943	134,582	137,274
Penalties	90,160	500	700	714	728	743	758
Line of Credit Interest	-	-	-	-	28,960	43,440	14,480
Corporate - Integrated Marketing Management fees	319,419	327,696	282,326	287,973	-	-	-
	<u>734,861</u>	<u>898,497</u>	<u>752,517</u>	<u>767,567</u>	<u>703,870</u>	<u>717,619</u>	<u>731,630</u>
TOTAL ADMINISTRATIVE & GENERAL	<u>\$ 3,566,011</u>	<u>\$ 3,811,438</u>	<u>\$ 3,773,941</u>	<u>\$ 3,835,252</u>	<u>\$ 3,572,872</u>	<u>\$ 3,676,460</u>	<u>\$ 3,740,996</u>
PROPERTY & RELATED EXPENSES							
Depreciation expense	\$ 253,132	\$ 155,784	\$ 152,558	\$ 155,609	\$ 98,916	\$ 126,059	\$ 138,202
Mortgage interest	-	-	-	-	127,239	124,456	121,535
Mortgage interest - amortization of debt issuance costs	-	-	-	-	22,684	22,684	22,684
Facility Rent - Ground Lease	1,410,753	1,417,296	1,427,163	1,455,706	2,000	2,000	2,000
Equipment Rent	73,340	59,608	58,381	59,549	60,740	61,955	63,194
Taxes	176,712	183,280	185,776	189,492	193,282	197,148	201,091
Insurance	21,114	22,444	18,662	18,662	18,662	18,662	18,662
	<u>1,935,051</u>	<u>1,838,412</u>	<u>1,842,540</u>	<u>1,879,018</u>	<u>523,523</u>	<u>552,964</u>	<u>567,368</u>
TOTAL PROPERTY & RELATED EXPENSES	<u>\$ 1,935,051</u>	<u>\$ 1,838,412</u>	<u>\$ 1,842,540</u>	<u>\$ 1,879,018</u>	<u>\$ 523,523</u>	<u>\$ 552,964</u>	<u>\$ 567,368</u>
PLANT OPERATION & MAINTENANCE							
Salary - Maintenance	\$ 87,289	\$ 92,624	\$ 89,798	\$ 91,594	\$ 93,426	\$ 95,295	\$ 97,201
Supplies	8,265	10,907	9,331	9,518	9,708	9,902	10,100
Purchased services	132,085	145,919	140,096	142,898	145,756	148,671	151,644
Gas, fuel & oil	42,203	41,359	35,612	36,324	37,050	37,791	38,547
Electricity	155,427	155,067	151,995	155,035	158,136	161,299	164,525
Water & sewer	79,173	73,335	76,862	78,399	79,967	81,566	83,197
Garbage	17,682	17,661	20,363	20,770	21,185	21,609	22,041
	<u>522,124</u>	<u>536,872</u>	<u>524,057</u>	<u>534,538</u>	<u>545,228</u>	<u>556,133</u>	<u>567,255</u>
TOTAL PLANT OPERATION & MAINTENANCE	<u>\$ 522,124</u>	<u>\$ 536,872</u>	<u>\$ 524,057</u>	<u>\$ 534,538</u>	<u>\$ 545,228</u>	<u>\$ 556,133</u>	<u>\$ 567,255</u>

See Summary of Significant Projection Assumptions and Accounting Policies and Accountant's Report

Birchwood Operations, LLC and Birchwood Prop, LLC
 COMBINED DEPARTMENTAL EXPENSE SCHEDULES
 UNDER THE HYPOTHETICAL ASSUMPTIONS IN NOTE 1
 For the Years Ended December 31, 2014 through 2016 (Historical), and the year ending 2017 (Forecasted)
 and the Years Ending 2018 through 2020 (Projected)

	Seller Historical 2014	Seller Historical 2015	Seller Historical 2016	Seller Forecasted 2017	Buyer Projected 2018	Buyer Projected 2019	Buyer Projected 2020
DIETARY							
Dietary salaries	\$ 440,344	\$ 446,649	\$ 486,224	\$ 495,948	\$ 505,867	\$ 515,984	\$ 526,304
Food	321,908	321,663	320,332	326,739	333,274	339,939	346,738
Supplies & other expenses	42,995	36,946	41,688	42,522	43,372	44,239	45,124
TOTAL DIETARY	\$ 805,247	\$ 805,258	\$ 848,244	\$ 865,209	\$ 882,513	\$ 900,162	\$ 918,166
LAUNDRY & LINEN							
Contracted services	\$ 176,550	\$ 178,739	\$ 186,757	\$ 190,492	\$ 174,618	\$ 178,110	\$ 181,672
Supplies & Other Expenses	3,784	2,463	2,176	2,220	2,264	2,309	2,355
TOTAL LAUNDRY & LINEN	\$ 180,334	\$ 181,202	\$ 188,933	\$ 192,712	\$ 176,882	\$ 180,419	\$ 184,027
HOUSEKEEPING							
Contracted services	\$ 264,825	\$ 267,049	\$ 280,135	\$ 285,738	\$ 261,927	\$ 267,166	\$ 272,509
Supplies & Other Expenses	5,099	4,165	1,511	1,541	1,572	1,603	1,635
TOTAL HOUSEKEEPING	\$ 269,924	\$ 271,214	\$ 281,646	\$ 287,279	\$ 263,499	\$ 268,769	\$ 274,144
NURSING							
Salaries - Nurses (RN)	\$ 1,468,718	\$ 1,548,109	\$ 1,637,875	\$ 1,670,633	\$ 1,704,046	\$ 1,738,127	\$ 1,772,890
Salaries - Nurses (LPN)	1,008,276	1,036,755	976,119	995,641	1,015,554	1,035,865	1,056,582
Salaries - Nurses (Other)	1,823,104	1,703,206	1,779,293	1,814,879	1,851,177	1,888,201	1,925,965
Salaries - Director of Nursing	83,568	88,991	96,603	98,535	100,506	102,516	104,566
Medical director	76,855	76,639	70,506	71,916	73,354	74,821	76,317
Nursing supplies & other costs	276,224	267,770	284,354	290,041	295,842	301,759	307,794
Contracted nursing services	-	-	39,331	40,118	40,920	41,738	42,573
TOTAL NURSING	\$ 4,736,745	\$ 4,721,470	\$ 4,884,081	\$ 4,941,645	\$ 5,040,479	\$ 5,141,289	\$ 5,244,114
THERAPY SERVICES							
Salaries - therapy	\$ -	\$ 8,856	\$ 9,015	\$ 9,195	\$ 9,379	\$ 9,567	\$ 9,758
Contracted therapy	1,041,286	965,529	1,048,563	1,069,534	803,195	819,259	835,644
Therapy supplies	17,695	15,184	5,648	5,761	5,876	5,994	6,114
TOTAL THERAPY SERVICES	\$ 1,058,981	\$ 989,569	\$ 1,063,226	\$ 1,084,490	\$ 818,450	\$ 834,820	\$ 851,516
OTHER SERVICES							
Salaries - activities	\$ 159,702	\$ 166,527	\$ 174,541	\$ 178,032	\$ 181,593	\$ 185,225	\$ 188,930
Salaries - social services	88,174	98,426	103,206	105,270	107,375	109,523	111,713
Supplies	25,200	31,745	31,552	32,183	32,827	33,484	34,154
Pharmacy/X-Ray/Lab	284,641	280,609	315,750	322,065	328,506	335,076	341,778
Purchased services - pharmacy	10,014	10,835	10,557	10,768	10,983	11,203	11,427
Purchased services - activities	3,338	3,565	4,297	4,383	4,471	4,560	4,651
Other services	160,733	122,764	213,862	218,139	222,502	226,952	231,491
TOTAL OTHER SERVICES	\$ 731,802	\$ 714,471	\$ 853,765	\$ 870,840	\$ 888,257	\$ 906,023	\$ 924,144

See Summary of Significant Projection Assumptions and Accounting Policies and Accountant's Report

ATTACHMENT 38

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (this "Sublease") is made and entered into as of the 1st day of September, 2017, by and between SMITH RANCH PRIME TENANT, LLC, a Delaware limited liability company ("Sublandlord") and GHC OF SAN RAFAEL, LLC, a California limited liability company ("Subtenant").

RECITALS

A. WHEREAS, Sublandlord, as the successor-in-interest of California Nursing Centers, L.L.C., a Delaware limited liability company (the "Original Tenant"), is a party to that certain Amended and Restated Lease dated as of January 1, 2016 ("Original Lease"), as amended by that certain Consent, Estoppel, Lease and Option Agreement Amendment dated as of August 31, 2017 (the "Ocadian Consent") (the Original Lease, as amended by the Ocadian Consent, is referred to herein as the "Master Lease"), a copy of which is attached hereto as Exhibit "A", by and among between, Original Tenant, as tenant, and Ocadian Care Centers, LLC, a California limited liability company (the "Landlord"), as landlord; and

B. WHEREAS, pursuant to the Master Lease, Sublandlord is leasing that certain skilled nursing facility known as Smith Ranch Care Center and located at 1550 Silveira Parkway, San Rafael, CA 94903 (the "Facility"), legally described on Exhibit "A" attached hereto; and

C. WHEREAS, Life Generations Healthcare LLC, an affiliate of Subtenant ("Life Generations"), and BM Eagle Holdings, LLC ("BMH"), an affiliate of Sublandlord, are parties to that certain Real Estate Purchase Agreement dated as of July 28, 2017 (the "Purchase Agreement"), pursuant to which BMH has agreed, among other things, to enter into this Sublease.

D. WHEREAS, concurrently herewith, that certain Second Amended and Restated Option Agreement dated August 31, 2017 by and between Landlord (and affiliates of Landlord) on the one hand, and California Nursing Centers, L.L.C. (a Kindred affiliate) on the other hand (the "Option Agreement") is being assigned to an affiliate of BMH, pursuant to which such BMH affiliate has the option to acquire the Facility on the terms more specifically set forth therein (the "Smith Ranch Option").

E. WHEREAS, Sublandlord wishes to sublease the Facility to Subtenant, and Subtenant wishes to sublease the Facility from Sublandlord, all on the terms and conditions set forth herein. All capitalized terms that are not defined herein shall have the same meaning as in the Master Lease.

AGREEMENT

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged,

the parties agree as follows effective as of the “Closing” under (and as defined in) the Purchase Agreement (referred to herein as the “Sublease Commencement Date”):

Section 1. General Provisions.

1.01 The term of this Sublease shall commence on the Sublease Commencement Date and shall terminate on the earlier of (i) the expiration of the term under the Master Lease, (ii) in the event of an Option Default (defined below) the earlier of the six-month anniversary of the Option Default Election Date (as defined below) or the date on which Sublandlord signs a lease for the Facility with a replacement tenant.

1.02 This Sublease is, and shall be at all times, subject and subordinate to the Master Lease and to all matters to which the Master Lease is subject and subordinate. Subtenant hereby covenants and agrees to fully comply with and abide by all terms and conditions set forth in the Master Lease as if Subtenant were the tenant under the Master Lease as of the Sublease Commencement Date; provided, however, that in no event shall Subtenant be deemed to have assumed any Excluded Liabilities (as defined below) or liability for any Excluded Master Lease Defaults (as defined below). Except as otherwise provided herein, the parties agree that all the terms, covenants and conditions contained in the Master Lease shall be applicable to this Sublease. Subtenant hereby expressly assumes and agrees to fully comply with and be bound by, for the benefit of Sublandlord, each and every obligation, liability, responsibility and duty of Sublandlord under the Master Lease (including, without limitation, any and all increases in rent and other charges thereunder) respecting the Facility solely to the extent first arising on or after the Sublease Commencement Date, it being agreed and understood that in no event shall Subtenant be deemed to have assumed any obligation, liability, responsibility and/or duty of “Lessee” under the Master Lease related to the period of time prior to the Sublease Commencement Date, all of which the parties acknowledge constitute Excluded Liabilities herein (collectively, the “Excluded Liabilities”). Furthermore, notwithstanding anything to the contrary in this Sublease, and except as otherwise provided in the Ocadian Consent following a “Recognition” (as defined in the Ocadian Consent), any default(s) under the Master Lease respecting Lessee Guarantor and/or any other guarantor’s obligations in connection with the Master Lease shall not be deemed defaults of Subtenant under this Sublease (collectively, “Excluded Master Lease Defaults”). Subtenant acknowledges and agrees that Sublandlord shall have no liability to Subtenant in the event of an Excluded Master Lease Default not caused by Sublandlord or BMH; provided, however, the foregoing shall not limit Sublandlord’s obligations under Section 1.11, including, without limitation, the return of the Initial Earnest Money to Subtenant. Without limiting the generality of the foregoing, Subtenant shall maintain for the benefit of Landlord, Sublandlord, and Subtenant the types of insurance with the minimum coverage amounts required under the Master Lease, including, but not limited to, Article XIII of the Master Lease. All such insurance policies so maintained shall be in accordance with the requirements of Article XIII in the Master Lease and shall name (x) Landlord, (y) any other parties designated by Landlord from time to time pursuant to Article XIII of the Master Lease to be an additional insured and/or loss payee (as

applicable) to the extent provided in the Master Lease, and (z) Sublandlord as additional insured and/or loss payee (as applicable) to the extent provided in the Master Lease.

Subtenant acknowledges that, in accordance with the requirements of the Master Lease, the Facility shall not be enrolled in the Medi-Cal program without Landlord's and Sublandlord's prior written consent which Landlord and Sublandlord may withhold in their respective sole and absolute discretion.

1.03 The parties further agree that, except as otherwise provided herein, the Subtenant shall have each and every of the rights and privileges of the Sublandlord under the Master Lease. For the purposes of this Sublease, wherever in the Master Lease the word "Landlord" or "Lessor" is used it shall be deemed to mean the Sublandlord herein and wherever in the Master Lease the term "Tenant" or "Lessee" is used it shall be deemed to mean the Subtenant herein, and whenever in the Master Lease the word "Commencement Date" is used it shall be deemed to mean the "Sublease Commencement Date" and "Effective Time" shall be deemed to mean 12:01 am on the Sublease Commencement Date. Subtenant's indemnification obligations under the Sublease (as incorporated from the Master Lease), shall include Damages (as defined in the Master Lease) from the failure of Sublessee to perform any of the covenants, agreements, terms, provisions, or conditions contained in the Master Lease that Sublessee is obligated to perform under the provisions of this Sublease insofar as it relates to the period from and after the Sublease Commencement Date (except to the extent any such obligation is the result of the gross negligence or willful malfeasance of Sublandlord, Sublandlord's breach of this Sublease and/or constitutes an Excluded Liability and/or Excluded Master Lease Default provided such Excluded Master Lease Default occurs prior to Recognition, as that term is defined in the Ocadian Consent). The rights and obligations of Sublandlord and Subtenant to each other under this Sublease shall be the rights and obligations of the Landlord and Sublandlord to each other under the Master Lease, which is incorporated herein by reference, except for those provisions in the Master Lease which are directly contradicted by this Sublease (in which event the terms of this Lease Sublease shall control over the Master Lease).

1.04 Intentionally Omitted.

1.05 This Sublease is not an assignment of the Master Lease by Sublandlord to Subtenant, and Subtenant does not assume and shall not be liable to any person or entity for obligations arising under the Master Lease with respect to the period prior to the Sublease Commencement Date.

1.06 Sublandlord hereby authorizes Subtenant to deal directly with the Landlord with respect to any and all matters arising under the Master Lease; provided that Subtenant shall keep Sublandlord apprised, in a timely fashion, of all such dealings.

1.07 Reserved.

1.08 During the Term, Subtenant shall pay to Sublandlord a fixed annual rent equal to \$2,428,000.00 (the "Sublease Base Rent"). Subtenant shall

also be responsible for paying any and all other Rent first due under the Master Lease after the Sublease Commencement Date (other than Base Rent), except to the extent such other Rent pertains to any Excluded Liabilities, and/or any Excluded Master Lease Default(s). At the times provided for Rent increases under the Master Lease, the Sublease Base Rent shall concurrently be increased in the same amounts. At all times the Sublease Base Rent shall equal the Base Rent due under the Master Lease (except as otherwise set forth in this Sublease). The Sublease Base Rent shall be paid directly by Subtenant to Landlord at the times and in the manner Base Rent for the Facility is due and payable by Sublandlord to Landlord under the Master Lease and Subtenant shall concurrently provide to Sublandlord evidence of timely payment of same.

1.09 The obligations and liabilities of Subtenant under this Sublease shall be guaranteed by Life Generations Healthcare LLC, a California limited liability company (“Guarantor”), pursuant to the terms and provisions of a guaranty, substantially in the form of guaranty executed pursuant to the Master Sublease entered into concurrently herewith between 1359 Pine Street SF, LLC, a Delaware limited liability company, 1575 Seventh Avenue SF, a Delaware limited liability company, and 1224 Rossmoor Parkway WV, LLC, a Delaware limited liability company, as Landlord, and GHC Of North Master, LLC, a California limited liability company, as Tenant (the “Guaranty”). On or before the Sublease Commencement Date, Subtenant shall cause Guarantor to execute and deliver a fully executed Guaranty to Sublandlord. Subtenant agrees that the Guaranty shall also run to and for the benefit of Landlord.

1.10 At the direction of Life Generations in accordance with the Purchase Agreement, Sublandlord and/or BMH shall cause the Smith Ranch Option to be exercised in accordance with the terms of the Option Agreement. An uncured default by Sublandlord and/or BMH under the Option Agreement and/or under the Purchase Agreement (to the extent pertaining to obligations with respect to the Smith Ranch Option) shall be a default by Sublandlord under this Sublease. Similarly, as between Subtenant and Sublandlord only, an uncured default by Subtenant and/or Life Generations under the Purchase Agreement to the extent pertaining to obligations with respect to the Smith Ranch Option, shall be a default by Subtenant under this Sublease. The foregoing is not, however, intended to cross default the Option Agreement and the Master Lease. Sublandlord retains the right to exercise the Smith Ranch Option for the benefit of Sublandlord or BMH should Life Generations fail to timely direct Sublandlord and/or BMH to exercise same. This Section 1.10 is subject to the terms of the Ocadian Consent following a Recognition under the Ocadian Consent.

1.11 Sublandlord acknowledges that Subtenant desired to purchase the Facility at the Closing under the Purchase Agreement, but that the parties were unable to effectuate such sale because of timing delays associated with Landlord’s contemplated 1031 exchange, and that Subtenant is therefore entering into this Sublease in reliance on Sublandlord maintaining the Master Lease and the Option Agreement in full force and effect pending the conveyance of the Facility to Subtenant pursuant to the Option Agreement, and that Subtenant would not have entered into this Sublease but for Subtenant’s right to acquire the Facility pursuant to the Option Agreement. Accordingly, Sublandlord, based solely on the representations and warranties of Kindred Healthcare

Operating, Inc (“Kindred”) set forth in that certain Asset Purchase Agreement between Kindred and BMH dated as of June 30, 2017, and that certain Consent, Estoppel, Lease and Option Agreement Amendment dated as of July __, 2017 executed by, among others, Smith Ranch Land Company, Inc., a California corporation and Ocadian Care Centers, LLC, a California limited liability company, (i) represents and warrants to Subtenant that the Master Lease and Option Agreement are in full force and effect, and Sublandlord is not aware of any default under the Master Lease or Option Agreement by any party thereto, (ii) shall not terminate the Master Lease or Option Agreement voluntarily (including as a result of casualty damage), or modify the Master Lease or Option Agreement, without Subtenant’s prior written consent, (iii) will use its commercially reasonable efforts to obtain any consent or performance on behalf of the Subtenant required of the Master Landlord under the Master Lease, (iv) will refrain from any act or omission that would materially and adversely affect Subtenant’s rights under this Sublease and/or with respect to the Option Agreement, or would result in the failure or breach of any or the covenants, provisions, or conditions of the Master Lease and/or the Option Agreement, and (v) subject to the last sentence of Section 1.10 above, will timely exercise the Option if and when directed by Subtenant. Without limiting the foregoing, if for any reason other than a default of Subtenant under this Sublease (or under the Purchase Agreement as it pertains to the Smith Ranch Option), fee title to the Facility is not conveyed to Subtenant or its designee in accordance with the Option Agreement (an “Option Default”), then, at the election of Subtenant to be exercised in writing within ninety (90) days of the date on which title to the Facility was to be conveyed in accordance with the Option Agreement (such exercise date referred to herein as the “Option Default Election Date”): (a) Sublandlord shall cause BMH to promptly reimburse Life Generations for the \$4,700,000 Initial Earnest Money paid pursuant to the Purchase Agreement, (b) the Sublease shall terminate early as more specifically set forth in Section 1.01 above, and (c) notwithstanding anything to the contrary in Section 1.08 or elsewhere in this Sublease, for so long as Subtenant continues to operate the Facility, the total Rent payable under this Sublease shall be reduced by fifty percent (50%). Notwithstanding anything in this Sublease to the contrary, in the event of a discrepancy between the terms of this Sublease and the terms of the Purchase Agreement, the terms of the Purchase Agreement shall be controlling. This Section 1.11 is not applicable following a Recognition under the Ocadian Consent, except as otherwise set forth in the Ocadian Consent, but without limiting Life Generations’ rights under the Purchase Agreement as between Life Generations and BMH.

Section 2 Miscellaneous.

2.01 In the event that any party to this Sublease brings suit to enforce any provision of this Sublease or is required to defend any action, the defense to which is any provision of this Sublease, the unsuccessful party agrees to pay to the prevailing party its actual third party costs and reasonable attorneys’ fees.

2.02 This Sublease is made and entered into in the State of California, and shall in all respects be interpreted, enforced, and governed by and under the laws of that State.

2.03 This Sublease together with the Master Lease and the Purchase Agreement contain the entire agreement and understanding between the parties concerning the subject matter hereof, and supersedes and replaces all prior negotiations, proposed agreements, and agreements, whether written, oral or implied. Each of the parties hereto acknowledges that no other party, nor any agent or attorney of any other party, has made any promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the subject matter hereof, to induce it to execute this Sublease in reliance upon any such promise, representation, or warranty not contained herein.

2.04 All notices to be given by any party to this Sublease to the other parties hereto or thereto shall be in writing, and shall be (a) given in person, (b) deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, or (c) sent by national overnight courier service with confirmed receipt, each addressed as follows:

If to Sublandlord: Smith Ranch Prime Tenant, LLC
c/o BME Holdco, LLC
45 Broadway, Suite 2640
New York, NY 10006
Attention: Elliott Mandelbaum
Fax: 212-269-1521

If to Subtenant: 6 Hutton Centre Drive, Suite 400
Santa Ana, CA 92707
Attention: Thomas Olds, Jr.
Fax: 714-434-3995

2.05 Whenever in this document the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular to refer to and include the plural.

2.06 This Sublease may not be modified except by a writing signed by all parties hereto, and consented thereto by Landlord pursuant to Section 6(h) of the Ocadian Consent, which consent shall not be unreasonably withheld, conditioned or delayed.

2.07 Each of the parties hereto agrees to undertake its best efforts, including all steps and efforts contemplated by this Sublease, and any other steps and efforts which may become necessary by order or otherwise, to effectuate this Sublease, including, without limitation, the preparation and execution of any documents reasonably necessary to do so.

2.08 The parties may execute this Sublease in two or more counterparts which shall, in the aggregate, be signed by all of the parties; each counterpart shall be deemed an original instrument as against any party who has signed it.

2.09 If any provision of this Sublease or the application thereof to any person or circumstance shall to any extent be finally determined by the applicable fact finder to be invalid or unenforceable, the remainder of this Sublease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Sublease shall be valid and enforceable to the fullest extent permitted by law.

[SEE ATTACHED SIGNATURE PAGE]

**SUBLEASE AGREEMENT
SIGNATURE PAGES**

IN WITNESS WHEREOF, the Parties have executed or caused the execution of this Sublease by their respective officers duly authorized as of the day and year first above written.

SUBLANDLORD:

SMITH RANCH PRIME TENANT, LLC,
a Delaware limited liability company

By: BME Holdco Manager LLC, its Manager

By: Elliott
Name: Elliott Mandelbaum
Title: Authorized Signer

SUBTENANT:

GHC OF SAN RAFAEL, LLC,
a California limited liability company

By: Life Generations Healthcare LLC,
a California limited liability company
Its: Manager

By: _____
Name: Thomas Olds, Jr.
Its: President and Manager

By: _____
Name: Lois Mastrocola
Its: Chief Financial Officer

**SUBLEASE AGREEMENT
SIGNATURE PAGES**

IN WITNESS WHEREOF, the Parties have executed or caused the execution of this Sublease by their respective officers duly authorized as of the day and year first above written.

SUBLANDLORD:

SMITH RANCH PRIME TENANT, LLC,
a Delaware limited liability company


By: BME Holdco Manager LLC, its Manager

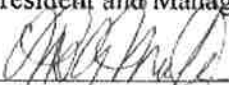
By: _____
Name: Elliott Mandelbaum
Title: Authorized Signer

SUBTENANT:

GHC OF SAN RAFAEL, LLC,
a California limited liability company

By: Life Generations Healthcare LLC,
a California limited liability company
Its: Manager

By: 
Name: Thomas Olds, Jr.
Its: President and Manager

By: 
Name: Lois Mastrocola
Its: Chief Financial Officer

ATTACHMENT 36

Performance Improvement Action Plan

Center Name:

Kindred Nursing & Rehabilitation – Birchwood Terrace

Date:

10/15/17

Topic / Opportunity	Current Measurement / Goal	Action / Interventions	Target Dates	Responsible Party	Follow-Up
<p>Disaster Preparedness/Emergency Response</p>	<p>Current Measurement: That we follow CMS/State/Local guidelines and requirements to be in compliance with regulations</p> <p>Current Goal: Attend VHCA Emergency response Meeting in November 2017</p> <p>Conduct a full scale Disaster Drill in conjunction with local officials and community partners</p> <p>Complete the Hazard and Vulnerability Analysis</p> <p>Complete the Facility profile</p>	<p>Interventions for affected resident: NA</p> <p>Interventions for residents identified as having the potential to be affected: Staff will conduct a full scale drill, simulating the need to triage and evacuate residents from their rooms/units/location. Staff will ensure resident, is tagged and tracked to new location/discharge destination.</p> <p>Systematic Change: Bi-Annual drills, including one full scale drill</p> <p>Monitoring of the change to sustain system compliance ongoing: Evaluate effectiveness of drills; what we did right, and areas of improvement.</p>	<p>11/15/2017</p>	<p>Maintenance Nursing Administration</p>	

Performance Improvement Action Plan

	Make list of Agencies/Community Partners who will assist in time of Emergency/Disaster	Create plan for all identified areas of improvement.			
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PERFORMANCE IMPROVEMENT SUBCOMMITTEE CHAIR SIGNATURE: _____

Performance Improvement Action Plan

Center Name: *Birchwood Terrace*

Date: *11/8/17*

Topic / Opportunity	Current Measurement / Goal		Target Dates	Responsible Party	Follow-Up
<p>Opportunity to ensure bed rails that are in place are within the measurements recommended by the Hospital Bed System Dimensional and Assessment Guide</p> <p>Opportunity to ensure a nursing assessment is completed to identify risks of potential entrapment using bed rails with each resident</p> <p>And moving forward prior to using them on a resident</p> <p>Opportunity to ensure that the beds dimensions</p>	<p>Current Measurement:</p> <p>That we follow the FDA recommendations according to the recommendations as mentioned.</p> <p>Bed safety assessment is completed upon admission and annually</p> <p>Care plan the use of side rails</p> <p>Current Goal:</p> <p>Annually Maintenance will complete a mattress measurement and bed safety form to ensure PM of beds and bed rails to ensure they meet current safety standards and are not in need of repair.</p> <p>Prior to the use of bed rails the nurse will complete a bed safety</p>	<p>Interventions for affected resident:</p> <p>NA</p> <p>Interventions for residents identified as having the potential to be affected:</p> <p>Maintenance will complete the approved FDA assessment tool ensuring measurements are within the stated guidelines</p> <p>Nursing will validate that a bed safety assessment has been completed and that it supports the following:</p> <ol style="list-style-type: none"> 1. what are the medical needs that would be addressed by the bed rail, 2. the resident's benefits from the use of the bed rails, 3. the risks of using the bed rails and how they will be mitigated, 4. and the alternatives that were attempted and failed to meet the residents needs 5. As well as alternatives that were 	<p>10/31/2017</p> <p>10/31/2017</p>	<p>Maintenance</p> <p>Nursing</p>	<p>Will speak with Darlene regarding updated P&P and TL</p> <p>I am wondering if there is a consent form created</p> <p>Should we do quarterly evals or annual for LN?</p>

Performance Improvement Action Plan

<p>are appropriate for the residents size and weight</p> <p>Opportunity to ensure that the risks versus benefits are reviewed with the resident and or resident representative</p>	<p>assessment</p> <p>Prior to use the nurse will obtain consent from the resident and or residents representative and maintain evidence of sufficient information so that an informed decision could be made and understood and consent can be given voluntarily, free from coercion and this will include:</p> <ol style="list-style-type: none"> 1. what are the medical needs that would be addressed by the bed rail, 2. the resident's benefits from the use of the bed rails, 3. the risks of using the bed rails and how they will be mitigated, 4. and the alternatives that were attempted 	<p>considered but not implemented because they were considered to be inappropriate</p> <p>Systematic Change:</p> <p>SDC / designee will provide education on the revised guidance and F-Tag 700 as it relates to expectations for bed rails use.</p> <p>Maintenance will complete the approved FDA assessment tool ensuring measurements are within the stated guidelines annually</p> <p>Nursing will complete the bed safety assessment upon prior to initiating the use of bed rails on a resident then annually and with a significant change in status.</p> <p>Monitoring of the change to sustain system compliance ongoing:</p> <p>The ED and the DNS will oversee this process.</p> <p>The ED will monitor and oversee the MD with completion and results of FDA assessment tool ensuring measurements</p> <p>The DNS will monitor and oversee the Nursing piece and validate compliance with admission review and with annual</p>	<p>10/1/18</p> <p>11/28/17 annually</p> <p>11/28/17</p> <p>11/28/17</p>	<p>SDC / designee</p> <p>Maintenance</p> <p>Nursing</p> <p>ED</p> <p>DNS</p>	
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Performance Improvement Action Plan

	<p>and failed to meet the residents needs</p> <p>5. As well as alternatives that were considered but not implemented because they were considered to be inappropriate</p>	<p>and significant change reviews</p> <ul style="list-style-type: none"> • The type of specific direct monitoring and supervision provided during the use of the bed rails, including documentation of the monitoring; • The identification of how needs will be met during use of the bed rails, such as for repositioning, hydration, meals, use of the bathroom and hygiene; • Ongoing assessment to assure that the bed rail is used to meet the resident's needs; • Ongoing evaluation of risks; • The identification of who may determine when the bed rail will be discontinued; and • The identification and interventions to address any residual effects of the bed rail (e.g., generalized weakness, skin breakdown). 			
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PERFORMANCE IMPROVEMENT SUBCOMMITTEE CHAIR SIGNATURE: _____

Performance Improvement

November 15, 2017 Minutes

In attendance: See Attendance Sheet Attached

Old Business: Minutes Reviewed and Approved as Written

New Business:

Administration:

QAPI Projects –

Side Rail Reduction – Discussed the CMS initiative for side rail reduction secondary to resident injury/death d/t entrapment. A letter was sent to residents and responsible parties explaining the initiative and the facilities plan to review and reduce the use of unnecessary side rails. This letter will be included in the initial admission packet going forward. The facility is working collaboratively between Nursing, rehab and maintenance to systematically asses and reduce when appropriate. Those who do require the use of the rails for safety or mobility will have a nursing assessment completed and consent obtained. A wing has essentially been SR free for over a year, which has successful. The facility utilizes 2 types of beds, one with 1/8 rails, and one with ¼ rails. All ¼ rails will be tied down when not in use, and 1/8 rails will be utilized on the Medicare Unit, since they can easily be removed or added as needed. Maintenance is Discussed the 2nd component of this initiative is bed safety, meaning the mattress appropriately fits the bed. We have 3 types of beds, 2 standard and one bariatric and 2 types of mattresses. Maintenance has completed the assessments to ensure proper use and fitting mattresses are in place. Maintenance has ordered additional clips for call light cords and over bed lights.

Disaster Preparedness – DNS, Maintenance Director and ED attended the VHCA meeting on November 2nd regarding emergency response and disaster preparedness in preparation for the regulatory changes that fall into place today. S/p this meeting, a subcommittee meeting was held with the ED, Maintenance Director and Safety Chair. The Disaster Manual was reviewed for accuracy and relevancy. The vulnerability checklist was updates. Maintenance ordered head lamps, walkie-talkies, vests, and tags in the event of major event or evacuation. We have also contacted the fire department, police department and the state Emergency Response Coordinator to facilitate a mock drill. MOU's with local facilities and transportation companies were updated.

Fall reduction – After the September training on Fall reduction, bi-monthly meetings were held with the Nursing Managers, analyzing the fall data. Multiple residents were identified as not requiring alarms, either due to ineffectiveness or lack of need. Root cause analysis to be completed after each fall to determine the true reason for fall, allowing for individualization of approach. Currently the facility has seen a reduction in alarms by 66%.

Nursing –

Survey Process – Working on the facility assessment tool. Although a long process, it was informative. In the process of finishing and finalizing the document. Will provide to our DDCO upon completion for review.

MDS – CMCA Audits provided.

Safety/Workman's Comp – Currently, we have no EE currently on MOD duty. There were no new injuries this month.

Infection Control – We have vaccinated roughly 250 EE's and residents thus far. 2nd Letter's and ED calls were placed for those resident's responsible parties who have not responded. Have received responses from all but 2 resident families. ABT stewardship program discussed at length.

Social Services – No new report.

Culinary and Hospitality – Changing the order in which the carts/trays are being sent out to the units from the kitchen. This is to start 11/16/17. In addition, the Main Dining Room will no longer have tray service, but will be provided meals directly from the kitchen from serving platters.

Activities – have hired and are in the process of training and orienting the new Activity Assistant, primarily with a focus on A- wing. Thus far, she is doing great!

Medical Director – Nothing new to report.

Administration – The facility has been granted a waiver to be able to park on site through May of 2018, at which time a permanent resolution needs to be established.

Training – Competencies related to the Facility assessment tool and new hire orientation.

Performance Improvement Action Plan

Center Name:

Kindred Nursing & Rehabilitation – *Birchwood Terrace*

Date:

10/15/17

Topic / Opportunity	Current Measurement / Goal	Action / Interventions	Target Dates	Responsible Party	Follow-Up
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Performance Improvement Action Plan

	Make list of Agencies/Community Partners who will assist in time of Emergency/Disaster	Create plan for all identified areas of improvement.			
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PERFORMANCE IMPROVEMENT SUBCOMMITTEE CHAIR SIGNATURE: _____

Performance Improvement Action Plan

Center Name: *Birchwood Terrace*

Date: *11/8/17*

Topic / Opportunity	Current Measurement / Goal		Target Dates	Responsible Party	Follow-Up
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<p>Opportunity to ensure a nursing assessment is completed to identify risks of potential entrapment using bed rails with each resident</p> <p>And moving forward prior to using them on a resident</p> <p>Opportunity to ensure that the beds dimensions</p>	<p>Care plan the use of side rails</p> <p>Current Goal: Annually Maintenance will complete a mattress measurement and bed safety form to ensure PM of beds and bed rails to ensure they meet current safety standards and are not in need of repair.</p> <p>Prior to the use of bed rails the nurse will complete a bed safety</p>	<ol style="list-style-type: none"> 1. what are the medical needs that would be addressed by the bed rail, 2. the resident's benefits from the use of the bed rails, 3. the risks of using the bed rails and how they will be mitigated, 4. and the alternatives that were attempted and failed to meet the residents needs 5. As well as alternatives that were 	<p>10/31/2017</p>	<p>Nursing</p>	<p>Should we do quarterly evals or annual for LN?</p>

Performance Improvement Action Plan

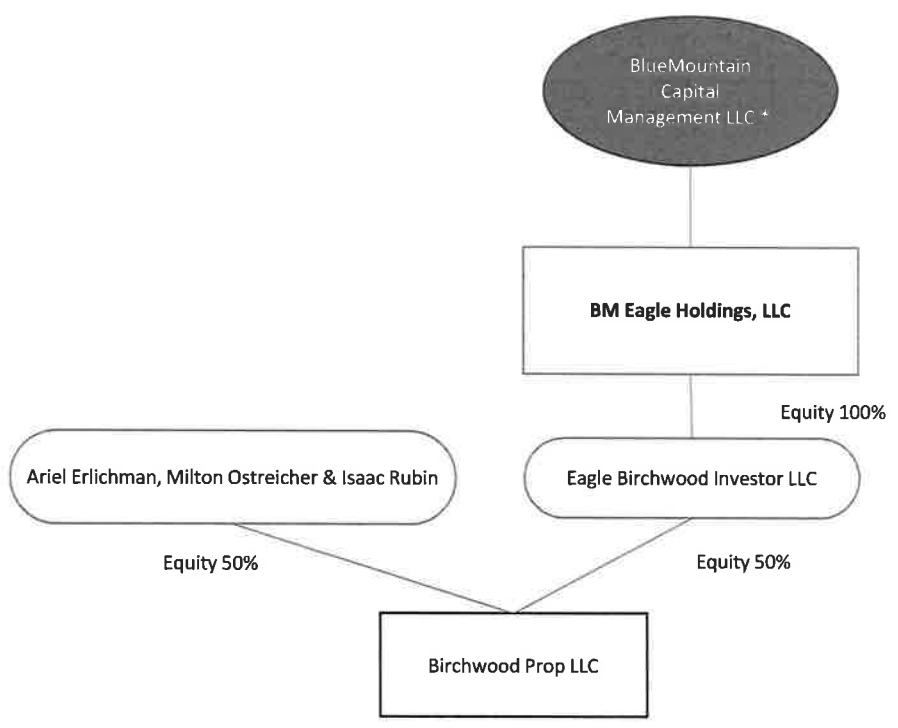
<p>are appropriate for the residents size and weight</p> <p>Opportunity to ensure that the risks versus benefits are reviewed with the resident and or resident representative</p>	<p>assessment</p> <p>Prior to use the nurse will obtain consent from the resident and or residents representative and maintain evidence of sufficient information so that an informed decision could be made and understood and consent can be given voluntarily, free from coercion and this will include:</p> <ol style="list-style-type: none"> 1. what are the medical needs that would be addressed by the bed rail, 2. the resident's benefits from the use of the bed rails, 3. the risks of using the bed rails and how they will be mitigated, 4. and the alternatives that were attempted 	<p>considered but not implemented because they were considered to be inappropriate</p> <p>Systematic Change:</p> <p>SDC / designee will provide education on the revised guidance and F-Tag 700 as it relates to expectations for bed rails use.</p> <p>Maintenance will complete the approved FDA assessment tool ensuring measurements are within the stated guidelines annually</p> <p>Nursing will complete the bed safety assessment upon prior to initiating the use of bed rails on a resident then annually and with a significant change in status.</p> <p>Monitoring of the change to sustain system compliance ongoing:</p> <p>The ED and the DNS will oversee this process.</p> <p>The ED will monitor and oversee the MD with completion and results of FDA assessment tool ensuring measurements</p> <p>The DNS will monitor and oversee the Nursing piece and validate compliance with admission review and with annual</p>	<p>10/1/18</p> <p>11/28/17 annually</p> <p>11/28/17</p> <p>11/28/17</p>	<p>SDC / designee</p> <p>Maintenance</p> <p>Nursing</p> <p>ED</p> <p>DNS</p>	
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Performance Improvement Action Plan

	<p>and failed to meet the residents needs</p> <p>5. As well as alternatives that were considered but not implemented because they were considered to be inappropriate</p>	<p>and significant change reviews</p> <ul style="list-style-type: none"> • The type of specific direct monitoring and supervision provided during the use of the bed rails, including documentation of the monitoring; • The identification of how needs will be met during use of the bed rails, such as for repositioning, hydration, meals, use of the bathroom and hygiene; • Ongoing assessment to assure that the bed rail is used to meet the resident's needs; • Ongoing evaluation of risks; • The identification of who may determine when the bed rail will be discontinued; and • The identification and interventions to address any residual effects of the bed rail (e.g., generalized weakness, skin breakdown). 			
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PERFORMANCE IMPROVEMENT SUBCOMMITTEE CHAIR SIGNATURE: _____

ATTACHMENT 37



* Note: BM Eagle Holdings LLC is owned 80% by Investment Funds managed on a discretionary basis by BlueMountain Capital Management LLC and 20% by co-investors of BlueMountain Capital Management LLC.

ATTACHMENT 38

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (this "Sublease") is made and entered into as of the 1st day of September, 2017, by and between SMITH RANCH PRIME TENANT, LLC, a Delaware limited liability company ("Sublandlord") and GHC OF SAN RAFAEL, LLC, a California limited liability company ("Subtenant").

RECITALS

A. WHEREAS, Sublandlord, as the successor-in-interest of California Nursing Centers, L.L.C., a Delaware limited liability company (the "Original Tenant"), is a party to that certain Amended and Restated Lease dated as of January 1, 2016 ("Original Lease"), as amended by that certain Consent, Estoppel, Lease and Option Agreement Amendment dated as of August 31, 2017 (the "Ocadian Consent") (the Original Lease, as amended by the Ocadian Consent, is referred to herein as the "Master Lease"), a copy of which is attached hereto as Exhibit "A", by and among between, Original Tenant, as tenant, and Ocadian Care Centers, LLC, a California limited liability company (the "Landlord"), as landlord; and

B. WHEREAS, pursuant to the Master Lease, Sublandlord is leasing that certain skilled nursing facility known as Smith Ranch Care Center and located at 1550 Silveira Parkway, San Rafael, CA 94903 (the "Facility"), legally described on Exhibit "A" attached hereto; and

C. WHEREAS, Life Generations Healthcare LLC, an affiliate of Subtenant ("Life Generations"), and BM Eagle Holdings, LLC ("BMH"), an affiliate of Sublandlord, are parties to that certain Real Estate Purchase Agreement dated as of July 28, 2017 (the "Purchase Agreement"), pursuant to which BMH has agreed, among other things, to enter into this Sublease.

D. WHEREAS, concurrently herewith, that certain Second Amended and Restated Option Agreement dated August 31, 2017 by and between Landlord (and affiliates of Landlord) on the one hand, and California Nursing Centers, L.L.C. (a Kindred affiliate) on the other hand (the "Option Agreement") is being assigned to an affiliate of BMH, pursuant to which such BMH affiliate has the option to acquire the Facility on the terms more specifically set forth therein (the "Smith Ranch Option").

E. WHEREAS, Sublandlord wishes to sublease the Facility to Subtenant, and Subtenant wishes to sublease the Facility from Sublandlord, all on the terms and conditions set forth herein. All capitalized terms that are not defined herein shall have the same meaning as in the Master Lease.

AGREEMENT

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged,

the parties agree as follows effective as of the “Closing” under (and as defined in) the Purchase Agreement (referred to herein as the “Sublease Commencement Date”):

Section 1. General Provisions.

1.01 The term of this Sublease shall commence on the Sublease Commencement Date and shall terminate on the earlier of (i) the expiration of the term under the Master Lease, (ii) in the event of an Option Default (defined below) the earlier of the six-month anniversary of the Option Default Election Date (as defined below) or the date on which Sublandlord signs a lease for the Facility with a replacement tenant.

1.02 This Sublease is, and shall be at all times, subject and subordinate to the Master Lease and to all matters to which the Master Lease is subject and subordinate. Subtenant hereby covenants and agrees to fully comply with and abide by all terms and conditions set forth in the Master Lease as if Subtenant were the tenant under the Master Lease as of the Sublease Commencement Date; provided, however, that in no event shall Subtenant be deemed to have assumed any Excluded Liabilities (as defined below) or liability for any Excluded Master Lease Defaults (as defined below). Except as otherwise provided herein, the parties agree that all the terms, covenants and conditions contained in the Master Lease shall be applicable to this Sublease. Subtenant hereby expressly assumes and agrees to fully comply with and be bound by, for the benefit of Sublandlord, each and every obligation, liability, responsibility and duty of Sublandlord under the Master Lease (including, without limitation, any and all increases in rent and other charges thereunder) respecting the Facility solely to the extent first arising on or after the Sublease Commencement Date, it being agreed and understood that in no event shall Subtenant be deemed to have assumed any obligation, liability, responsibility and/or duty of “Lessee” under the Master Lease related to the period of time prior to the Sublease Commencement Date, all of which the parties acknowledge constitute Excluded Liabilities herein (collectively, the “Excluded Liabilities”). Furthermore, notwithstanding anything to the contrary in this Sublease, and except as otherwise provided in the Ocadian Consent following a “Recognition” (as defined in the Ocadian Consent), any default(s) under the Master Lease respecting Lessee Guarantor and/or any other guarantor’s obligations in connection with the Master Lease shall not be deemed defaults of Subtenant under this Sublease (collectively, “Excluded Master Lease Defaults”). Subtenant acknowledges and agrees that Sublandlord shall have no liability to Subtenant in the event of an Excluded Master Lease Default not caused by Sublandlord or BMH; provided, however, the foregoing shall not limit Sublandlord’s obligations under Section 1.11, including, without limitation, the return of the Initial Earnest Money to Subtenant. Without limiting the generality of the foregoing, Subtenant shall maintain for the benefit of Landlord, Sublandlord, and Subtenant the types of insurance with the minimum coverage amounts required under the Master Lease, including, but not limited to, Article XIII of the Master Lease. All such insurance policies so maintained shall be in accordance with the requirements of Article XIII in the Master Lease and shall name (x) Landlord, (y) any other parties designated by Landlord from time to time pursuant to Article XIII of the Master Lease to be an additional insured and/or loss payee (as

applicable) to the extent provided in the Master Lease, and (z) Sublandlord as additional insured and/or loss payee (as applicable) to the extent provided in the Master Lease.

Subtenant acknowledges that, in accordance with the requirements of the Master Lease, the Facility shall not be enrolled in the Medi-Cal program without Landlord's and Sublandlord's prior written consent which Landlord and Sublandlord may withhold in their respective sole and absolute discretion.

1.03 The parties further agree that, except as otherwise provided herein, the Subtenant shall have each and every of the rights and privileges of the Sublandlord under the Master Lease. For the purposes of this Sublease, wherever in the Master Lease the word "Landlord" or "Lessor" is used it shall be deemed to mean the Sublandlord herein and wherever in the Master Lease the term "Tenant" or "Lessee" is used it shall be deemed to mean the Subtenant herein, and whenever in the Master Lease the word "Commencement Date" is used it shall be deemed to mean the "Sublease Commencement Date" and "Effective Time" shall be deemed to mean 12:01 am on the Sublease Commencement Date. Subtenant's indemnification obligations under the Sublease (as incorporated from the Master Lease), shall include Damages (as defined in the Master Lease) from the failure of Sublessee to perform any of the covenants, agreements, terms, provisions, or conditions contained in the Master Lease that Sublessee is obligated to perform under the provisions of this Sublease insofar as it relates to the period from and after the Sublease Commencement Date (except to the extent any such obligation is the result of the gross negligence or willful malfeasance of Sublandlord, Sublandlord's breach of this Sublease and/or constitutes an Excluded Liability and/or Excluded Master Lease Default provided such Excluded Master Lease Default occurs prior to Recognition, as that term is defined in the Ocadian Consent). The rights and obligations of Sublandlord and Subtenant to each other under this Sublease shall be the rights and obligations of the Landlord and Sublandlord to each other under the Master Lease, which is incorporated herein by reference, except for those provisions in the Master Lease which are directly contradicted by this Sublease (in which event the terms of this Lease Sublease shall control over the Master Lease).

1.04 Intentionally Omitted.

1.05 This Sublease is not an assignment of the Master Lease by Sublandlord to Subtenant, and Subtenant does not assume and shall not be liable to any person or entity for obligations arising under the Master Lease with respect to the period prior to the Sublease Commencement Date.

1.06 Sublandlord hereby authorizes Subtenant to deal directly with the Landlord with respect to any and all matters arising under the Master Lease; provided that Subtenant shall keep Sublandlord apprised, in a timely fashion, of all such dealings.

1.07 Reserved.

1.08 During the Term, Subtenant shall pay to Sublandlord a fixed annual rent equal to \$2,428,000.00 (the "Sublease Base Rent"). Subtenant shall

also be responsible for paying any and all other Rent first due under the Master Lease after the Sublease Commencement Date (other than Base Rent), except to the extent such other Rent pertains to any Excluded Liabilities, and/or any Excluded Master Lease Default(s). At the times provided for Rent increases under the Master Lease, the Sublease Base Rent shall concurrently be increased in the same amounts. At all times the Sublease Base Rent shall equal the Base Rent due under the Master Lease (except as otherwise set forth in this Sublease). The Sublease Base Rent shall be paid directly by Subtenant to Landlord at the times and in the manner Base Rent for the Facility is due and payable by Sublandlord to Landlord under the Master Lease and Subtenant shall concurrently provide to Sublandlord evidence of timely payment of same.

1.09 The obligations and liabilities of Subtenant under this Sublease shall be guaranteed by Life Generations Healthcare LLC, a California limited liability company ("Guarantor"), pursuant to the terms and provisions of a guaranty, substantially in the form of guaranty executed pursuant to the Master Sublease entered into concurrently herewith between 1359 Pine Street SF, LLC, a Delaware limited liability company, 1575 Seventh Avenue SF, a Delaware limited liability company, and 1224 Rossmoor Parkway WV, LLC, a Delaware limited liability company, as Landlord, and GHC Of North Master, LLC, a California limited liability company, as Tenant (the "Guaranty"). On or before the Sublease Commencement Date, Subtenant shall cause Guarantor to execute and deliver a fully executed Guaranty to Sublandlord. Subtenant agrees that the Guaranty shall also run to and for the benefit of Landlord.

1.10 At the direction of Life Generations in accordance with the Purchase Agreement, Sublandlord and/or BMH shall cause the Smith Ranch Option to be exercised in accordance with the terms of the Option Agreement. An uncured default by Sublandlord and/or BMH under the Option Agreement and/or under the Purchase Agreement (to the extent pertaining to obligations with respect to the Smith Ranch Option) shall be a default by Sublandlord under this Sublease. Similarly, as between Subtenant and Sublandlord only, an uncured default by Subtenant and/or Life Generations under the Purchase Agreement to the extent pertaining to obligations with respect to the Smith Ranch Option, shall be a default by Subtenant under this Sublease. The foregoing is not, however, intended to cross default the Option Agreement and the Master Lease. Sublandlord retains the right to exercise the Smith Ranch Option for the benefit of Sublandlord or BMH should Life Generations fail to timely direct Sublandlord and/or BMH to exercise same. This Section 1.10 is subject to the terms of the Ocadian Consent following a Recognition under the Ocadian Consent.

1.11 Sublandlord acknowledges that Subtenant desired to purchase the Facility at the Closing under the Purchase Agreement, but that the parties were unable to effectuate such sale because of timing delays associated with Landlord's contemplated 1031 exchange, and that Subtenant is therefore entering into this Sublease in reliance on Sublandlord maintaining the Master Lease and the Option Agreement in full force and effect pending the conveyance of the Facility to Subtenant pursuant to the Option Agreement, and that Subtenant would not have entered into this Sublease but for Subtenant's right to acquire the Facility pursuant to the Option Agreement. Accordingly, Sublandlord, based solely on the representations and warranties of Kindred Healthcare

Operating, Inc (“Kindred”) set forth in that certain Asset Purchase Agreement between Kindred and BMH dated as of June 30, 2017, and that certain Consent, Estoppel, Lease and Option Agreement Amendment dated as of July __, 2017 executed by, among others, Smith Ranch Land Company, Inc., a California corporation and Ocadian Care Centers, LLC, a California limited liability company, (i) represents and warrants to Subtenant that the Master Lease and Option Agreement are in full force and effect, and Sublandlord is not aware of any default under the Master Lease or Option Agreement by any party thereto, (ii) shall not terminate the Master Lease or Option Agreement voluntarily (including as a result of casualty damage), or modify the Master Lease or Option Agreement, without Subtenant’s prior written consent, (iii) will use its commercially reasonable efforts to obtain any consent or performance on behalf of the Subtenant required of the Master Landlord under the Master Lease, (iv) will refrain from any act or omission that would materially and adversely affect Subtenant’s rights under this Sublease and/or with respect to the Option Agreement, or would result in the failure or breach of any or the covenants, provisions, or conditions of the Master Lease and/or the Option Agreement, and (v) subject to the last sentence of Section 1.10 above, will timely exercise the Option if and when directed by Subtenant. Without limiting the foregoing, if for any reason other than a default of Subtenant under this Sublease (or under the Purchase Agreement as it pertains to the Smith Ranch Option), fee title to the Facility is not conveyed to Subtenant or its designee in accordance with the Option Agreement (an “Option Default”), then, at the election of Subtenant to be exercised in writing within ninety (90) days of the date on which title to the Facility was to be conveyed in accordance with the Option Agreement (such exercise date referred to herein as the “Option Default Election Date”): (a) Sublandlord shall cause BMH to promptly reimburse Life Generations for the \$4,700,000 Initial Earnest Money paid pursuant to the Purchase Agreement, (b) the Sublease shall terminate early as more specifically set forth in Section 1.01 above, and (c) notwithstanding anything to the contrary in Section 1.08 or elsewhere in this Sublease, for so long as Subtenant continues to operate the Facility, the total Rent payable under this Sublease shall be reduced by fifty percent (50%). Notwithstanding anything in this Sublease to the contrary, in the event of a discrepancy between the terms of this Sublease and the terms of the Purchase Agreement, the terms of the Purchase Agreement shall be controlling. This Section 1.11 is not applicable following a Recognition under the Ocadian Consent, except as otherwise set forth in the Ocadian Consent, but without limiting Life Generations’ rights under the Purchase Agreement as between Life Generations and BMH.

Section 2 Miscellaneous.

2.01 In the event that any party to this Sublease brings suit to enforce any provision of this Sublease or is required to defend any action, the defense to which is any provision of this Sublease, the unsuccessful party agrees to pay to the prevailing party its actual third party costs and reasonable attorneys’ fees.

2.02 This Sublease is made and entered into in the State of California, and shall in all respects be interpreted, enforced, and governed by and under the laws of that State.

2.03 This Sublease together with the Master Lease and the Purchase Agreement contain the entire agreement and understanding between the parties concerning the subject matter hereof, and supersedes and replaces all prior negotiations, proposed agreements, and agreements, whether written, oral or implied. Each of the parties hereto acknowledges that no other party, nor any agent or attorney of any other party, has made any promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the subject matter hereof, to induce it to execute this Sublease in reliance upon any such promise, representation, or warranty not contained herein.

2.04 All notices to be given by any party to this Sublease to the other parties hereto or thereto shall be in writing, and shall be (a) given in person, (b) deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, or (c) sent by national overnight courier service with confirmed receipt, each addressed as follows:

If to Sublandlord: Smith Ranch Prime Tenant, LLC
c/o BME Holdco, LLC
45 Broadway, Suite 2640
New York, NY 10006
Attention: Elliott Mandelbaum
Fax: 212-269-1521

If to Subtenant: 6 Hutton Centre Drive, Suite 400
Santa Ana, CA 92707
Attention: Thomas Olds, Jr.
Fax: 714-434-3995

2.05 Whenever in this document the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular to refer to and include the plural.

2.06 This Sublease may not be modified except by a writing signed by all parties hereto, and consented thereto by Landlord pursuant to Section 6(h) of the Ocadian Consent, which consent shall not be unreasonably withheld, conditioned or delayed.

2.07 Each of the parties hereto agrees to undertake its best efforts, including all steps and efforts contemplated by this Sublease, and any other steps and efforts which may become necessary by order or otherwise, to effectuate this Sublease, including, without limitation, the preparation and execution of any documents reasonably necessary to do so.

2.08 The parties may execute this Sublease in two or more counterparts which shall, in the aggregate, be signed by all of the parties; each counterpart shall be deemed an original instrument as against any party who has signed it.

2.09 If any provision of this Sublease or the application thereof to any person or circumstance shall to any extent be finally determined by the applicable fact finder to be invalid or unenforceable, the remainder of this Sublease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Sublease shall be valid and enforceable to the fullest extent permitted by law.

[SEE ATTACHED SIGNATURE PAGE]

**SUBLEASE AGREEMENT
SIGNATURE PAGES**

IN WITNESS WHEREOF, the Parties have executed or caused the execution of this Sublease by their respective officers duly authorized as of the day and year first above written.

SUBLANDLORD:

SMITH RANCH PRIME TENANT, LLC,
a Delaware limited liability company

By: BME Holdco Manager LLC, its Manager

By: Elliott
Name: Elliott Mandelbaum
Title: Authorized Signer

SUBTENANT:

GHC OF SAN RAFAEL, LLC,
a California limited liability company

By: Life Generations Healthcare LLC,
a California limited liability company
Its: Manager

By: _____
Name: Thomas Olds, Jr.
Its: President and Manager

By: _____
Name: Lois Mastrocola
Its: Chief Financial Officer

**SUBLEASE AGREEMENT
SIGNATURE PAGES**

IN WITNESS WHEREOF, the Parties have executed or caused the execution of this Sublease by their respective officers duly authorized as of the day and year first above written.

SUBLANDLORD:

SMITH RANCH PRIME TENANT, LLC,
a Delaware limited liability company


By: BME Holdco Manager LLC, its Manager

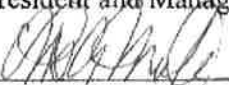
By: _____
Name: Elliott Mandelbaum
Title: Authorized Signer

SUBTENANT:

GHC OF SAN RAFAEL, LLC,
a California limited liability company

By: Life Generations Healthcare LLC,
a California limited liability company
Its: Manager

By: 
Name: Thomas Olds, Jr.
Its: President and Manager

By: 
Name: Lois Mastrocola
Its: Chief Financial Officer

ATTACHMENT 39

<p>Percentage of short-stay residents who improved in their ability to move around on their own (Higher Better)</p>	<p>-6.2</p>	<p>1) Facility has implemented a comprehensive oversight in the admission assessments and documentation to capture an accurate picture of admission function. 2) The Physical and Occupational therapists proactively meet weekly with the IDT team to capture earlier detection of any signs of decline in function. 3) The weekly IDT risk meeting reviews alternative plans /interventions to improve function. 4) Review of results of this QM is done monthly at QAPI committee to determine if plan is improving outcomes.</p>
<p>Percentage of short-stay residents who report moderate to severe pain. (Lower Better)</p>	<p>-6.4</p>	<p>Facility will establish an initiative with the Interdisciplinary team including the Physicians and Nurse practitioners for pain management on an ongoing basis including the following: 1) Establish a pain scoring system that reflects the patient's actual experiences. 2) As pain ratings are subjective and each person's reliability in rating pain, the Facility plans to use alternative pain scales recommended by the QIO to help reflect the actual patient effects. 3) Quantifying the timing of routine pain med compared to PRN med is given may shed some light on the process of collecting pain ratings and its improvement. 4) QAPI will include utilizing the pain scale provided by the QIO which has more definitions of what each level of pain represents to help quantify and treat appropriately. 5) Educate staff, patients and families on new pain scale to assist in achieving this goal. 6) Review the results of the monthly QMs with the QAPI committee to determine if the above pain management plan is improving the quality management of overall pain.</p>
<p>Percentage of short-stay residents with pressure ulcers that are new or worsened. (Lower Better)</p>	<p>-0.04</p>	<p>1) One patient has had a worsening in his/her wound and the facility continue to work toward zero declines in condition 2) The wound care nurse and the medical team work hand in hand on treatment protocols approved by the wound care association 3) The social service team and psych services work to encourage patients who make choices that may not be in the best of their overall health maintenance (wound care included). 4) The results of wound management is being reviewed monthly by the QAPI committee to ensure positive outcomes are obtained.</p>
<p>Percentage of short-stay residents who newly got an antipsychotic medication. Percentage of short-stay residents who got an antipsychotic medication for the first time during this nursing home admission. (Lower Better)</p>	<p>-2.1</p>	<p>1) 2018 plan was already started on November 28, 2017 with the new final rule phase 2 use of PRN psychotropics has also encouraged Facility to go to the next step of overall psychotropic utilization. 2) The Facility has discontinued antipsychotic medications in last 30 days which have not been being utilized consistently. The committee will continue to review at the weekly risk meeting with Physician/NP oversight to ensure appropriate use, target behaviors are identified and discuss alternative interventions where appropriate 3) The plan is to utilize psychotropic medications as last option and more implementation of non-pharmacological approaches specific to each individual patient needs as mentioned in above behavior affecting other QM. 4) The Facility will educate current staff, new hires, patients and families on above plan to achieve this goal. 5) Review the results of the monthly QMs with the QAPI committee to determine if the above plan is improving the quality management of short and long stay residents utilizing antipsychotics.</p>
<p>Long Stay</p>		

<p>Percentage of long-stay residents who report moderate to severe pain. (Lower Better)</p>	<p>-8.6</p>	<p>Facility will establish an initiative with the interdisciplinary team including the Physicians and Nurse practitioners for pain management on an ongoing basis including the following:</p> <ol style="list-style-type: none"> 1) Establish a pain scoring system that reflects the patient's actual experiences. 2) As pain ratings are subjective and each person's reliability in rating pain, the Facility plans to use alternative pain scales recommended by the QIO to help reflect the actual patient effects. 3) Quantifying the timing of routine pain med compared to PRN med is given may shed some light on the process of collecting pain ratings and its improvement. 4) QAPI will include utilizing the pain scale provided by the QIO which has more definitions of what each level of pain represents to help quantify and treat appropriately. 5) Educate staff, patients and families on new pain scale to assist in achieving this goal. 6) Review the results of the monthly QMs with the QAPI committee to determine if the above pain management plan is improving the quality management of overall pain.
<p>Percentage of long-stay low-risk residents who lose control of their bowels or bladder. (Lower Better)</p>	<p>-5.3</p>	<ol style="list-style-type: none"> 1) The Facility will continue to work on LNA documentation to properly capture the correct bowel and bladder status. Accurate and complete documentation greatly contributes to MDS capturing significant declines. 2) The SDC /designee will re-educate and oversee the q shift documentation to avoid errors in documentation and missed opportunities to improve outcomes. 3) The results of this oversight will be reviewed monthly at QAPI to determine outcome of plan.
<p>Percentage of long-stay residents who were physically restrained. (Lower Better)</p>	<p>-0.4</p>	<ol style="list-style-type: none"> 1) One resident at the Facility in the last six months has had a restraint. The Facility's goal is to have no restraints but unfortunately this resident has failed multiple alternative interventions. 2) This resident is being assessed daily for changes in condition that that may allow the facility to discontinue this intervention. 3) The DNS/designee will ensure staff are aware of goal to be restraint free and for no resident to have a restraint implemented without an IDT team comprehensive evaluation. 4) The results of the restraint free goal will be reviewed monthly at QAPI.
<p>Percentage of long-stay residents whose ability to move independently worsened. (Lower Better)</p>	<p>-5.6</p>	<ol style="list-style-type: none"> 1) Facility will continue to review with the IDT team, on a weekly basis, at its risk meetings any patient who has had a decline in any ADLs or decline in independent mobility to create a plan to help improve status. 2) Once the plan is established the team communicates the plan to the LNAs/care givers to ensure a comprehensive approach to improving ADL/mobility outcomes. If end of life goal would be care & comfort. (Often seen with Alzheimer's/ terminal patients) 3) The QM is also reviewed monthly by the committee to determine if current plan is impacting outcome ADLs or independent mobility.
<p>Percentage of long-stay residents whose need for help with daily activities has increased. (Lower Better)</p>	<p>-6.6</p>	<ol style="list-style-type: none"> 1) Facility will continue to review with the IDT team, on a weekly basis, at its risk meetings any patient who has had a decline in any ADLs or decline in independent mobility to create a plan to help improve status. 2) Once the plan is established the team communicates the plan to the LNAs/care givers to ensure a comprehensive approach to improving ADL/mobility outcomes. If end of life goal would be care & comfort. (Often seen with Alzheimer's/ terminal patients) 3) The QM is also reviewed monthly by the committee to determine if current plan is impacting outcome ADLs or independent mobility.
<p>Percentage of long-stay residents who lose too much weight. (Lower Better)</p>	<p>-1.3</p>	<ol style="list-style-type: none"> 1) Facility will have a weekly risk weight meeting with dietician and IDT team to identify any resident who is at risk before weight loss occurs and implement supplements or other resident specific interventions. 2) New Food service chef to work closely with dietician on more comprehensive finger food options for Alzheimer residents or other residents who have difficulties sitting to eat either related to cognitive status or movement disorders. 3) The plans for each resident identified at these risk meetings will be shared with staff/ patients and families to assist in achieving this goal. 4) Facility will review the results of the monthly QMs with the QAPI committee to determine if the plan is improving the quality management of weight loss.

<p>Percentage of long-stay residents who got an antianxiety or hypnotic medication. (Lower Better)</p>	<p>-8.4</p>	<p>1) Facility has implemented the new final rule phase 2 use of PRN psychotropics has also encouraged Facility to go to the next step of overall psychotropic utilization..</p> <p>2) The Facility has already discontinued several Anxiolytic & Hypnotic medications in last 30 days which have not been being utilized consistently after review at the weekly risk meeting with Physician/NP oversight. The committee will continue to review weekly for appropriate use, identify target behaviors and discuss alternatives including non-pharmacological interventions</p> <p>3) The plan is to utilize psychotropic medications as a last option and more implementation of non- pharmacological approaches specific to each individual resident needs as mentioned in above behavior affecting other QM.</p> <p>4) The Facility will continue to educate current staff, new hires, patients and families on above plan to achieve this goal.</p> <p>5) Review the results of the monthly QMs with the QAPI committee to determine if the above plan is improving the quality management of anxiolytic and hypnotic use.</p>
<p>Percentage of long-stay residents who got an antipsychotic medication. (Lower Better)</p>	<p>-21.1</p>	<p>1) Facility has implemented the new final rule phase 2 use of PRN psychotropics has also encouraged Facility to go to the next step of overall psychotropic utilization.</p> <p>2) The Facility has discontinued antipsychotic medications in last 30 days which have not been being utilized consistently. The committee will continue to review at the weekly risk meeting with Physician/NP oversight to ensure appropriate use, target behaviors are identified and discuss alternative interventions where appropriate</p> <p>3) The plan is to utilize psychotropic medications as last option and more implementation of non-pharmacological approaches specific to each individual patient needs as mentioned in above behavior affecting other QM.</p> <p>4) The Facility will continue to educate current staff, new hires, patients and families on above plan to achieve this goal.</p> <p>5) Review the results of the monthly QMs with the QAPI committee to determine if the above plan is improving the quality management of short and long stay residents utilizing antipsychotics.</p>