

NEW JERSEY DEPARTMENT OF HEALTH - CERTIFICATE OF NEED

Department Staff Project Summary, Analysis & Recommendations

Transfer of Ownership

Name of Facility: CarePoint Health- Bayonne Medical Center
CN FR # 2022-08299-09;01

Name of Applicant: IJKG Opco, LLC

Total Project Cost: \$0.00

Location: Bayonne

Service Area: Hudson County

Applicant's Project Description:

This application is for the transfer of ownership of CarePoint Health- Bayonne Medical Center (BMC or the Hospital) which involves converting from an entirely for-profit ownership structure to a substantially non-profit ownership structure. A newly created non-profit entity, CarePoint Health Systems, Inc., (the Non-Profit) will be the indirect controlling legal entity of the Hospital upon completion of a series of preliminary transactions. The project involves a donation from two indirect entity owners of BMC to the Non-Profit.

IJKG Opco, LLC, (IJKG Opco, the Operator or the Applicant), a New Jersey Limited Liability Company, is the licensed operator of BMC. The Hospital was acquired by IJKG Opco in 2008 and is a member of CarePoint Health, along with CarePoint Health-Christ Hospital and CarePoint Health- Hoboken University Medical Center, (collectively, the Hospitals).

The preliminary transactions involved the creation of new holding companies which were inserted into the ownership structure between the entities that directly hold Vivek Garipalli's and James Lawler's indirect ownership interests in the Hospital and the Non-Profit, which resulted in no change to Mr. Garipalli or Mr. Lawler's ownership interests in the Hospital. Mr. Garipalli's new Holding Company, Benego CarePoint, LLC was inserted into the ownership structure on April 1, 2022, and 12.38% of Garipalli's ownership interests from Benego Ventures, LLC was donated to the Non-Profit which resulted in less than 10% of the hospital ownership being transferred to the Non-Profit. On May 4, 2022,

Mr. Lawler's new Holding Company, Evergreen Community Assets, LLC was inserted into the ownership structure of the Hospital.

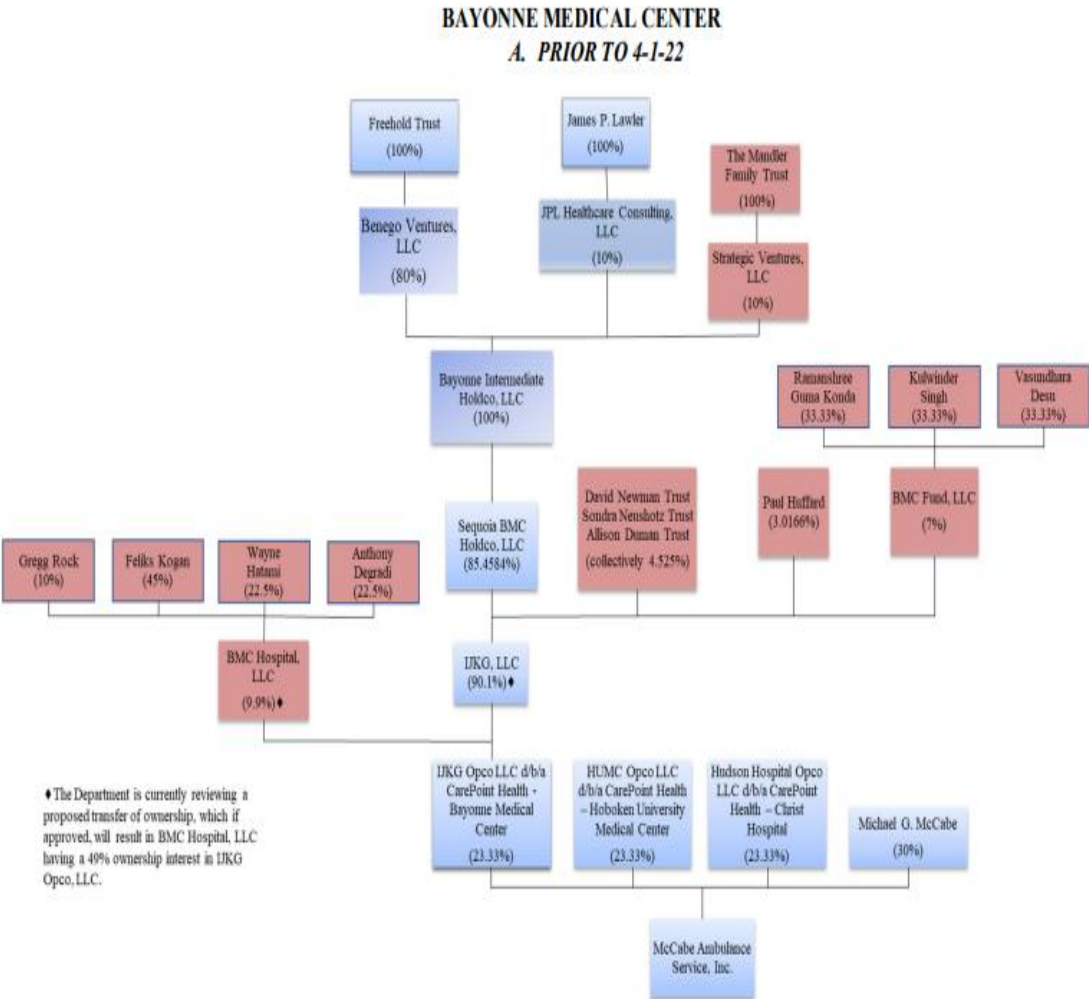
On May 5, 2022, 100% of Mr. Garipalli's remaining indirect ownership interests in BMC held through the new Holding Company, Benego CarePoint, LLC, were contributed to the Non-Profit. Then on September 12, 2022, Mr. Lawler's indirect ownership interests in BMC held through JPL Healthcare Consulting, LLC, contributed its entire interests in the new Holding Company, Evergreen Community Assets, LLC, to the Non-Profit.

As a result of the aforementioned changes, the Non-Profit now holds a controlling interest in BMC. The Non-Profit's Board of Trustees is comprised of William Pelino, the Hospital's current Chief Financial Officer; Dr. Achintya Moulick, the Hospital's current Chief Executive Officer and Ryan Meeuf, former Chief Information Officer of the Hospital.

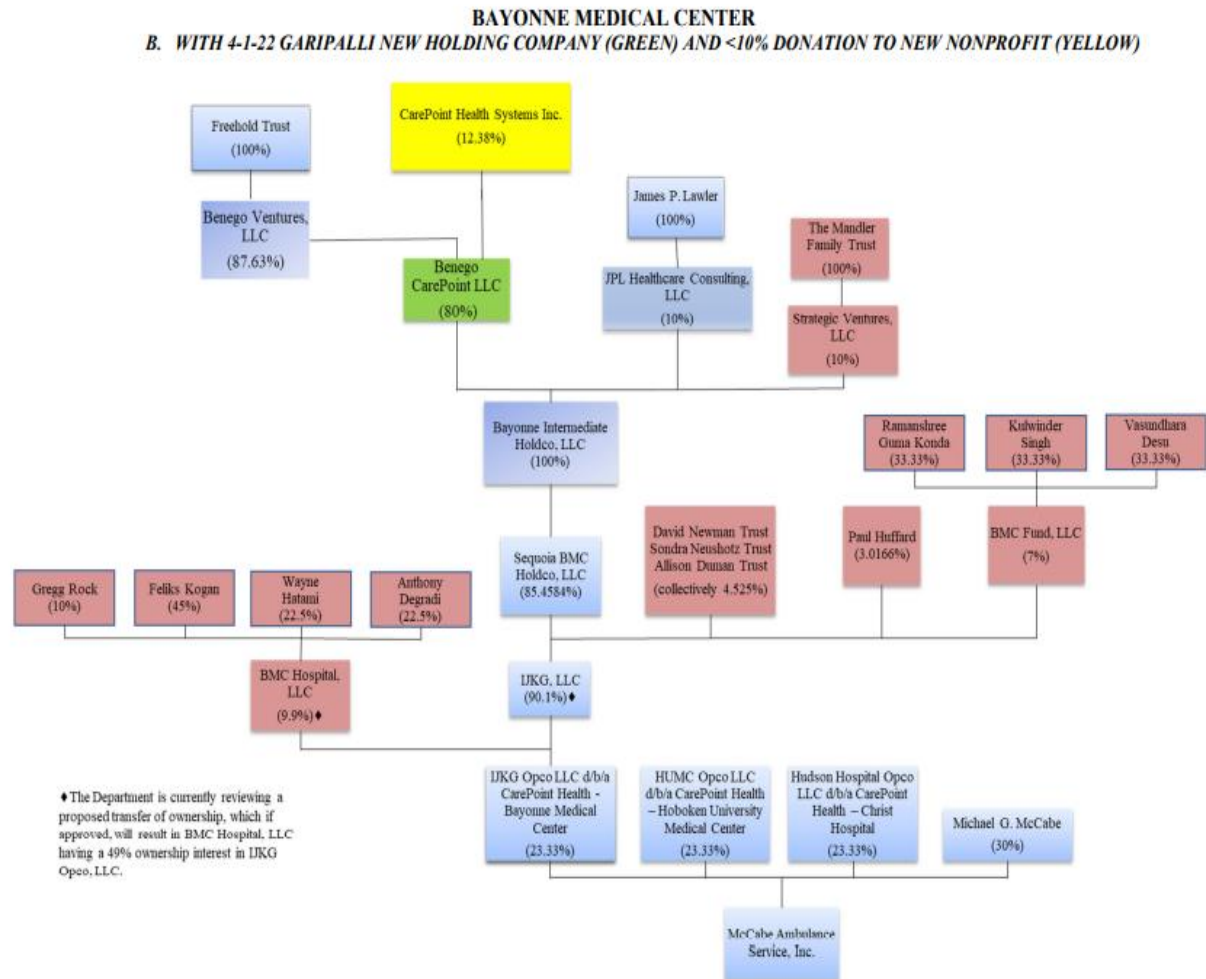
The Department of Health (Department) notes that although the creation and insertion of the Holding Companies into the ownership structure of the Hospital only required advance notice to the Department in accordance with N.J.A.C. 8:33-3.3(h)(6), as they involved a change in the controlling legal entity but not in individuals with ownership interests, the donation of Garipalli's and Lawler's ownership interests into the Non-Profit required Certificate of Need (CN) approval by the Commissioner of Health prior to completing the transactions. A full review certificate of need application was filed to seek Department approval of the donation of Garipalli's and Lawler's interests in BMC. However, the donation of these interests occurred without Department approval therefore, the Department will consider further action under separate review.

The Hospital ownership prior to the preliminary transactions and subsequent to the transactions are detailed below:

The ownership of BMC prior to April 1, 2022, was as follows:

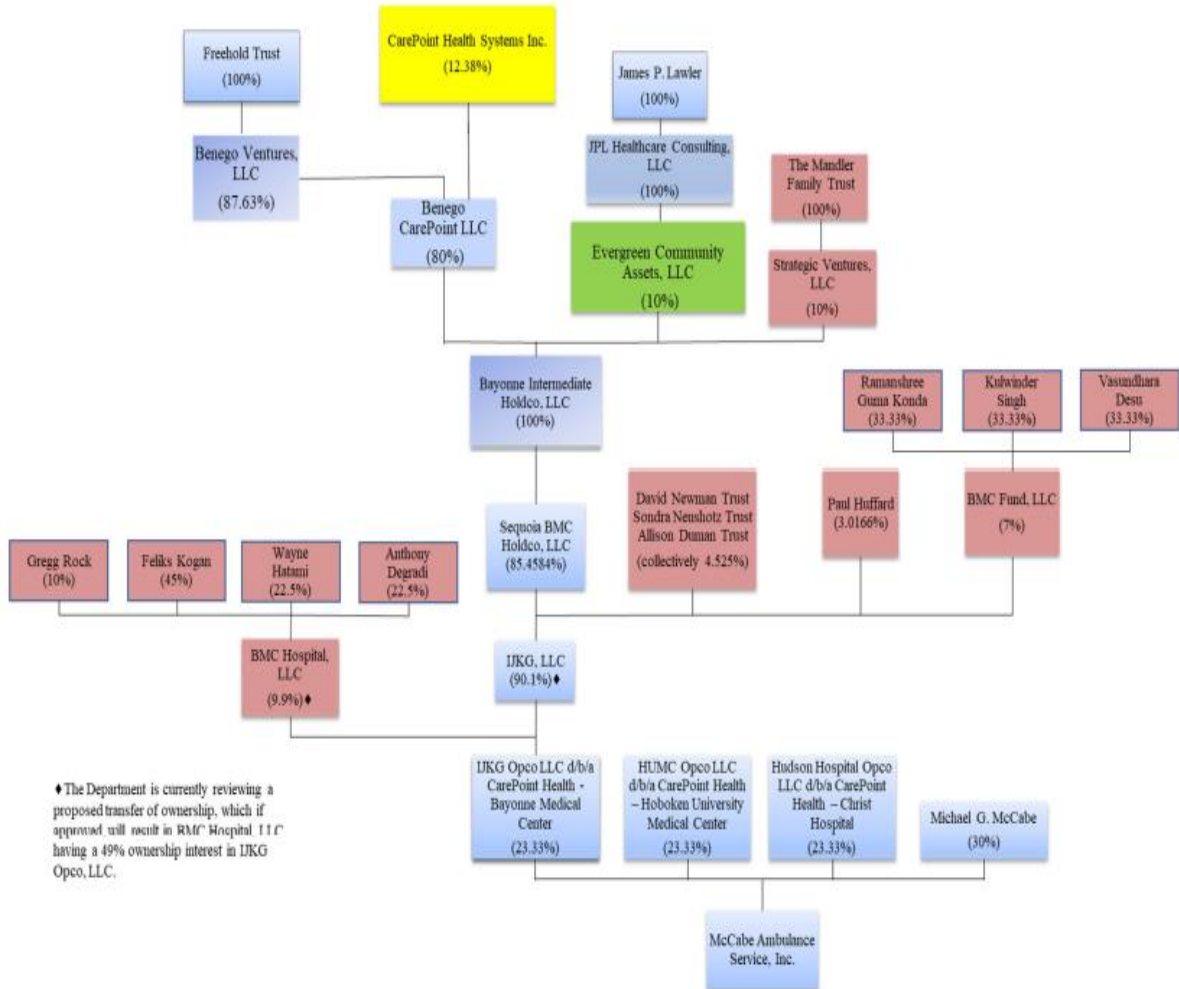


The ownership of BMC as of April 1, 2022, which reflects Garipalli's New Holding Company and less than 10% donation to CarePoint Health Systems, Inc., is as follows:



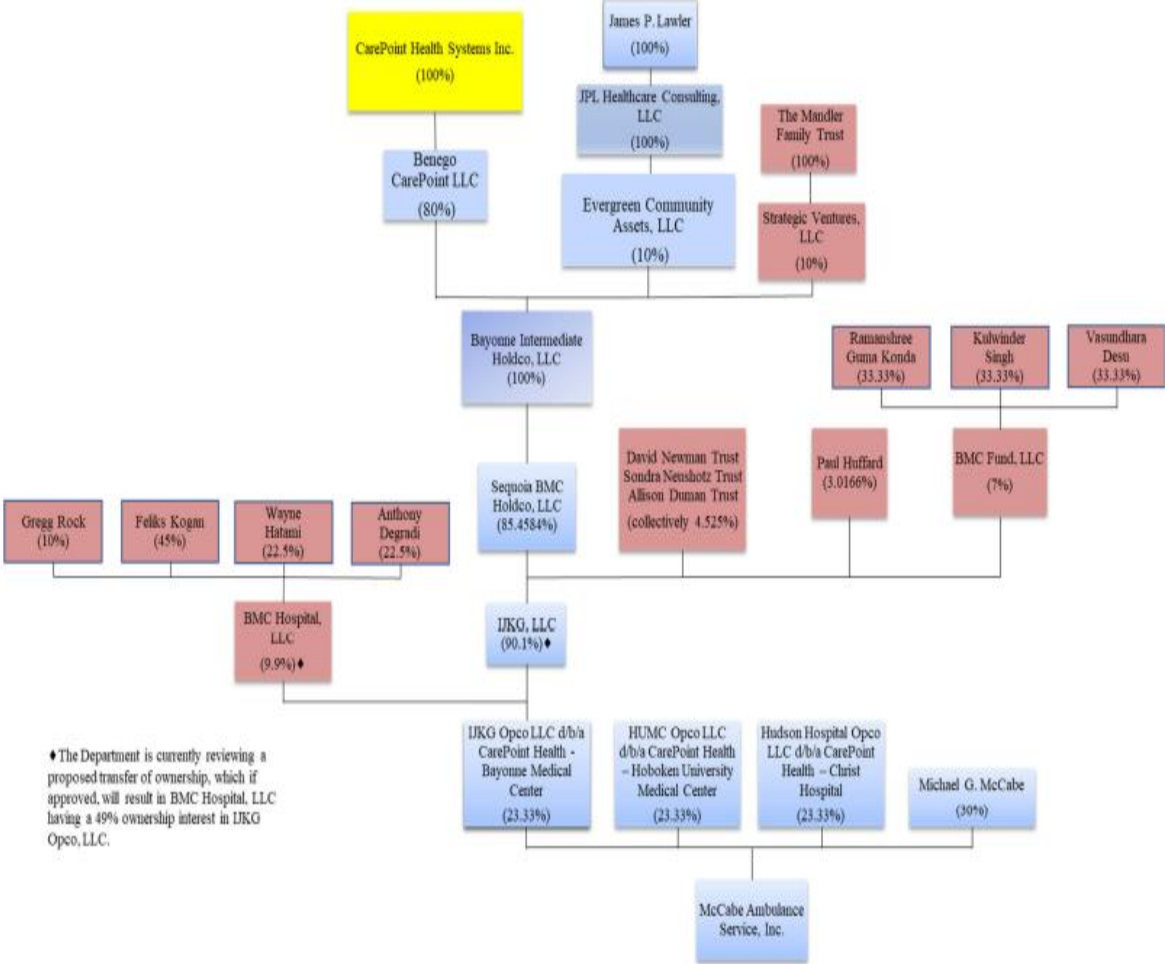
The ownership of BMC as of May 4, 2022, which reflects Lawler’s New Holding Company is as follows:

**BAYONNE MEDICAL CENTER
C. WITH 5-4-22 LAWLER NEW HOLDING COMPANY (GREEN)**

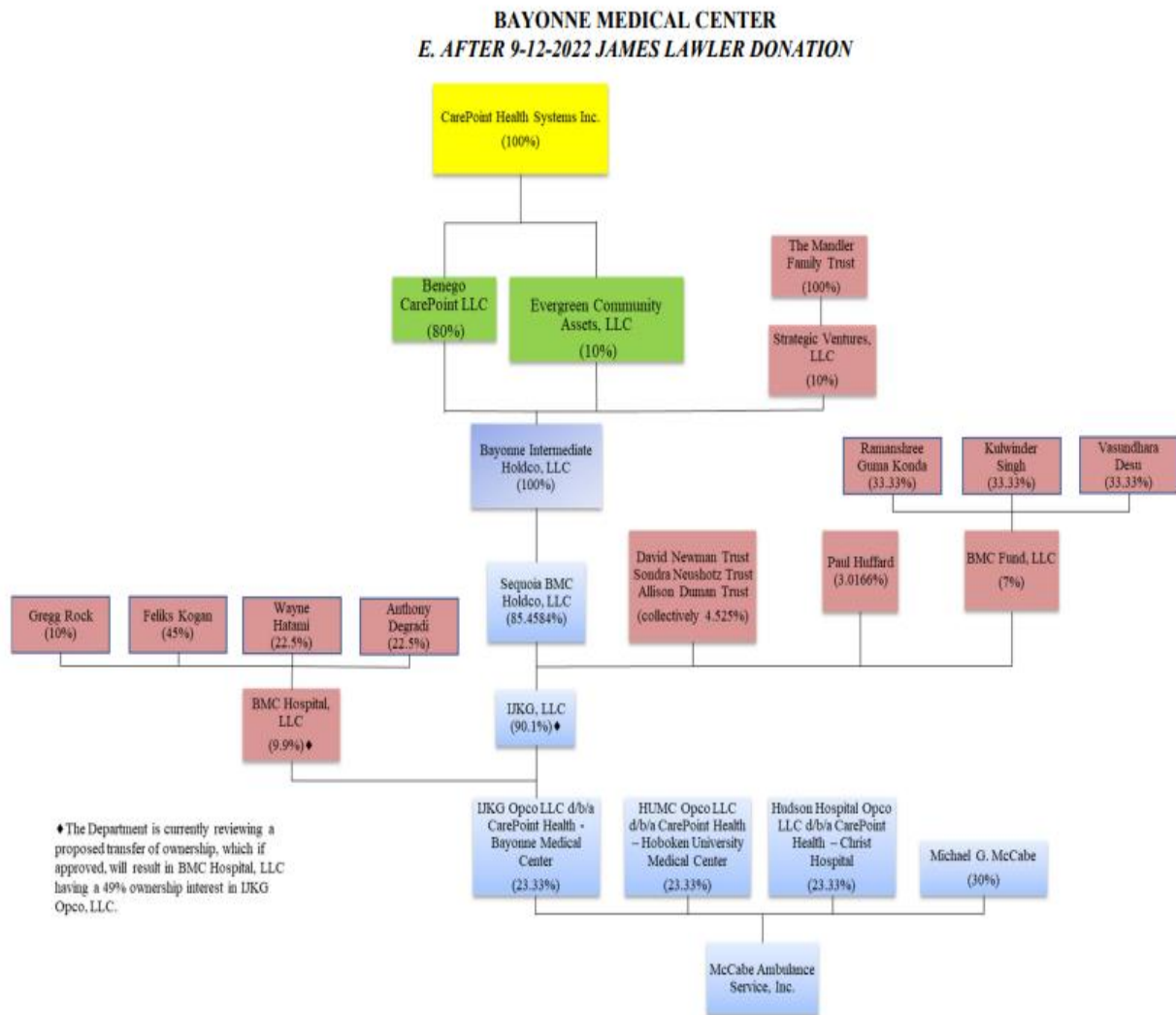


The ownership of BMC as of May 5, 2022, which reflects Garipalli's withdrawal from the Hospital's ownership structure, is as follows:

**BAYONNE MEDICAL CENTER
D. AFTER 5-5-2022 VIVEK GARIPALLI WITHDRAWAL**



The ownership of BMC as of September 12, 2022, which reflects Lawler’s donation to CarePoint Health Systems, Inc., is as follows:



Upon IJKG Opco's acquisition of BMC in 2008, IJKG Opco owned the Hospital operations as well as the real property where the Hospital is located. On February 4, 2011, IJKG Opco entered into a lease agreement for the real property with MPT of Bayonne, LLC (MPT) a Delaware Limited Liability Company. On November 5, 2019, MPT transferred ownership of the real property to WTFK Bayonne Propco, LLC (WTFK), a New Jersey Limited Liability Company. Then on August 10, 2020, 29 E 29th Street Holdings, LLC (new Lessor), purchased the real property from WTFK.

It must be noted that there is ongoing litigation in Delaware Chancery Court over an alleged termination of IJKG Opco's lease with the property owner, Hudson Regional Hospital (HRH). The issues being litigated are complex but suffice it to say that there has been no judicial order entered staying the Department's consideration of this CN application.

BMC is located in Hudson County at 29 East 29th Street in Bayonne, New Jersey, 07002. It is a General Acute Care Hospital, License # 10901, with 244 acute care beds. The Hospital bed types are as follows: 205 Medical/Surgical Beds; 14 Adult ICU/CCU Beds; 15 Adult Acute Psychiatric Beds (Open); and 10 OB/GYN Beds. Other services provided are as follows: 6 Inpatient Operating Rooms; 2 Cystoscopy Rooms; 14 Chronic/Acute Hemodialysis Stations; 2 Cardiac Catheterization Labs; 1 MRI; 2 Hyperbaric Chambers; 2 Computerized Tomography (CT); 1 Linear Accelerator; 1 PET/CT Combined Unit and 1 Cardiac Elective Angioplasty with Off-site Cardiac Surgery Backup. In addition, BMC is also licensed as a Primary Stroke Center and a Community Perinatal Center- Basic.

Also included in this transfer of ownership is the related licensed facility, CarePoint Health- Bayonne Hospital Center Transitional Care Unit (License #406100) providing Hospital Based Subacute Beds located within the Hospital. This unit is temporarily closed due to low volume.

The Applicant has stated: "The indirect ownership change will not result in any operational, management or other changes with respect to the Hospitals, nor diminish the scope of or access to the community services the Hospitals currently offers." IJKG Opco will continue to be responsible for the management of BMC.

Applicant's Justification of Need:

The Applicant stated: The Nonprofit "will be organized and operated exclusively to carry out tax-exempt purposes enumerated under Section 501(c)(3) of the Internal Revenue Code. The specific purposes and objectives of the Nonprofit Holding Company include the following:

1. Providing health care services and operating health care facilities, including general hospitals, specialty hospitals, and other health care facilities;
2. Conducting such charitable, scientific and educational activities that will result in the promotion of health and health care services available to the public in the State of New Jersey; and
3. Conducting medical research and developing procedures for optimizing health system performance by improving the patient experience (including quality and satisfaction), improving the health of populations and reducing the per capita cost of health care.”

The Applicant further stated: The Hospitals “would like to enhance positive developments with the indirect ownership change which will greatly assist in the following endeavors:

1. Community Based Board of Trustees- As the Nonprofit Holding Company formalizes its operations, it will add community members to its Board of Trustees, which will better enable the Hospitals to engage with community leaders and respond to community public health needs.
2. Philanthropy- The Non-Profit will be able to solicit contributions to benefit the CarePoint Hospital communities.
3. Restructuring of Hospital Debt- With a substantially non-profit ownership structure, lenders will likely be more amenable to the restructuring of Hospital debt.
4. Less Income Taxes- The Hospitals currently pay income taxes with respect to for-profit owners. As a result of the indirect ownership change, more of such funds can be redirected back into Hospital operations.
5. More Favorable Contract Terms- Under a substantially non-profit ownership structure, the Hospitals will likely have greater leverage to negotiate a favorable lease, financing and other contract terms.”

Applicant’s Statement of Compliance with Statutory & Regulatory Requirements:

The Applicant states the following to demonstrate its compliance with the statutory criteria contained in the Health Care Facilities Planning Act (HCFPA), as amended, at N.J.S.A. 26:2H-1 et seq. and N.J.A.C. 8:33 -1.1 et seq. as follows:

1. The availability of facilities or services which may serve as alternatives or substitutes:

According to the Applicant:

The Applicant identifies other area hospitals in the region as follows: Jersey City Medical Center; CarePoint Health Christ Hospital; CarePoint Health Hoboken University Medical Center; Palisades Medical Center and Hudson Regional Hospital.

2. The need for special equipment and services in the area:

According to the Applicant:

The Applicant stated that no additional equipment or services will be required as a result of approval of this ownership change.

3. The adequacy of financial resources and sources of present and future revenues:

According to the Applicant:

The Applicant stated that this is not applicable as there are no costs associated with this project.

4. The availability of sufficient workforce labor pool in the several professional disciplines:

According to the Applicant:

The Applicant has stated that this is not applicable as there are no personnel changes associated with this project.

5. Will not have an adverse economic or financial impact on the delivery of health care services in the region or statewide and will contribute to the orderly development of adequate and effective health care services:

According to the Applicant:

IJKG Opco seeks to continue operating this Hospital as a general acute care hospital and continue the level of services currently in place. The application states that the indirect ownership change will likely result in numerous benefits that will improve the Hospitals' ability to serve their communities. The application also states that the transaction is not expected to have an impact on non-CarePoint institutions.

Public Hearing:

A public hearing was held on January 3, 2023, from 7:00 pm to 8:00 pm, at Care-Point Health- Christ Hospital, 176 Palisade Avenue, Staff Rooms A&B, Jersey City, NJ 07306. For those who wished to attend virtually, remote access was provided.

Representatives from the State Health Planning Board and the Department along with approximately 26 individuals were in attendance. There were 18 speakers, comprised of the City Mayor, Councilmen, medical staff, and Bayonne residents who supported the transaction, asserting the need for this transaction to be approved so that the Hospital may continue to serve the people of Bayonne.

On January 10, 2023, the State Health Planning Board received correspondence from Thomas A. Abbate of DeCotiis, Fitzpatrick, Cole & Giblin, LLP, on behalf of HRH, which was forwarded to the Department. HRH is objecting to the application in their capacity as the owner of the real property that Bayonne Medical Center sits and as a concerned Hudson County hospital operator that would be affected by the transactions.

Department Staff Analysis:

Although the transaction was a violation of the HCFPA, Department staff have determined to move forward so as not to interrupt the delivery of health care in the region. In reviewing the application, the Department concluded that the Applicant has adequately documented compliance with the applicable CN rules (N.J.A.C. 8:33-1.1 et seq.) and general statutory standards at N.J.S.A. 26:2H-1 et seq. For the purpose of this review, this application is considered a transfer of ownership of a licensed facility currently offering health care services and not a reduction, elimination, or relocation of health care services.

Department staff reviewed the Applicant's Certificate of Need application and determined that the Applicant's rationale to convert from an entirely for-profit ownership structure to a substantially non-profit ownership structure is based on a realistic assessment of the Hospital's service area and the health care services environment for Hudson County.

BMC has acknowledged that there are other general hospitals providing services in BMC's service area and has committed to the continued operation of this Hospital with no reduction in services, and to continue to serve all area residents including indigent patients, without any disruption in the delivery of health care services.

Department staff notes that there are five hospitals in BMC's service area identified in the following table which reflects drive times and driving miles for each from BMC.

**Table 1
Distance from BMC- 10901
to Area Hospitals**

Hospital Name	Distance from BMC (miles)	Travel Time (minutes)
Jersey City Medical Center	6.1	15
CarePoint Health- Christ Hospital	6.9	15
CarePoint Health- Hoboken University Medical Center	7.6	20
Palisades Medical Center	11.8	30
Hudson Regional Hospital	14.8	23

Source: GoogleMaps

Note: If more than one route suggested, shortest travel time route was chosen.

After carefully reviewing the data, Department staff believe that the transfer of ownership and the maintenance of current services will not result in any negative impact on the community or patients that the Hospital has historically served or other area hospitals. Department staff is satisfied with IJG Opco's representations that, in the future, it will operate BMC in full compliance with all licensing and CN requirements.

This transfer of ownership will not result in a change in the licensed operator of the Hospital and the Operator states that it is committed to operating BMC with no changes to the bed complement, services, staffing, or operations. The transfer of ownership appears to be a feasible option for ensuring that BMC continues to provide quality health care services to the community and maintain its financial viability.

Track Record:

The Department notes that the analysis of the track record of CarePoint Health Systems, Inc., in accordance with factors set forth at N.J.A.C. 8:33-4.10 is not required as CarePoint Health Systems Inc. is a newly formed non-profit entity and has no owners. All officers and board members with respect to this entity are comprised of current and former Hospital owners and or officers.

Adequacy of Financial Resources:

IJKG Opco has represented that there are no costs associated with this transfer of ownership to convert the Hospital from an entirely for-profit ownership structure to a substantially non-profit ownership structure.

Staff Recommendations:

Based on the documentation of proposed compliance with regulatory and statutory criteria, Department staff recommends approving this transfer of ownership to convert the Hospital from an entirely for-profit ownership structure to a substantially non-profit ownership structure for the reasons noted below.

Reasons:

1. Although IJKG Opco has completed the transfer of ownership without Department approval, the Department asserts that not approving the application and requiring the Operator to revert back to its previous ownership structure, may result in further undue financial hardship for BMC and CarePoint Health system as a whole.
2. Staff agrees that the approval of this transfer of ownership may enhance the financial viability of the Hospital and will have a minimal impact on the health care system as a whole.
3. The Applicant assures the Department that there will be no impact on the work status of the current professional and non-professional Hospital employees as a result of this transaction.
4. The application and its attachments shall be incorporated and accepted as commitments and conditions of licensure.
5. The Applicant has stated that IJKG Opco, in accordance with N.J.A.C. 8:43G-5.2(c), will not deny admission to any patients on the basis of an inability to pay or source of payment.
6. This transfer of ownership is expected to result in the continued promotion of the sharing of services and administrative efficiencies among BMC, CarePoint Health-Christ Hospital, and CarePoint Health- Hoboken University Medical Center.

Conditions:

Based on the documentation of compliance with regulatory and statutory criteria, Department staff recommends approving the transfer of ownership to convert BMC from an entirely for-profit ownership structure to a substantially non-profit ownership structure with the following conditions:

1. IJKG Opco shall submit a licensing application (CN-7) to the Department to execute the transfer of ownership of BMC to the Non-Profit.
2. In accordance with N.J.A.C. 8:33-3.3(h), IJKG Opco shall submit a notification, in writing, to the Department of any future changes in their respective ownership interests in the Hospital. As applicable, IJKG Opco will submit a Certificate of Need application and await approval by the Commissioner of Health for transactions that require a Full Review Certificate of Need.
3. Within ninety (90) days of licensing, CarePoint Health Systems, Inc., shall add a minimum of 3 community members to its Board of Trustees (the Board), one representing CarePoint Health- Christ Hospital, one representing CarePoint Health- Bayonne Medical Center and one representing CarePoint Health- Hoboken University Medical Center, to provide ongoing community input to the Board's activities and oversight.
4. For the initial five years following the transfer of ownership, the following reports shall be submitted:
 - a. IJKG Opco shall submit annual reports to the Department detailing:
 - i. An annual accounting of any long- or short-term debt or other liabilities incurred on the Hospital's behalf and reflected on IJKG Opco's balance sheet; and
 - ii. A list of completed capital projects itemized to reflect both the project and its expenditure.
 - b. The members of IJKG Opco shall submit reports to the extent such member has made an investment in BMC during the previous year.
5. IJKG Opco shall post on the Hospital's website annual audited financial statements within 180 days of the close of the Hospital's fiscal year and shall post quarterly unaudited financial statements within 45 days of the close of the Hospital's fiscal quarter, in accordance with N.J.A.C. 8:96-2.2. All annual and quarterly statements shall be prepared in accordance with Generally Accepted Accounting Principles. With respect to the posting of quarterly unaudited financial statements, IJKG Opco

may include disclaimer language regarding the unaudited nature of the quarterly financial statements on its website where such statements are posted.

6. Within 60 days of posting its Audited Annual Financial Statements to the BMC website as required by N.J.A.C. 8:96-3.1, IJKG Opco shall hold an Annual Public Meeting in New Jersey, pursuant to N.J.S.A. 26:2H-12.50, and shall make copies of those audited annual financial statements available at the Annual Public Meeting. IJKG Opco shall develop mechanisms for the meeting that address the following:
 - a. An explanation, in layperson's terms, of the audited annual financial statement;
 - b. An opportunity for members of the local community to present their concerns to IJKG Opco regarding local health care needs and hospital operations;
 - c. A method for IJKG Opco to publicly respond, in layperson's terms, to the concerns expressed by community members at the Annual Public Meeting.
7. As noted by the Applicant, no reductions in services or staff are expected as a result of this transfer of ownership. Six months after licensure, IJKG Opco shall submit documentation to the Department on any reduction of staff and provide the rationale for any reductions that may have occurred.
8. IJKG Opco shall remain obligated to comply with all conditions contained in the Department's January 9, 2008, CN Approval Letter and shall apply to any successor organization to IJKG Opco which acquires BMC within five years from the date of the anticipated CN approval.
9. As noted in the CN application, IJKG Opco shall continue all clinical services currently offered at BMC for BMC patients. Any changes in this commitment involving either a reduction, relocation out of BMC's current service area, or elimination of clinical services offered by BMC, shall require prior written approval from the Department and shall be subject to all applicable statutory and regulatory requirements.
10. BMC shall continue compliance with N.J.A.C. 8:43G-5.21(a), which requires that "all hospitals shall provide on a regular and continuing basis, out-patient and preventive services, including clinical services for medically indigent patients, in those services provided on an in-patient basis." Documentation of compliance shall be submitted within 30 days of the issuance of the approval letter and quarterly thereafter, for a period of five years.
11. Related to its Behavioral Health services, BMC shall comply with all program requirements in accordance with N.J.A.C. 8:121 and shall report progress in

resolving any identified compliance issues to the Behavioral Health staff at the Department.

12. BMC shall continue to comply with the Federal Emergency Medical Treatment and Active Labor Act (EMTALA) requirements, and provide care for all patients who present themselves at BMC, without regard to their ability to pay or payment source, in accordance with N.J.S.A. 26:2H-18.64 and N.J.A.C. 8:43G-5.2(c) and shall provide unimpaired access to all services offered by the Hospital.
13. The value of indigent care provided by BMC shall be determined by the dollar value of documented charity care, calculated at the prevailing Medicaid rate, and shall not be limited to the amount of charity care provided historically by BMC.
14. Within 60 days of licensure, the Applicant shall notify the Department, in writing, of the individual who is responsible for the safekeeping and accessibility of all BMC's patients' medical records (both active and stored) in accordance with N.J.S.A. 26:8-5 and N.J.A.C. 8:43G-15.2.
15. BMC shall develop and implement a Community Health Needs Assessment (CHNA) in substantial compliance with Section 501(r)(3)(A) of the Internal Revenue Code as amended that aligns itself with the "Healthy New Jersey 2020", the State's health improvement plan and health promotion and disease prevention agenda.
16. Prior to licensure, BMC shall identify a single point of contact as it relates to the status of all of the Conditions and reports submitted to the Department.
17. Within 12 months of licensure, and annually thereafter for five years, IJKG Opco shall provide the Department with a written report detailing:
 - a. Its plan to reduce unnecessary and duplicative services and excess inpatient beds, if any;
 - b. Its plan for addressing the need to expand or add ambulatory care services; and;
 - c. Capital improvement plans, including physical plant improvements, equipment upgrades, additions (including IT), and other capital projects.
18. After the transfer is implemented, IJKG Opco shall comply with all requirements of N.J.S.A. 26:2SS-1 et seq., the Out-of-Network Consumer Protection, Transparency, Cost Containment and Accountability Act (Act), including the requirements pertinent to the Department of Banking and Insurance (DOBI). As part of compliance, IJKG Opco must note that:

- a. If a covered person (i.e., a person on whose behalf a carrier is obligated to pay health care expense benefits or provide health care services) receives medically necessary services at BMC on an emergency or urgent basis as defined by the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. s.1395dd et seq. and section 14 of P.L. 1992, c.160 (C.26:2H-18.64), IJKG Opco shall not bill the covered person in excess of any deductible, copayment, or coinsurance amount applicable to in-network services pursuant to the covered person's health benefits plan.
 - b. If a covered person receives medically necessary services at BMC as an out-of-network health care facility on an emergency or urgent basis as defined by the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. s.1395dd et seq. and section 14 of P.L. 1992, c.160 (C.26:2H-18.64), and the carrier and IJKG Opco cannot agree on the final offer as a reimbursement rate for these services pursuant to N.J.S.A. 26:2SS-9, the carrier, IJKG Opco, or covered person, as applicable, may initiate binding arbitration pursuant N.J.S.A. 26:2SS-10 or 11.
 - c. If BMC is in-network with respect to any health benefits plan, IJKG Opco shall ensure that all health-care providers providing services in BMC on an emergency or inadvertent basis are provided notification of the provisions of the Act and information as to each health benefits plan with which BMC has a contract to be in-network.
 - d. When IJKG Opco contracts with a carrier to be in-network with respect to any health benefits plan, IJKG Opco shall annually report to the Department, the health benefits plans with which IJKG Opco has an agreement to be in-network.
19. IJKG Opco shall ensure that it posts on its website the status of all insurance contracts related to patient care between the Hospital and insurance plans. The Hospital shall provide notices to patients concerning pricing and charges related to coverage during termination of plans.
20. BMC shall be assured of continued use of the Hospital property through any lease arrangement with 29 E 29th Street Holdings, LLC or any subsequent holder of the lease, for as long as this ownership entity, IJKG Opco, is the licensed operator of BMC. IJKG Opco and 29 E 29th Street Holdings, LLC shall comply with N.J.S.A. 26:2H-5.1b.a.(3) which states that no less than 90 days prior to signing an agreement for the sale or the lease of the land or property on which the Hospital is located, the entity shall provide notice to the Department of the Hospital's intent to sign an agreement to sell or lease the land or property on which the Hospital is located. Notification to the Department shall include a copy of the agreement, the

names of all parties included, and the intended use of proceeds from the sale or lease of the land or property.

21. The operator shall provide the Department with monthly updates on the pending litigation between it and Hudson Regional Hospital. The Operator shall immediately notify the Department when the litigation concludes.

Failure to satisfy any of the aforementioned Conditions of approval may result in sanctions, including license suspension, monetary penalties, and other sanctions in accordance with N.J.S.A. 26:2H-1 et seq. and all other applicable requirements. Acceptance of these Conditions by the Applicant will be presumed unless written objections are submitted to the Department within 30 days of receipt of the approval letter. Upon receipt of such objections, this approval will be deemed suspended, and the project shall be re-examined in light of objections.