

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: Request of Franklin County Rehab)	
Center, LLC for a COVID Waiver)	GMCB-007-23con
To Construct an Addition to)	
Franklin County Rehab Center)	
To Accommodate Thirty Skilled Nursing Beds)	
<hr/>		

Order Granting COVID Waiver

Introduction

On May 18, 2023, Coleen Condon, owner of The Villa Rehab Center, LLC (The Villa) and Franklin County Rehab Center, LLC (FCRC) submitted a letter requesting a COVID Waiver pursuant to Act 4 (2023) for new construction at FCRC to accommodate the transfer of 30 skilled nursing beds from The Villa to FCRC. On June 16, 2023, September 27, 2023, and February 16, 2024, Ms. Condon responded to Green Mountain Care Board (GMCB) questions regarding the proposed project. Based on the representations contained in those documents, we determine that the project is appropriate for a COVID Waiver pursuant to Act No. 4 (2023) and allow the project to be implemented without certificate of need (CON) review under 18 V.S.A. § 9435(a).

Background

According to the request, Ms. Condon owns and operates both FCRC, a 64-bed skilled nursing facility, and The Villa, a 30-bed skilled nursing facility, which are located approximately a mile from each other in St. Albans. FCRC, built in 2004, is one of the state's newer facilities and has 64 skilled nursing beds. In contrast, The Villa is in a former mansion built in 1865. The Villa has only one single occupancy room; the remaining double occupancy rooms are small and located on two floors. Administrative offices occupy the third floor. In 2022, The Villa was required to undertake a Fire Safety Evaluation System Analysis in response to a federal Life Safety Survey from the Centers for Medicare and Medicaid (CMS) and did not receive a passing score. To achieve a passing score, The Villa would have to spend over \$400,000 on renovations and discontinue use of the third floor for the administration offices. Given the layout of the building, however, no other space is suitable to house administrative offices on the premises. As such, it is no longer safe and feasible for The Villa to continue operations in its current space.

In the meantime, COVID-19 created a severe workforce shortage which resulted in The Villa having to hire expensive travel agency staff. Due to the size and layout of the rooms, providing infection control for the vulnerable resident population was extremely challenging. With 30 beds, and only one single occupancy room, The Villa has struggled financially and has requested and received Extraordinary Financial Relief from the Vermont Division of Rate Setting of \$1,189,132 per year for 2022 and 2023. The Villa has also struggled to recruit and retain physician services. Despite its recent financial and operational challenges, The Villa's licensed skilled nursing beds are needed to meet the demand by area hospitals and residents seeking

rehabilitation and long-term care; the loss of these beds would create a significant hardship for the region.

Preserving The Villa's 30 beds through consolidation on the campus of FCRC will create a 94-bed facility and achieve several efficiencies associated with economies of scale in a newer building will allow for significant operational savings by requiring only one of each: one Nursing Home Administrator, Director of Nursing, Dietary manager, Social Service Manager, Activity Director, Maintenance Director, MDS Registered Nurse and Rehabilitation. To accommodate the beds, FCRC will construct a new wing, configured in single occupancy rooms, which will better meet the current expectations and needs of residents and their families and more successfully control and prevent the spread of disease and infection to the vulnerable population requiring nursing home level care. This consolidation will preserve the same number of skilled nursing-level beds that currently exist while achieving a more efficient use of facility and staffing resources overall. FCRC has consistently maintained a 4-star rating from The Centers for Medicare and Medicaid and an occupancy rate of approximately 94%. Given that the 30 beds to be built will be single occupancy rooms, they will be easily filled.

Ms. Condon represents that the Department of Disabilities, Aging and Independent Living (DAIL) has expressed support for this COVID waiver request. In addition, the Vermont Division of Rate Setting provided a memo dated February 29, 2024, indicating that the assumed daily rate of \$477.94 per Medicaid bed for FCRC for SFY 2026, reflected in the financial documents submitted by Ms. Condon, is reasonable and attainable contingent on future budget constraints imposed by the State. FCRC currently has a HUD 232 loan on the existing building. The construction of the new 18,000 square foot single occupancy 30-bed wing will be financed with a HUD 241 loan, which is used as a second mortgage for renovations and additions. Approximately \$7,166,500 will be borrowed and \$1,000,000 in working capital will be used to finance the proposed addition to the existing FCRC building to house the 30 additional single occupancy beds.

Analysis

Act 4 (2023) extends GMCB's COVID-related regulatory flexibility through March 31, 2024. Relevant to this application, it allows the Board to waive or permit variances from State laws, guidance, and standards for certificates of need, as necessary to prioritize and maximize direct patient care, safeguard the stability of health care providers, and allow for orderly regulatory processes that are responsive to evolving needs related to the pandemic.

Based on the representations contained in the documents submitted, the proposed plan to transfer the Villa's 30 licensed skilled nursing beds and construct a new wing at FCRC to hold these beds achieves each of these goals. The construction of the new wing at FCRC preserves the existing capacity of skilled nursing beds for residents and for hospitals experiencing a high volume of people remaining in hospital beds longer than needed because nursing home beds are not available. Losing these 30 beds would place severe hardship on the region served by this nursing home. The plan also safeguards the capacity and stability of a high-quality and viable facility by achieving more efficient use of the facility and staffing resources overall.

Therefore, the Board grants a COVID Waiver to this proposed project and approves it without requiring CON review under 18 V.S.A. § 9435(a). With this approval, FCRC is required to submit implementation reports every six months as prescribed below:

1. The Applicant shall file implementation reports with the Board beginning six months from the date of this COVID Waiver and at six-month intervals thereafter until all components and phases of the project are complete and fully operational and all invoices have been received and paid. The implementation reports shall include the following:
 - a. An overview of the status of the project, including any changes in financing, and information and analysis demonstrating that the project fully complies with its scope of the project represented in documents submitted to the GMCB in support of the COVID Waiver;
 - b. A summary of the \$1,000,000 in Working Capital used by the project to date;
 - c. A spreadsheet separately listing each individual line-item expenditure and, for each expenditure: 1) the total dollar amount approved by the Board; 2) the dollar amount spent through previous reporting periods; 3) the dollar amount spent during this reporting period; 4) the cumulative dollar amount spent to date; 5) the amount remaining in dollars, and 6) the amount remaining as a percentage.

As FCRC proceeds with developing and implementing this project, if there are any changes in type, scope or cost of the project (including, but not limited to, increases in capital expenses, changes in services/programs offered, the number and/or type of staff, and equipment purchased or leased), FCRC is directed to contact the Board immediately so that we may determine whether any further process is necessary. Failure to do so as required by Green Mountain Care Board Rule 4.301(4) may result in sanctions, as specified in 18 V.S.A. § 9445.

Dated: March 13, 2024, at Montpelier, Vermont.

)	
<u>s/ Owen Foster, Chair</u>)	
)	
<u>s/ Jessica Holmes</u>)	
)	
<u>s/ Robin Lunge</u>)	
)	
<u>s/ David Murman</u>)	
)	
<u>s/ Thom Walsh</u>)	

GREEN MOUNTAIN
CARE BOARD OF
VERMONT

Filed: March 13, 2024

Attest: s/ Jean Stetter, Administrative Services Director
Green Mountain Care Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Board (by email, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (email address: tara.bredice@vermont.gov).