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**DELIVERED ELECTRONICALLY**

July 26, 2022

Mr. Thomas Lee, President  
Feel Like Oh Yeah, LLC  
d/b/a QC Kinetix-Burlington  
29 Stevensville Road  
Underhill, VT 05489

Dear Mr. Lee:

Thank you for your letter dated July 7, 2022, requesting the Board's reasoning in its June 23, 2021, Jurisdictional Determination for not qualifying Feel Like Oh Yeah, LLC d/b/a QC Kinetix-Burlington's health care project for the healing arts practitioner's office exclusion under 18 V.S.A. § 9435(a) and GMCB Rule 4.000 § 4.205 in response to your Request for a Jurisdictional Determination (Request), dated June 16, 2021.

In your 2021 Request, you provided a description of the planned locations, the services to be offered, the type of personnel who would provide those services, the staffing plan, and the demand for non-surgical and non-pharmaceutical pain management. You provided the operating costs for the first three years of operation. You explained that insurance does not cover the services and that advertising costs represent a significant portion of the annual operating expenses.

While the Request focused on the statutory language regarding the nature and qualifications of "practitioners of the healing arts" (i.e., nurses) on staff, it did not provide enough information to fully assess the factors listed in GMCB Rule 4.000, § 4.205:

**4.205 Exclusions from the Certificate of Need Process**

1. Consistent with the provisions of 18 V.S.A. § 9435, to determine whether offices of physicians, dentists, or other practitioners of healing arts are excluded from Certificate of Need review, the Board shall consider, at minimum:

- (a) billing procedures to be used;
- (b) structure of ownership;
- (c) training and specialties of the staff;
- (d) procedures to be performed;
- (e) patient referral patterns and relation to other health care institutions;
- (f) type of diagnostic and other equipment to be purchased;



- (g) representations of the facility to the public, and
- (h) the frequency with which other Vermont practitioners offer the same services.

2. Simple ownership of a facility by a practitioner or a group of practitioners of the healing arts does not, in and of itself, exempt such facility from the definition of new health care project.

During our phone conversation on July 6, 2022, you stated that you have hired staff and are now operating one day per week. Your July 7, 2022 letter also reflects that the current clinic for Feel Like Oh Yeah, LLC d/b/a QC Kinetix-Burlington in Colchester is currently maintaining an annual budget under \$500,000, but is growing, and that you would like an opportunity to revisit the Board's 2021 Jurisdictional Determination.

To facilitate that request, please submit a letter describing the business you are operating. Please restate, as appropriate, the background information provided in your June 16, 2021, and August 20, 2021 letters, explaining the procedure(s) and treatment(s) provided and the conditions appropriate for such procedures and treatments. In addition, please provide information about the franchise arrangement. Also provide a table listing the services provided; the level of provider providing each service and provider qualification; the FTE levels for each provider, including the number of days and hours per week each is on site; and whether the services you list are provided on or off site from the Colchester business location. Also, please address in detail GMCB Rule 4.000, § 4.205 (a)-(h) so that we may determine whether the project, as described, qualifies under the exclusion for offices of physicians, dentists or other practitioners of the healing arts.

Send your response attached to an email to me at [donna.jerry@vermont.gov](mailto:donna.jerry@vermont.gov) If you have any questions, please do not hesitate to contact me at 802-760-8162.

Sincerely,

*s/ Donna Jerry*  
Senior Health Policy Analyst  
Green Mountain Care Board

cc. Laura Beliveau, Staff Attorney

